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VAN SUIDWES - AFRIKA.
OFFICIAL GAZETTE



EXTRAORDINARY
OF SOUTH WEST AFRICA.

UITGAWE OP GESAG.

Vrydag, 9 November 1956.

WINDHOEK

Friday, 9th November, 1956.

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IN HOUD

GOEWERMENSKENNISGEWINGS:—

Bladsy.

No. 2050 (Unie). Regulasies betreffende Seehowe	1
No. 2051 (Unie). Regulasie betreffende Howe	18
van Marine-ondersoek.	18
No. 2052 (Unie). Regulasies betreffende Op-	28
nemingshowe	28

CONTENTS

GOVERNMENT NOTICES:—

Page

No. 2050 (Union). Maritime Courts Regulations	1
No. 2051 (Union). Courts of Marine Enquiry Regulations	18
No. 2052 (Union). Courts of Survey Regulations	28

GOVERNMENT NOTICES.

The following Government Notices are published for general information:—

J. NESER,

Secretary for South West Africa.

Administrator's Office,
Windhoek.

DEPARTMENT OF CUSTOMS AND EXCISE.

* No. 2050, Union.] [9 November 1956.
MARINE SECTION.

The following draft regulations proposed to be made under the provisions of section *three hundred and fifty-six* (1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), are hereby published for general information. Any person who wishes to make any comments or suggestions may submit them to the Commissioner of Customs and Excise, Marine Section, P.O. Box 376, Pretoria, on or before the 28th February, 1957.

These regulations cover the procedure to be followed in investigations by Maritime Courts convened in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), into casualties suffered by or on board South African ships or matters affecting the interest of the owners of such ships or of the cargo thereof or complaints by masters or crews of such ships or allegations of incompetency or misconduct against masters or ships' officers of such ships and appeals against the decisions of such courts.

CONTENTS.

1. Title of these Regulations.
2. Interpretation.
3. Notification of Appointment as Member.
4. Allowances Payable to Members.
5. Time, when, and Place, where, Investigation held.
6. Appointment and Duties of Clerk of a Maritime Court.
7. Appointment of Person to Adduce Evidence.
8. Parties to the Proceedings.
9. Summoning of Witnesses.
10. Commencement of Proceedings.
11. Representation of Parties.

A-847895

GOEWERMENSKENNISGEWINGS.

Onderstaande Goewermenskennisgewings word vir algemene inligting gepubliseer:—

J. NESER,

Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

DEPARTEMENT VAN DOEANE EN AKSYNS.

* No. 2050, Unie.] [9 November 1956.
MARINE-AFDELING.

Onderstaande ontwerp-regulasies voorgestel om kragtens die bepaling van artikel *driehonderd ses-en-veertig* (1) van die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), uitgevaardig te word, word hierby vir algemene inligting gepubliseer. Persone wat begeer om kommentaar te lewer of aanbevelings te maak kan hulle aan die Kommissaris van Doeane en Aksyns, Marine-afdeling, Posbus 376, Pretoria, op of voor 28 Februarie 1957, deurstuur.

Hierdie regulasies dek die prosedure wat gevolg moet word deur 'n seehof wat kragtens die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), byeengeroep word om ondersoek in te stel na ongevalle deur of aan boord van Suid-Afrikaanse skepe gely, of na sake rakende die belange van die eienaars van sodanige skepe of die vraag daarvan, of klagtes deur gesagvoerders of die bemanning van sodanige skepe, of bewerings van onbevoegdheid of wangedrag teen gesagvoerders of skeepsfisiere van sodanige skepe, en appelle teen die beslissings van so 'n hof.

INHOUD.

1. Opskrif van hierdie regulasies.
2. Woordbetekenis.
3. Bekendmaking van aanstelling as lid.
4. Toelaes betaalbaar aan lede.
5. Tyd wanneer en plek waar die ondersoek plaasvind.
6. Aanstelling en pligte van klerk van 'n seehof.
7. Aanstelling van persoon om getuienis aan te voer.
8. Partye tot die verrigtings.
9. Oproeping van getuies.
10. Aanvang van verrigtings.
11. Verteenwoordiging van partye.

12. Formulation of Questions for Decision by Court.
13. Evidence.
14. Addresses to the Court.
15. Adjournments.
16. Orders for Costs.
17. Orders for Damages Caused by Frivolous or Vexatious Complaint or Allegation.
18. Enforcement of Orders for Costs or Damages.
19. Records of Proceedings.
20. Transmission of Records to Director.
21. Appeal to Superior Court.
22. Rehearing by Order of the Minister.

SCHEDULES.

Schedule A.—Allowances towards Subsistence and Transport Payable to Members of Maritime Courts.

Schedule B.—Form of Subpoena.

Schedule C.—Order for Payment of Costs Incurred by a Party.

Schedule D.—Order for Payment of Costs Incurred by the

Director of Merchant Shipping.

Schedule E.—Report of Maritime Court.

Appendix to Maritime Courts Regulations.

INTRODUCTORY NOTES.

(1) Attention is invited to sections nine, two hundred and seventy, two hundred and seventy-one, two hundred and seventy-two, two hundred and seventy-three, two hundred and seventy-nine, two hundred and eighty, two hundred and eighty-three, two hundred and eighty-four, two hundred and eighty-six, two hundred and eighty-seven, two hundred and eighty-eight, two hundred and eighty-nine, two hundred and ninety, two hundred and ninety-one and two hundred and ninety-two of Act No. 57 of 1951, which are printed in the Appendix to these regulations. It will be noted that, in terms of section two hundred and eighty, in so far as any matter of procedure is not covered by the Act itself or the regulations following, a Maritime Court is free to determine its own procedure.

(2) Attention is also invited to the fact that it is proposed to seek authority to amend section three hundred and fifty-six of the Act by the substitution of paragraph (XXXV) of sub-section (1) of the following paragraph:—

“(XXXV) prescribing, in regard to courts of marine enquiry, maritime courts, courts of survey or persons to whom appeals to courts of survey may be referred, rules to be followed in respect of—

- (a) the convening and appointment of such courts or experts;
- (b) procedure;
- (c) the noting and prosecution of appeals from courts of marine enquiry or maritime courts to superior courts, and the enforcement of judgments pronounced on appeal; and
- (d) the award by courts of marine enquiry or maritime courts of damages, and by such courts or courts of survey or persons to whom appeals to courts of survey may be referred of costs, including the costs incurred by the State in connection with the convening or appointment of such courts or persons and in connection with any investigation made by them, and to costs incurred by parties, the scales upon which costs shall be calculated, the taxation or assessment of costs, and the enforcement of awards of damages and costs.”

12. Formulering van vrae vir beslissing deur die hof.
13. Getuienis.
14. Toesprake tot die hof.
15. Verdagings.
16. Bevele in verband met die betaling van koste.
17. Bevele in verband met die betaling van vergoeding vir skade wat veroorsaak word deur beuselagtige of ongereverdigde klagtes of bewerings.
18. Uitvoering van bevele in verband met die betaling van koste of skadevergoeding.
19. Rekord van verrigtings.
20. Versending van rekords aan die Direkteur.
21. Appèl na hoër hof.
22. Herverhoor op las van die Minister.

BYLAES.

Bylae A.—Toelae vir onderhoud en vervoer betaalbaar aan lede van seehowe.

Bylae B.—Dagvaardingsvorm.

Bylae C.—Bevel in verband met die betaling van koste deur 'n party aangegaan.

Bylae D.—Bevel in verband met die betaling van koste deur die Direkteur van Handelskeepvaart aangegaan.

Bylae E.—Verslag van seehof.

Aanhangsel aan Regulasies Betreffende Seehowe.

INLEIDINGSOPMERKINGS.

(1) Die aandag word gevestig op artikels nege, tweehonderd-en-sewentig, tweehonderd een-en-sewentig, tweehonderd twee-en-sewentig, tweehonderd drie-en-sewentig, tweehonderd nege-en-sewentig, tweehonderd-en-tagtig, tweehonderd drie-en-tagtig, tweehonderd vier-en-tagtig, tweehonderd ses-en-tagtig, tweehonderd sewe-en-tagtig, tweehonderd agt-en-tagtig, tweehonderd nege-en-tagtig, tweehonderd-en-negentig, tweehonderd een-en-negentig en tweehonderd twee-en-negentig van Wet No. 57 van 1951, wat gedruk word in die Aanhangsel aan hierdie regulasies. Dit sal opgemerk word dat dit 'n seehof kragtens artikel tweehonderd-en-tagtig vrystaan om, vir sover enige kwessie van prosedure nie deur die Wet self of deur die regulasies wat hieronder volg, gedek word nie, self die prosedure te bepaal wat gevolg sal word.

(2) Die aandag word ook gevestig op die feit dat die voorneme bestaan om magtiging te verkry om artikel drie-honderd ses-en-vyfzig van die Wet te wysig deur paragraaf (XXXV) van subartikel (1) deur die volgende paragraaf te vervang:—

„(XXXV) wat met betrekking tot houe van marine-ondersoek, seehowe, opnemingshoue of persone na wie appèlle na opnemingshoue verwys mag word, die reëls voorskryf wat nagekom moet word in verband met—

- (a) die sameroeping en aanstelling van sodanige houe of persone;
- (b) prosedure;
- (c) die aantekening en deurvoering van appèlle van houe van marine-ondersoek of seehowe na hoër houe, en die uitvoering van vonnisse uitgespreek op appèl; en
- (d) die toekenning deur houe van marine-ondersoek of seehowe van skadevergoeding en die toewysing deur bedoelde houe of opnemingshoue of persone na wie appèlle na opnemingshoue verwys mag word, van koste, met inbegrip van die koste deur die Staat aangegaan in verband met die sameroeping of aanstelling van bedoelde houe of persone en in verband met enige ondersoek deur hulle gedoen, en die koste deur partye aangegaan, die tariewe waarop koste bereken moet word, die takasie of vasstelling van koste en die uitvoering van tekenings van vergoeding en toewysings van koste.”

TITLE OF THESE REGULATIONS,

1. These regulations are called the Maritime Courts Regulations.

INTERPRETATION.

2. In these regulations, unless the context indicates otherwise—

“Act” means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

“Court” means a Maritime Court convened under section two hundred and seventy of the Act;

“clerk” means the clerk of a Maritime Court appointed under regulation 6, or, if no clerk has been appointed, means the presiding officer;

“party” means a person who has, in terms of regulation 8, been declared to be a party to the proceedings of a Court;

“presiding officer” means the proper officer who convenes the Court or the person appointed under sub-section (5) of section two hundred and seventy-one of the Act to be the presiding officer,

and any phrases or words which occur in these regulations shall be construed as having the meaning assigned to them in the Act.

[NOTE.—

(1) Section two of the Act contains the following definitions:—

“Director” means the Director of Merchant Shipping appointed under section five;

“Minister” means the Minister of Finance;

* “proper officer” means the officer designated by the Minister to be the proper officer at the place and in respect of the matter to which reference is made in the provision of this Act in which the expression occurs; or if no such designation has been made—

(a) at a place in the Union, the chief officer of customs; or

(b) at a place outside the Union but within a part of the Commonwealth, the person who, in terms of the law in force in that part of the Commonwealth, is entrusted with the function or burdened with the duty to which reference is made in the provision of this Act in which the expression occurs; or if there be no such person, the person indicated in paragraph (c) of this definition; or

(c) at a place outside the Commonwealth, in the following order:—

(i) A consular representative of the Union; or

(ii) a diplomatic representative of the Union; or

(iii) a consular representative of a country (other than the Union) which is a member of the Commonwealth; or

* It is the intention to seek authority from the Minister to designate as the proper officer at any place outside the Union any officer in command of any ship belonging to the naval forces of the Union or, in the absence of such an officer, any officer in command of any ship belonging to the Commonwealth, of any other country which is a member of the Commonwealth. If there is no such officer at or near the place at which, in terms of the Act or the regulations, a Maritime Court is to be constituted, reference must be made to the definition quoted above to determine who must be regarded as the proper officer.

Attention is invited to section three hundred and fifty-three (1) of the Act, which reads as follows:—

“353. (1) Every provision of this Act which purports to require any court or functionary of any part of the Commonwealth other than the Union or any person other than a South African citizen to exercise any authority or perform any act outside the Union in relation to South African ships, any act outside the Union in relation to South African ships, their owners, masters, seamen or apprentice-officers shall be construed as being permissive only and to mean that any such court or functionary or person is thereby empowered so to exercise such authority or perform such act.”

Section two (2) of the Act provides that any reference in the Act or the regulations to the Commonwealth or a part of the Commonwealth or a member of the Commonwealth must be construed as including a reference to the Republic of Ireland, as though the Republic of Ireland had been a member of the Commonwealth.

OPSKRIF VAN HIERDIE REGULASIES.

1. Hierdie regulasies heet die Regulasies Betreffende Seehowe.

WOORDBETEKENIS.

2. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

„Wet”, die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951);

„hof”, ’n seehof wat kragtens artikel tweehonderd-en-sewentig van die Wet byengeroep word;

„klerk”, die klerk van ’n seehof wat ooreenkomstig regulasie 6 aangestel word of, as ’n klerk nie aangestel is nie, die voorsitter;

„party”, ’n persoon wat ooreenkomstig regulasie 8 as ’n party tot die verrigtings van ’n hof verklaar word;

„voorsitter”, die bevoegde beamppte wat die hof byeenroep of die persoon wat kragtens sub-artikel (5) van artikel tweehonderd een-en-sewentig van die Wet as voorsitter aangestel word.

en enige uitdrukkings of woorde wat in hierdie regulasies voorkom, moet uitgeleë word volgens die betekenis by die Wet daaraan gegee.

[LET WEL:

(1) In artikel twee van die Wet verskyn onderstaande woordbepalings:—

„Direkteur”, die Direkteur van Handelskeepvaart wat kragtens artikel vyf aangestel is;

„Minister”, die Minister van Finansies;

* „bevoegde beamppte”, die beamppte wat deur die Minister aangewys is as die bevoegde beamppte by die plek en ten opsigte van die saak waarna verwys word in die bepaling in hierdie Wet waarin die uitdrukking voorkom; of as geen sodanige aanwysing gemaak is nie—

(a) by ’n plek in die Unie, die hoofdoanebeamppte; of

(b) by ’n plek buite die Unie maar in ’n deel van die Statebond, die persoon aan wie kragtens die Wet wat in daardie deel van die Statebond van krag is, die amp toevertrou is of die plig opgelê is waarna verwys word in die bepaling van hierdie Wet waarin die uitdrukking voorkom; of as daar geen sodanige persoon is nie, die persoon wat in paragraaf (c) van hierdie omskrywing aangedui word; of

(c) by ’n plek buite die Statebond, in die volgende volgorde:—

(i) ’n Konsulêre verteenwoordiger van die Unie; of

(ii) ’n diplomatieke verteenwoordiger van die Unie; of

(iii) ’n konsulêre verteenwoordiger van ’n land (behalwe die Unie) wat lid is van die Statebond; of

* Dit is die voorneme om magtiging van die Minister te verkry om enige offisier in bevel van enige skip wat aan die vlootmagtiging van die Unie behoort of, in die afwesigheid van so ’n offisier, enige offisier in bevel van enige skip wat aan die vlootmagtiging van enige ander land wat ’n lid van die Statebond is, aan te wys as die bevoegde beamppte by enige plek buite die Unie. Indien daar nie so ’n offisier by of naby die plek is waar ’n seehof kragtens die Wet of die regulasies saamgestel moet word nie moet daar verwys word na die omskrywing hierbo aangehaal om te bepaal wie as die bevoegde beamppte beskou moet word.

Die aandaag word gevestig op artikel driehonderd drie-en-veertig (1) van die Wet wat soos volg lui:—

(1) van die Wet wat die bepaling van hierdie Wet wat heet om ’n

„353. (1) Elke bepaling van enige deel van die Statebond (behalwe of aanspreeklik of enige ander persoon as ’n Suid-Afrikaanse burger te gelas om enige gesag uit te oefen of enige handeling te verrig buite die Unie in verband met Suid-Afrikaanse skepe, hul eiensare, gesagvoerders, seelid of leiding-offisiere, wat word uitgeleë dat dit siegs veroorlowend is en beteken dat word uitgeleë dat die gesag van aanspreeklik of persoon daarby gegee sodanige hof of aanspreeklik of persoon daarby gegee magtig word om aldus sodanige gesag uit te oefen of sodanige handeling te verrig.”

In artikel twee (2) van die Wet word bepaal dat enige verwysing in die Wet of die regulasies na die Statebond of ’n deel van die Statebond of ’n lid van die Statebond of die Republiek Ierland, asof die Republiek Ierland lid was van die Statebond.

- (iv) a diplomatic representative of a country (other than the Union) which is a member of the Commonwealth;

"superior court" means a division of the Supreme Court of South Africa or the High Court of South West Africa;

"this Act" includes any proclamation, notice, rule or regulation issued or made thereunder.

(2) Section three (1) of the Act applies the Act and the regulations to the Territory of South West Africa and the port and settlement of Walvis Bay and declares that the said Territory shall for the purposes of the Act and the regulations be deemed to form part of the Union of South Africa.]

NOTIFICATION OF APPOINTMENT AS MEMBER.

3. The appointment of every member of a Maritime Court shall be by letter signed by the presiding officer and setting forth the questions which, on the information then in the possession of the presiding officer are to be investigated by the Court. The presiding officer may, at any time before the hearing of the investigation, by a subsequent letter, modify, add to or omit any of the questions specified in the letter of appointment.

ALLOWANCES PAYABLE TO MEMBERS.

4. Every member of a Court shall, if he is in the employ of the Government of the Union (including the Railway Administration) or the Administration of South West Africa, be paid such allowances towards subsistence and transport as may be prescribed (otherwise than under the Act) for Government, Railway or Administration employees of his class, and if he is not in the employ of the Government of the Union (including the Railway Administration) or the Administration of South West Africa, or if no such allowances have been prescribed for Government, Railway or Administration employees of his class, he shall be paid the allowances towards subsistence and transport set forth in Schedule A to these regulations.

TIME WHEN AND PLACE WHERE INVESTIGATION HELD.

5. (1) The presiding officer shall appoint the time when and place where the investigation is to be held.

(2) The clerk shall by letter notify any person who before the commencement of the proceedings has been declared a party thereto of the said time and place.

APPOINTMENT AND DUTIES OF CLERK OF A MARITIME COURT.

6. (1) The presiding officer may, if he thinks fit to do so, appoint a person to be clerk of the Maritime Court.

(2) The clerk shall, subject to the provisions of regulation 19 and to any instructions by the presiding officer, make minutes of the proceedings of the Court, and take such minutes and any documents produced during or in connection with the investigation into his custody.

APPOINTMENT OF PERSON TO ADDUCE EVIDENCE.

7. The presiding officer may, if he thinks fit to do so, appoint any person to assist the Court in the adducing of evidence for the purposes of the investigation.

PARTIES TO THE PROCEEDINGS.

8. (1) The presiding officer may declare any person who he is satisfied has a direct interest in the subject of the investigation, to be a party to the proceedings.

- (iv) 'n diplomatieke verteenwoordiger van 'n land (behalve die Unie) wat lid is van die Statebond;

„Hoër hof”, 'n afdeling van die Hooggeregshof van Suid-Afrika of die Hoër Hof van Suidwes-Afrika;

„hierdie Wet”, ook enige proklamasie, kennisgewing, reël of regulasie uitgereik of uitgevaardig kragtens hierdie Wet.

(2) In artikel drie (1) van die Wet word die Wet en die regulasies van toepassing gemaak op die Gebied Suidwes-Afrika en die hawe en nedersteking Walvisbaai en word verklaar dat genoemde Gebied by die toepassing van die Wet en van hierdie regulasies geag word 'n deel uit te maak van die Unie van Suid-Afrika.]

BEKENDMAKING VAN AANSTELLING AS LID.

3. Die aanstelling van elke lid van 'n seehof geskied by wyse van 'n brief wat deur die voorsitter geteken word en waarin die vrae uiteengesit word wat, met die inligting wat die voorsitter op daardie tyd tot sy beskikking het, deur die hof ondersoek moet word. Die voorsitter kan te eniger tyd voor die verhoor van die ondersoek enige van die vrae wat in die aanstellingsbrief gespesifiseer is, deur middel van 'n daaropvolgende brief wysig, daaraan toevoeg of weglaat.

TOELAES BETAALBAAR AAN LEDE.

4. Elke lid van 'n hof ontvang, as hy in die diens van die Unie-regering (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is, sodanige toelae vir onderhoud en vervoer as wat voorgeskryf is (anders as kragtens die Wet) vir Staats-, Spoorweg- of Administrasie-dienare van sy klas, en as hy nie in die diens van die Unie-regering (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is nie, of as geen sodanige toelae vir Staats-, Spoorweg- of Administrasie-dienare van sy klas voorgeskryf is nie, ontvang hy die toelae vir onderhoud en vervoer wat in Bylae A by hierdie regulasies uiteengesit word.

TYD WANNEER EN PLEK WAAR DIE ONDERSOEK PLAASVIND.

5. (1) Die voorsitter bepaal die tyd wanneer en die plek waar die ondersoek gehou sal word.

(2) Die klerk stel enige persoon wat voor die aanvang van die verrigtings as 'n party tot die verrigtings verklaar word skriftelik in kennis van die gemelde tyd en plek van die verrigtings.

AANSTELLING EN PLIGTE VAN KLERK VAN 'N SEEHOF.

6. (1) Die voorsitter kan, as hy dit goed ag, 'n persoon aanstel as klerk van die seehof.

(2) Behoudens die bepalings van regulasie 19 en enige opdragte van die voorsitter, notuleer die klerk die verrigtings van die hof en neem hy sodanige notule en enige dokumente wat tydens of in verband met die ondersoek oorgelê word, in sy bewaring.

AANSTELLING VAN PERSOON OM GETUENIS AAN TE VOER.

7. Die voorsitter kan, as hy dit goed ag, 'n persoon aanstel om die hof te help met die aanvoering van getuienis vir die doeleindes van die ondersoek.

PARTYE TOT DIE VERRIGTINGS.

8. (1) Die voorsitter kan enige persoon wat volgens sy oortuiging regstreeks by die onderwerp van die ondersoek belang het, as 'n party tot die verrigtings verklaar.

(2) The presiding officer may make a declaration that any person is a party on the application of the person concerned or of any other party or of his own motion, and any such declaration may be made at any time before or after the commencement of the investigation.

(3) A declaration by the presiding officer that any person is a party may be made whether the person concerned is present or not; provided that if he is not present when the declaration is made, the clerk shall notify him in writing that he has been declared to be a party and when and where the next meeting of the Court will be held.

SUMMONING OF WITNESSES.

9. (1) The summoning by the Court, in the exercise of its powers under paragraph (iii) of sub-section (1) of section nine of the Act, of any person to appear before it to be interrogated or to produce any book, document or thing shall be by subpoena in the form set forth in Schedule B to these regulations.

(2) The presiding officer may, of his own motion or at the request of any party, direct that a subpoena be issued, and every subpoena shall be signed by the clerk.

(3) Service of the subpoena shall be effected on the person to be summoned at a reasonable time before attendance is required.

(4) There shall be delivered to the person who is to effect service together with the subpoena so many copies thereof as there are witnesses to be summoned and also such sum or sums of money as the person on whose initiative or at whose request the subpoena is issued intends that the person who is to effect service shall pay or offer to the said witnesses respectively for their conduct money.

(5) The service of any such subpoena may be proved by the affidavit of the person who has effected the service or by his testimony upon oath before the Court.

(NOTE.—As to the method of service of a subpoena, attention is invited to section three hundred and forty-two (a) and (b) of the Act, which reads as follows:—

“Where for the purposes of this Act any document is to be served on any person, that document may be served—

(a) in any case by delivering a copy thereof personally to the person on whom the document is to be served; or by sending such copy to him, in accordance with the regulations, by registered post, enclosed in an envelope upon which is written his name and address; or by leaving such copy for him with a member of his household at his dwelling; or, if no person belonging to his household can be found there, then by affixing such copy to the principal outer door of the said dwelling or of any place where he actually resides or was last known to reside; or

(b) if the document is to be served on the master of a ship or on a person belonging to a ship, by leaving a copy thereof for him on board that ship with the person being or appearing to be in command or charge of the ship.”

As to the fees payable to witnesses, attention is invited to section two hundred and eighty-five of the Act, which provides that a witness summoned by a Maritime Court shall be paid such expenses as would be allowed to a witness attending or subpoenaed to give evidence in a civil case before a Magistrate's Court. The present tariff of such expenses is prescribed by Government Notice No.

(2) Die voorsitter kan 'n verklaring doen dat 'n persoon 'n party tot die verrigtings is op aanvraag deur die betrokke persoon of deur enige ander party, of hy kan dit vrywilliglik doen, en so 'n verklaring kan gedoen word te eniger tyd voor of na die aanvang van die ondersoek.

(3) 'n Verklaring deur die voorsitter dat 'n persoon 'n party tot die verrigtings is, kan gedoen word bely die betrokke persoon aanwesig is of nie; met dien verstande dat, as hy nie aanwesig is wanneer die verklaring gedoen word nie, die klerk hom skriftelik in kennis moet stel dat hy as 'n party tot die verrigtings verklaar is, en wanneer en waar die volgende vergadering van die hof gehou sal word.

OPROEPING VAN GETUIES.

9. (1) Wanneer die hof, by die uitoefening van sy bevoegdhede kragtens paragraaf (iii) van subartikel (1) van artikel nege van die Wet, 'n persoon oproep om voor hom te verskyn om ondervra te word of om enige boek, dokument of ding oor te lê, geskied dit by wyse van 'n dagvaarding in die vorm wat in Bylae B by hierdie regulasies uiteengesit word.

(2) Die voorsitter kan vrywilliglik of op versoek van enige party, gelas dat 'n dagvaarding uitgereik word, en elke dagvaarding word deur die klerk van die hof onderteken.

(3) Die diening van die dagvaarding op die persoon wat opgeroep moet word, moet geskied op 'n redelike tyd voordat die aanwesigheid van die persoon verlang word.

(4) Aan die persoon wat die dagvaarding moet dien, moet, saam met die dagvaarding, soveel afskrifte daarvan oorhandig word as die aantal getuies wat opgeroep moet word, asook sodanige bedrag of bedrae as wat die persoon op wie se aandrang of versoek die dagvaarding uitgereik word, bedoel dat die persoon wat die dagvaarding moet dien aan gemelde getuies onderskeidelik vir hul padgeld moet betaal of aanbied.

(5) Die diening van enige sodanige dagvaarding kan bewys word deur 'n beëdigde verklaring deur die persoon wat dit gedien het of deur sy getuïenis onder eed voor die hof.

[LET WEL.—Wat betref die metode waarvolgens 'n dagvaarding gedien word, word die aandag gevestig op artikel driehonderd twee-en-veertig (a) en (b) van die Wet wat soos volg lui:—

„In die gevalle waar enige dokument by die toepassing van hierdie Wet op iemand gedien moet word, kan daardie dokument gedien word—

(a) in enige geval deur aflewering van 'n afskrif daarvan persoonlik aan die persoon op wie die dokument gedien moet word; of deur sodanige afskrif in 'n kovert waarop sy naam en adres geskryf is, aan hom per geregistreerde pos oorkomstig die regulasies te stuur; of deur sodanige afskrif vir hom te laat by 'n lid van sy huisgesin by sy woonplek; of as niemand wat tot sy huisgesin behoort aldaar gevind kan word nie, deur sodanige afskrif aan die hoofbodeur van gemelde woonplek of (sover bekend is) laas gewoon het, te heg; of

(b) as die dokument gedien moet word op die gesagvoerder van 'n skip of op 'n persoon behorende tot 'n skip, deur 'n afskrif daarvan vir hom aan boord van daardie skip te laat by die persoon wat werklik of blykbaar gesag voer of toesig het oor die skip.”]

Wat betref die geld wat aan getuies betaalbaar is, word die aandag gevestig op artikel tweehonderd vyf-en-tagtig van die Wet waarin bepaal word dat aan 'n getuie wat deur 'n sechof opgeroep word sodanige getuiegelde betaal word as wat toegestaan word aan enige getuie wat aanwesig is of gedagvaar is om getuïenis te gee in 'n siviele saak voor 'n magistratshof. Die huidige tarief van sodanige getuiegelde is voorgeskryf by Goewermentskennis-

1113, dated 19th May, 1950, as amended by Government Notice No. 1612, dated 29th June, 1951, which reads as follows:—

"Classification."	Amount payable per diem.	
	(1) Where the necessary absence of the Witness from his Residence or Sojourn does not necessitate the Hiring of Night Accommodation.	(2) Where the necessary absence of the Witness from his Residence or Sojourn does necessitate the Hiring of Night Accommodation.
	£ s. d.	£ s. d.
(a) Medical practitioners.....	1 10 0	1 10 0
(b) Witnesses attending to give expert evidence or who are members of professions approved from time to time by the Minister of Justice...	1 1 0	1 10 0
(c) European witnesses not falling under (a) or (b) hereof.....	0 10 0	0 17 6
(d) Asiatics and coloured persons as distinguished from aboriginal natives of South Africa not falling under (a) or (b) hereof, and native chiefs and headmen recognised as such by the Government.....	0 4 0	0 8 0
(e) Aboriginal natives of South Africa not falling under (a) or (b) hereof.....	0 2 6	0 5 0"

COMMENCEMENT OF PROCEEDINGS.

10. At the time and place appointed for holding the investigation, the Court may proceed with the investigation, whether the persons (if any) who have been declared to be parties or any of them are present or not.

REPRESENTATION OF PARTIES.

11. Any party may be represented by an agent for the purposes of suing out subpoenas and of examining, cross-examining or re-examining witnesses or addressing the Court.

FORMULATION OF QUESTIONS FOR DECISION BY COURT.

12. (1) After the Court has been opened, and before any evidence is given, the presiding officer shall state in open court the questions in reference to the complaint, allegation, interest or event upon which the finding of the Court is required. In formulating the questions for the finding of the Court the presiding officer may make such modifications in, additions to, or omissions from the questions set forth in the letter referred to in regulation 3, as amended in terms of that regulation, as, having regard to the information then known to him, he may think fit.

(2) The presiding officer may at any stage of the investigation make such further modifications in, additions to or omissions from any of the questions so formulated as, having regard to any evidence which may have been given, he may think fit.

EVIDENCE.

13. (1) After the questions upon which the finding of the Court is required have been formulated in terms of paragraph (1) of regulation 12, the members of the court, the person appointed under regulation 7 to assist the Court in the adducing of evidence and each of the parties may produce and examine witnesses or, with the approval of the presiding officer, recall any of the witnesses who have already been examined for further examination and generally adduce evidence. The witnesses may be cross-examined by any of the persons mentioned (other than the person who has produced them) in such order as the presiding officer may direct, and may then be re-examined by the person who has produced them. The person

gewing No. 1113, gedateer 19 Mei 1950, soos gewysig by Goewermentskennisgewing No. 1612, gedateer 29 Junie 1951, wat soos volg lui:—

„Indeling.	Bedrag betaalbaar per dag.	
	(1) Waar die noodsaaklike afwesigheid van die getuie van sy woonplek of plek waar hy vertoef nie die huur van huisvesting vir die nag noodsaaklik maak nie.	(2) Waar die noodsaaklike afwesigheid van die getuie van sy woonplek of plek waar hy vertoef die huur van huisvesting vir die nag noodsaaklik maak.
	£ s. d.	£ s. d.
(a) Mediese praktisyns.....	1 10 0	1 10 0
(b) Getuiens wat die hof bywoon om deskundige getuienis af te lê of wat lede is van 'n beroep wat die Minister van Justisie van tyd tot tyd goedkeur.....	1 1 0	1 10 0
(c) Blanke getuiens wat nie onder (a) of (b) ressorteer nie...	0 10 0	0 17 6
(d) Asiëte en kleurlinge, met uitsondering van inboorling-naturelle van Suid-Afrika, wat nie onder (a) of (b) hiervan ressorteer nie, en naturellekapteins en -hoofmannes wat as sodanig deur die Regering erken word..	0 4 0	0 8 0
(e) Inboorling-naturelle van Suid-Afrika wat nie onder (a) of (b) hiervan ressorteer nie.....	0 2 6	0 5 0"

AANVANG VAN VERRIGTINGS.

10. Op die tyd en plek wat vir die hou van die ondersoek bepaal is, kan die hof voortgaan met die ondersoek, hetsy die persone (indien enige) wat as partye tot die verrigtings verklaar is of enige van hulle aanwesig is of nie.

VERTEENWOORDIGING VAN PARTYE.

11. Enige party kan deur 'n agent verteenwoordig word vir die doel om dagvaardings aan te vra en om getuiens te ondervra, onder kruisverhoor te neem of te herondervra of om die hof toe te spreek.

FORMULERING VAN VRAE VIR BESLISSING DEUR DIE HOF.

12. (1) Nadat die hof geopen is, en voordat enige getuienis afgelê word, stel die voorsitter in die ope hof die vrae met betrekking tot die klagte, bewering, belange of voorval waaroor die hof moet beslis. By die formulering van die vrae waaroor die hof moet beslis, kan die voorsitter sodanige wysigings in, toevoegings tot of weglatings van die vrae maak wat uiteengesit is in die in regulasie 3 vermelde brief, soos ooreenkomstig daardie regulasie gewysig, as wat hy, met inagneming van die inligting wat hy op daardie tyd tot sy beskikking het, mag goedvind.

(2) Die voorsitter kan in enige stadium van die ondersoek sodanige verdere wysigings in, toevoegings tot of weglatings van enige van die vrae maak wat aldus geformuleer is as wat hy, met inagneming van enige getuienis wat afgelê is, mag goedvind.

GETUIENIS.

13. (1) Nadat die vrae waaroor die hof moet beslis, ooreenkomstig paragraaf (1) van regulasie 12 geformuleer is, kan die lede van die hof, die persoon wat ooreenkomstig regulasie 7 aangestel is om die hof te help met die aanvoering van getuienis, en elk van die partye getuiens inroep en ondervra of, met die goedkeuring van die voorsitter, enige van die getuiens wat reeds ondervra is, terugroep vir verdere ondervraging en in die algemeen getuienis aanvoer. Die getuiens kan deur enige van die genoemde persone (behalwe die persoon wat hulle ingeroep het) in sodanige volgorde as wat die voorsitter mag gelas, onder kruisverhoor geneem word en kan daarna deur die persoon wat hulle ingeroep het, herondervra word. Die persoon

appointed under regulation 7 and any party may before producing his witnesses address the Court for the purpose of opening the evidence which he intends to adduce. All such persons shall be heard and their witnesses examined, cross-examined and re-examined in such order as the presiding officer may direct.

(2) Any person who has produced witnesses may at any stage of the investigation, with the approval of the presiding officer, produce and examine further witnesses, who may be cross-examined by the person appointed under regulation 7 and the parties in such order as the presiding officer may direct, and re-examined by the person who has produced them.

(3) The law as to the admissibility of evidence and as to the competency, examination, cross-examination and re-examination of witnesses in courts of law shall not be binding upon a Maritime Court, but the presiding officer may, in his discretion, disallow any question which any other member of the Court or the person appointed under regulation 7 or any party proposes to put to any witness, on the ground that such question is irrelevant or that for any other cause it would be improper that the question be put, and may, in his discretion and on similar grounds, rule that the production of any book, document or thing required by any other member of the Court or the person so appointed or any party shall not be allowed.

(4) Affidavits and statutory declarations may, by permission of the presiding officer, be used as evidence.

ADDRESSES TO THE COURT.

14. After all the evidence has been adduced, any of the parties who desires to do so may address the Court upon the evidence, and the person appointed under regulation 7 may address the Court in reply upon the whole case.

ADJOURNMENTS.

15. 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 proceedings, 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.

ORDERS FOR COSTS.

16. (1) The Court may make such order for the payment by any party—

(a) to any other party of the costs, or any part thereof, reasonably incurred by that other party in attending or being represented by a legal practitioner at the investigation or in bringing witnesses or adducing evidence; and

(b) to the Director of any costs or any part thereof reasonably incurred in connection with the investigation or hearing,

as may be just.

(2) Any costs awarded in terms of paragraph (1) shall be assessed by the presiding officer, who shall, after having made such assessment, issue an order in the form set forth in Schedule C to these regulations, in the case of an award made under sub-paragraph (a) of paragraph (1) of this regulation, or in the form set forth in Schedule D to these regulations, in the case of an award made under sub-paragraph (b) of paragraph (1) of this regulation.

ORDERS FOR DAMAGES CAUSED BY FRIVOLOUS OR VEXATIOUS COMPLAINT OR ALLEGATION.

17. If the Court finds that the complaint or allegation for the investigation of which the Court was convened was frivolous or vexatious, it may make such order for the payment by the party who made the complaint or allegation of damages for any loss or delay caused thereby as may be just.

wat ooreenkomstig regulasie 7 aangestel is en enige party kan, voordat hy sy getuies inroep, die hof toespraak vir die doel om die getuienis wat hy voornemens is om aan te voer, in te lei. Alle sodanige persone moet gehoor en hul getuies ondervra, onder kruisverhoor geneem en herondervra word in sodanige volgorde as wat die voorsitter mag gelas.

(2) Enige persoon wat getuies ingeroep het, kan in enige stadium van die ondersoek, met die goedkeuring van die voorsitter, verdere getuies inroep en ondervra, en dié getuies kan deur die persoon wat ooreenkomstig regulasie 7 aangestel is en die partye in sodanige volgorde as wat die voorsitter mag gelas onder kruisverhoor geneem word en deur die persoon wat hulle ingeroep het, herondervra word.

(3) Die wet in verband met die toelaatbaarheid van getuienis en die bevoegdheid, ondervraging, kruisverhoor en herondervraging van getuies in geregtshoe is nie bindend op 'n seehof nie, maar die voorsitter kan na eie gooddunke enige vraag wat 'n ander lid van die hof of die persoon wat ooreenkomstig regulasie 7 aangestel is of 'n party voornemens is om aan 'n getuie te stel, verwerp op grond daarvan dat so 'n vraag nie ter sake is nie of dat dit om enige ander rede onbehoorlik sou wees om die vraag te stel, en hy kan, na eie gooddunke en om soortgelyke redes, beslis dat die oorlegging van 'n boek, dokument of ding wat deur 'n ander lid van die hof of die persoon wat aldus aangestel is of deur 'n party verlang word, nie toelaatbaar is nie.

(4) Beëdigde verklarings en statutêre verklarings kan, met die verlof van die voorsitter, as getuienis gebruik word.

TOESPRAKE TOT DIE HOF.

14. Nadat al dié getuienis aangevoer is, kan enige van die partye wat verlang om dit te doen die hof oor die getuienis toespraak, en die persoon wat ooreenkomstig regulasie 7 aangestel is, kan ten antwoord daarop die hof oor die hele saak toespraak.

VERDAGINGS.

15. Die hof kan die ondersoek van tyd tot tyd en van plek tot plek verdaag, en wanneer 'n party tot die verrigtings vra dat die ondersoek verdaag word, kan die hof sodanige voorwaardes opleë in verband met die betaling van koste of andersins as wat hy billik mag ag as 'n voorwaarde waarop die verdaging toegestaan word.

BEVELE IN VERBAND MET DIE BETALING VAN KOSTE.

16. (1) Die hof kan sodanige bevel uitreik in verband met die betaling deur enige party—

(a) aan enige ander party, van die koste, of enige deel daarvan, wat billikerwyse deur daardie ander party aangegaan is ten einde by die verhoor aanwesig te wees of deur 'n regspersoon by die ondersoek verteenwoordig te word, of ten einde getuies in te roep of getuienis aan te voer; en

(b) aan die Direkteur, van enige koste, of enige deel daarvan, wat billikerwyse in verband met die ondersoek of verhoor aangegaan is,

as wat hy billik ag.

(2) Koste wat ooreenkomstig paragraaf (1) toegestaan word, word bereken deur die voorsitter wat, nadat hy die berekening gemaak het, 'n bevel uitreik in die vorm wat in Bylae C by hierdie regulasies uiteengesit word, in gevalle waar koste ooreenkomstig subparagraaf (a) van paragraaf (1) van hierdie regulasies toegestaan word, of in die vorm wat in Bylae D by hierdie regulasies uiteengesit word, in gevalle waar koste ooreenkomstig subparagraaf (b) van paragraaf (1) van hierdie regulasies toegestaan word.

BEVELE IN VERBAND MET DIE BETALING VAN VERGOEDING VIR SKADE WAT VEROORSAAK WORD DEUR BEUSLAGTIGE OF ONGEREKVERDIGDE KLAGTES OF BEWERINGS.

17. Indien die hof beslis dat die klagte of bewering vir die ondersoek waarvan die hof byengeroep is, beuselagtig of ongerekverdig was, kan hy 'n bevel uitreik vir die betaling deur die party wat die klagte ingebreng het of die bewering gemaak het van sodanige skadevergoeding vir enige verlies of vertraging daardeur veroorsaak as wat hy billik mag ag.

ENFORCEMENT OF ORDERS FOR COSTS OR DAMAGES.

18. An order for the payment of costs or damages made under regulation 16 or 17, respectively, shall, on being filed with the clerk of the Magistrate's Court within the area of jurisdiction of which the ship in connection with which the investigation took place is registered, have all the effects of and may be executed as if it were a civil judgment lawfully given in that Magistrate's Court in favour of the person who is by such order declared entitled to such costs or damages and against the person who is by such order directed to pay such costs or damages: Provided that if the person who is by such order directed to pay such costs or damages is or was a master, apprentice-officer or seaman in the employ of the person who is by such order declared entitled to such costs or damages, the amount of such costs or damages may be deducted from any wages that may be due to such master, apprentice-officer or seaman.

RECORDS OF PROCEEDINGS.

19. (1) The Court shall cause minutes to be made of—

- (a) any *viva voce* evidence given in court;
- (b) any objection made to any evidence received or tendered;
- (c) the proceedings of the court generally, including the record of any inspection *in loco*; and
- (d) the decisions of the Court.

(2) The Court shall duly mark each document put in evidence and note such mark on the record.

(3) Such minutes and marks may be made by the clerk, and, save where made by the clerk, or as hereinafter provided, they shall be made by the presiding officer.

(4) The presiding officer may appoint a shorthand writer to take down in shorthand a note of *viva voce* evidence and proceedings.

(5) Any party shall be entitled to a transcript of any such shorthand note certified as correct by the shorthand writer on payment of a fee to be fixed by the presiding officer, having regard to the cost of such transcript.

(6) In the event of an appeal being noted and set down for hearing such shorthand note shall, so far as relevant to the appeal, be transcribed and certified on oath by such shorthand writer as a true record of the proceedings and such transcript shall thereafter form part of the record.

(7) Any party may apply to the presiding officer to correct any errors in the record. Such application shall be made not later than seven days after the decision of the Court has been declared; provided that if the application is for a correction of any errors in the shorthand note of evidence the transcript of which has not been completed before the decision of the Court is declared, it shall be made not later than seven days after the transcript has been completed. Upon being satisfied that reasonable notice of the application has been given by the applicant to every other interested party, the presiding officer may, after consideration of any representations that may be made to him by any such party, and, if he thinks it necessary, after consultation with one or more of the other members of the Court, correct any such errors.

(8) If, before the hearing of the application, all parties affected file a consent to the corrections claimed, no costs of such application shall be allowed; otherwise, costs shall be in the discretion of the presiding officer, and the provisions of paragraph (2) of regulation 16 and regulation 18 shall apply in respect of any award by him of such costs.

(9) In this regulation the word "party" includes the person appointed under regulation 7.

UITVOERING VAN BEVEL IN VERBAND MET DIE BETALING VAN KOSTE OF SKADEVERGOEDING.

18. 'n Bevel in verband met die betaling van koste of skadevergoeding wat ooreenkomstig onderskeidelik regulasie 16 of 17 uitgereik word, het, wanneer dit ingedien word by die klerk van die magistratshof binne die reggebied waarvan die skip, in verband waarmee die ondersoek gehou is, geregistreer is, dieselfde krag as en kan uitgeoefen word asof dit 'n siviele uitspraak is wat wettiglik in daardie magistratshof gegee is ten gunste van die persoon wat ooreenkomstig so 'n bevel geregtig verklaar word tot sodanige koste of skadevergoeding en teen die persoon wat ooreenkomstig so 'n bevel gelas word om sodanige koste of skadevergoeding te betaal: Met dien verstande dat, as die persoon wat ooreenkomstig so 'n bevel gelas word om sodanige koste of skadevergoeding te betaal 'n gesagvoerder, leerling-offisier of seeman is of was in die diens van die persoon wat ooreenkomstig so 'n bevel geregtig verklaar word tot sodanige koste of skadevergoeding, die bedrag van sodanige koste of skadevergoeding afgetrek kan word van enige lone wat aan sodanige gesagvoerder, leerling-offisier of seeman verskuldig mag wees.

REKORD VAN VERRIGTINGS.

19. (1) Die hof sien toe dat notule afgenem word van—

- (a) enige *viva voce*-getuienis wat in die hof afgelê word;
- (b) enige beswaar wat gemaak word teen enige getuienis wat ingewin of aangebied word;
- (c) die verrigtings van die hof in die algemeen, met inbegrip van die rekord van enige inspeksie *in loco*; en
- (d) die beslissings van die hof.

(2) Die hof laat 'n behoorlike merk aanbring op elke dokument wat as getuienis oorgelê word en teken sodanige merk in die rekord aan.

(3) Die afneem van die notule en merking van dokumente word deur die klerk gedoen, en as dit nie gedoen word deur die klerk of soos hieronder bepaal word nie, word dit deur die voorsitter gedoen.

(4) Die voorsitter kan 'n snelskrywer aanstel om 'n snelskriif-aantekening van *viva voce*-getuienis en -verrigtings te maak.

(5) 'n Party is geregtig tot 'n transkripsie van enige sodanige snelskriif-aantekening wat deur die snelskrywer as korrek gewaarmerk is, by betaling van 'n bedrag wat deur die voorsitter, met inagneming van wat die transkripsie hom gekos het, vasgestel word.

(6) In gevalle waar applê aangeteekene word en vir verhoor op die rol geplaas word, word 'n transkripsie van sodanige snelskriif-aantekening gemaak, vir sover dit op die applê betrekking het, en deur die snelskrywer onder eed gewaarmerk as 'n ware weergawe van die verrigtings, en sodanige transkripsie maak daarna deel van die rekord uit.

(7) Enige party kan by die voorsitter aansoek doen om foute in die rekord te verbeter. Sodanige aansoek moet gedoen word hoogstens sewe dae nadat die beslissing van die hof bekendgemaak is: Met dien verstande dat, as aansoek gedoen word om die verbetering van foute in die snelskriif-aantekening van getuienis waarvan die transkripsie nie voltooi is voordat die hof se beslissing bekendgemaak is nie, dit gedoen moet word hoogstens sewe dae nadat die transkripsie voltooi is. As die voorsitter oortuig is dat die applikant aan al die ander belanghebbende partye redelike kennis van die aansoek gegee het, kan hy, na oorweging van enige vertoë wat deur enige sodanige party tot hom gerig mag word en, as hy dit nodig ag, na oorleëping met een of meer van die ander lede van die hof, sodanige foute verbeter.

(8) As al die betrokke partye voor die verhoor van die aansoek hul toestemming indien vir die verbetering van die foute wat aangevra word, word geen koste vir sodanige aansoek toegestaan nie; anders word koste toegestaan volgens die goeëdoenke van die voorsitter en geld die bepalings van paragraaf (2) van regulasie 16 en regulasie 18 ten opsigte van enige koste wat die voorsitter mag toestaan.

(9) In hierdie regulasie sluit die woord „party” die persoon in wat ooreenkomstig regulasie 7 aangestel word.

TRANSMISSION OF RECORDS TO DIRECTOR.

20. (1) The records transmitted to the Director in terms of section two hundred and eighty-six of the Act shall be certified by the clerk.

(2) The report referred to in the said section shall be in the form set forth in Schedule E to these regulations, with such modifications as circumstances may require.

APPEAL TO SUPERIOR COURT.

21. (1) Any person aggrieved by a decision of a Maritime Court who contemplates appealing to a Superior Court under section two hundred and ninety-two of the Act may apply to the Director for a copy of the report transmitted to him in terms of section two hundred and eighty-six. Such application shall be made in writing, shall state an address to which the report may be posted or the name of the person to whom it may be delivered and shall be delivered at the office of the Director or posted so as to reach him not later than thirty days after the delivery of the decision of the Court at the conclusion of the investigation. The Director shall cause a copy of the report to be posted to the applicant at the address stated or to be delivered to the person named, upon payment by the applicant of a fee of 1s. per 100 words.

(2) An appeal may be noted by any person other than the Director within thirty days after the posting to him or the delivery to the person named of the copy of the report, and by the Director within thirty days after the receipt by him of the report from the presiding officer.

(3) An appeal shall be noted by the service upon the Director and every person who was a party to the proceedings of a notice of appeal and, unless the Superior Court to which appeal is made otherwise directs, by giving security to the satisfaction of the Registrar of that Court for the respondents' costs of appeal to the amount of forty pounds; provided that no security shall be required from the State.

(4) A notice of appeal shall state—

- (a) the Superior Court to which the appeal is noted;
- (b) whether the whole or part only of the decision is appealed against, and if part only, then what part;
- (c) the grounds on appeal, specifying the findings of fact or rulings of law appealed against.

(5) Whenever an appeal has been noted, the Director shall forthwith transmit a copy of the notice of appeal to the person who was the presiding officer of the Court, who shall, within seven days of the receipt thereof by him, transmit to the Director a statement, in writing, showing (so far as may be necessary having regard to any written decision already delivered by him or by the Court and to the report referred to in regulation 20)—

- (i) the facts the Court found to be proved;
- (ii) the grounds upon which the Court arrived at any finding of fact specified in the notice of appeal as appealed against; and
- (iii) his reasons for any ruling of law so specified as appealed against.

The statement shall become part of the record.

(6) Any party may apply to the Director for a copy of the statement referred to in paragraph (5) of this regulation. The application shall be made in writing, shall state an address to which the statement may be posted or the name of the person to whom it may be delivered, and shall be accompanied by a fee of one pound. The Director shall cause a copy of the statement to be posted to the applicant at the address stated or to be delivered to the person named.

VERSENDING VAN REKORDS AAN DIE DIREKTEUR.

20. (1) Die rekords wat kragsens artikel tweehonderd ses-en-taagtig van die Wet aan die Direkteur versend word, word deur die klerk gewaarmerk.

(2) Die verslag waarvan in gemelde artikel melding gemaak word, moet in die vorm wees wat uiteengesit word in Bylae „E” by hierdie regulasies, met sodanige wysigings as wat in die omstandighede nodig mag wees.

APPEL NA HOËR HOF.

21. (1) 'n Persoon wat hom veronreg voel deur 'n beslissing van 'n sechof en wat voornemens is om kragsens artikel tweehonderd twee-en-negentig van die Wet na 'n hoër hof te appelleer, kan by die Direkteur aansoek doen om 'n afskrif van die verslag wat kragsens artikel tweehonderd ses-en-taagtig aan hom versend is. So 'n aansoek moet skriftelik gerig word, moet 'n adres bevat waarheen die verslag gepos kan word of die naam van die persoon aan wie dit afgelewer kan word, en moet by die kantoor van die Direkteur ingedien word of aan hom gepos word sodat dit hom bereik hoogstens dertig dae nadat die hof aan die einde van die ondersoek sy beslissing gegee het. Die Direkteur sien toe dat, by betaling deur die applikant van 'n bedrag van 1s. per 100 woorde, 'n afskrif van die verslag aan die applikant gepos word na die adres in die aansoek vermeld of dat dit aan die gemelde persoon afgelewer word.

(2) Enige persoon, behalwe die Direkteur, kan appèl aanteken binne dertig dae nadat die afskrif van die verslag aan die persoon gepos of aan hom afgelewer is, en die Direkteur kan appèl aanteken binne dertig dae nadat hy die verslag van die voorsitter ontvang het.

(3) Appèl word aangeteken deur 'n kennisgewing van appèl op die Direkteur en elke ander persoon wat 'n party tot die verrigtings was, te dien, en, tensy die hoër hof waarna geappelleer word anders gelas, deur tot bevrediging van die registrateur van daardie hof sekuriteit ten bedrae van veertig pond vir die verweerder se koste van appèl te gee. Met dien verstande dat sekuriteit nie van die Staat geëis word nie.

(4) In 'n kennisgewing van appèl word vermeld—

- (a) die hoër hof waarna geappelleer word;
- (b) of daar teen die beslissing in sy geheel of slegs teen 'n gedeelte daarvan geappelleer word en, indien slegs teen 'n gedeelte, watter gedeelte;
- (c) die gronde vir die appèl, met 'n uiteensetting van die feitebevindings of regsbeslissings waarteen daar geappelleer word.

(5) Wanneer daar appèl aangeteken word, stuur die Direkteur onverwyld 'n afskrif van die kennisgewing van appèl aan die persoon wat as voorsitter van die hof opgetree het, en binne sewe dae na ontvangs daarvan stuur die persoon wat as voorsitter opgetree het aan die Direkteur 'n skriftelike verklaring waarin die volgende aangedui word (vir sover dit nodig mag wees, met inagneming van enige skriftelike beslissing wat reeds deur hom of deur die hof gegee is en van die in regulasie 20 vermelde verslag)—

- (i) die feite wat volgens die beslissing van die hof bewys is;
- (ii) die gronde waarop die hof geraak het tot enige feitebevinding waarteen daar volgens die kennisgewing van appèl geappelleer word; en
- (iii) sy redes vir enige regsbeslissing waarteen daar volgens die kennisgewing van appèl geappelleer word.

Die verklaring word deel van die rekord.

(6) Enige party kan by die Direkteur aansoek doen om 'n afskrif van die in paragraaf (5) van hierdie regulasie vermelde verklaring. Die aansoek moet skriftelik gerig word, moet 'n adres bevat waarheen die verklaring gepos kan word of die naam van die persoon aan wie dit afgelewer kan word, en moet vergesel gaan van 'n bedrag van een pond. Die Direkteur sien toe dat 'n afskrif van die verklaring gepos word aan die applikant na die adres in die aansoek vermeld of dat dit aan die gemelde persoon afgelewer word.

(7) The Director shall, within seven days after he receives notice that the appeal has been set down for hearing, cause to be transmitted to the Registrar of the Superior Court the record of the proceedings before the Maritime Court, including the notes of evidence, the decisions, the report by the presiding officer and any reasons and other documents transmitted to the Director in terms of section two hundred and eighty-six of the Act, and the statement referred to in paragraph (5) of this regulation.

(8) Subject to the provisions of this regulation, an appeal shall be prosecuted within the period and in accordance with the practice and rules which apply in the Superior Court to which appeal is made in respect of appeals in civil cases from Magistrates' Courts, and if the appeal is to a Local Division of the Supreme Court which has no jurisdiction to hear appeals in Civil cases from Magistrates' Courts, the appeal shall be prosecuted within the period and in accordance with the practice and rules which apply in respect of such appeals in the Provincial Division of the Province within which that Local Division exercises jurisdiction, and in default of such prosecution, the appeal shall be deemed to have lapsed, unless that Superior Court shall see fit to make an order to the contrary.

(9) The judgment of the Superior Court to which appeal is made may be enforced as if it had been given in the Court appealed from.

REHEARING BY ORDER OF THE MINISTER.

22. Whenever the Minister has directed under the provisions of section two hundred and ninety-one of the Act—

- (a) that a case be reheard by a Maritime Court, the provisions of these regulations shall apply to such rehearing; or
- (b) that a case heard by a Maritime Court be reheard by a Court of Marine Enquiry, the provisions of the Courts of Marine Enquiry Regulations shall apply to such rehearing.

SCHEDULE A.

ALLOWANCES TOWARDS SUBSISTENCE AND TRANSPORT PAYABLE TO MEMBERS OF MARITIME COURTS.

(REGULATION 4.)

1. A member shall be paid an allowance towards subsistence at the rate of £1. 1s. for every hour or part of an hour of any day on which he attends the investigation and on which the case is wholly or partly heard: Provided that he shall not be paid less than £3. 3s. or more than £5. 5s. for any such day.

2. The period for which payment shall be made in terms of paragraph 1 shall be reckoned from the time when the member attends to the time when he is released by the presiding officer from further attendance.

3. The member shall be paid an allowance towards subsistence of £1. 1s. for any day on which he attends the investigation but on which the case is not heard.

4. A member shall also be paid at the rate of one-twenty-fourth of £5. 5s. for every completed hour (one-twenty-fourth) of the time necessarily spent in travelling to and from the place at which the investigation is held.

5. In no case shall a member be paid under the foregoing paragraphs more than £5. 5s. for any period from midnight to midnight.

6. Where a public conveyance serves, the fare disbursed by the member shall be refunded to him. For any part of the journey to and from the place at which the investigation is held which is not served by any form of public transport the member shall be paid a travelling allowance at the rate of one shilling a mile.

(7) Binne sewe dae nadat hy kennis ontvang het dat die appèl vir verhoor op die rol geplaas is, sien die Direkteur toe dat die rekord van die verrigtings voor die seehof, met inbegrip van die aantekeninge van die getuïenis, die beslissinge, die verslag van die voorsitter en enige beredenerings en ander dokumente wat kragtens artikel tweehonderd ses-en-tig van die Wet aan die Direkteur versend is, en die in paragraaf (5) van hierdie regulasie vermelde verklaring, aan die registreerders van die hoër hof versend word.

(8) Behoudens die bepalings van hierdie regulasie, word 'n appèl ingestel binne die tydperk en ooreenkomstig die gebruik en reëls wat in die hoër hof waarna geappelleer word, geld ten aansien van appèlle in siviele sake vanuit magistratshoue, en as daar geappelleer word na 'n Plaaslike Afdeling van die Hooggeregshof wat geen regsbevoegdheid het om appèlle in siviele sake vanuit magistratshoue te verhoor nie, word die appèl ingestel binne die tydperk en ooreenkomstig die gebruik en reëls wat geld ten aansien van sodanige appèlle in die Provinsiale Afdeling van die Provinsie waarin daardie Plaaslike Afdeling regsbevoegdheid uitoefen, en by verstek van sodanige instelling word geag dat die appèl verval het, tensy daardie hoër hof dit goed ag om 'n andersluidende bevel uit te vaardig.

(9) Die uitspraak van die hoër hof waarna geappelleer word, kan gchandhaaf word asof dit gegee was in die hof vanwaar geappelleer word.

HERVERHOOR OP LAS VAN DIE MINISTER.

22. Wanneer die Minister kragtens die bepalings van artikel tweehonderd een-en-negentig van die Wet gelas het—

- (a) dat 'n saak deur 'n seehof opnuut verhoor moet word, is die bepalings van hierdie regulasies van toepassing op sodanige herverhoor; of
- (b) dat 'n saak wat deur 'n seehof verhoor is deur 'n hof van marine-ondersoek opnuut verhoor moet word, is die bepalings van die Regulasies Betreffende 'n Hof van Marine-ondersoek van toepassing op sodanige herverhoor.

BYLAE A.

TOELAES VIR ONDERHOUD EN VERVOER BETAALBAAR AAN LEDE VAN SEEHOWE.

(REGULASIE 4.)

1. 'n Lid ontvang 'n toelae vir onderhoud teen die koers van £1. 1s. vir elke uur of gedeelte van 'n uur van enige dag waarop hy die ondersoek bywoon en waarop die saak in sy geheel of gedeeltelik verhoor word: Met dien verstande dat hy minstens £3. 3s. of hoogstens £5. 5s. vir enige sodanige dag ontvang.

2. Die tydperk waarvoor betaling ooreenkomstig paragraaf 1 gemaak word, word gereken vanaf die tyd wanneer die lid aanwesig is tot die tyd wanneer die voorsitter hom van verdere aanwesigheid vrystel.

3. Die lid ontvang 'n onderhoudstoelae van £1. 1s. vir enige dag waarop hy die ondersoek bywoon maar waarop die saak nie verhoor word nie.

4. 'n Lid ontvang ook 'n toelae teen 'n koers van een- en-twintigste van £5. 5s. vir elke voltooide uur (een- en-twintigste) van die tyd wat noodwendig in beslag geneem word om na en van die plek te reis waar die ondersoek plaasvind.

5. In geen geval ontvang 'n lid ooreenkomstig bostaande paragrawe meer as £5. 5s. vir enige tydperk van middernag tot middernag nie.

6. In gebiede wat deur 'n vorm van openbare vervoer bedien word, word die reisgeld wat die lid uitbetaal het aan hom terugbetaal. Vir enige deel van die reis na en van die plek waar die ondersoek gehou word wat nie deur enige vorm van openbare vervoer bedien word nie ontvang die lid 'n reistoeleag van een sjieling per myl.

SCHEDULE B.

MARITIME COURT.

SUBPOENA.

(REGULATION 9.)

To—
(1) of
(2) of
(3) of
(4) of

You are hereby required to appear in person before the Maritime Court at on the day of 19....., at the hour of which has been appointed to investigate. (here state briefly the subject of investigation)

and to bring with you and then produce to the Court the several documents specified in the list hereunder:—

Date.	Description.	Original or Copy.

* Presiding Officer.
Clerk of the Court.

Place.....
Date.....

Attention is invited to section *nine*, read with section *three hundred and thirteen* of the Merchant Shipping Act, 1951, which provides that any person who fails to attend at the time and place specified in a subpoena and remain in attendance until excused by the Court from further attendance, or to answer fully and satisfactorily, to the best of his ability, all questions lawfully put to him, or upon his being required to do so to produce any document in his possession or control, shall be liable to a penalty not exceeding a fine of £100 or six months' imprisonment or both such fine and imprisonment.

SCHEDULE C.

ORDER FOR PAYMENT OF COSTS INCURRED BY A PARTY.

(REGULATION 16.)

In the matter of an investigation by a Maritime Court held at (here state the place where the Court sat) on the (here state all the days on which the Court sat) into the (here state briefly the subject of investigation)

The Court orders that of the sum do pay to of the sum of in payment (or in part payment, as the case may be) of the costs incurred by the said

* Delete inapplicable words.

BYLAE B.

SEEHOF.

DAGVAARDING.

(REGULASIE 9.)

Aan—

- (1) van
(2) van
(3) van
(4) van

U word hierby versoek om op die dag van 19..... om uur, te persoonlik te verskyn voor die Seehof wat aangestel is om ondersoek in te stel na (meld hier kortliks die onderwerp van die ondersoek)

en om die verskillende dokumente in onderstaande lys gespesifiseer, met u saam te bring en aan die Hof oor te lê:—

Datum.	Beskrywing.	Oorspronklike of Afskrif.

Plek.....

Datum.....

* Voorsitter.
Klerk van die Hof.

Die aandag word gevestig op artikel *nege*, gelees saam met artikel *driehonderd-en-dertien* van die Hande'skeepvaartwet, 1951, waarin bepaal word dat enige persoon wat in gebreke bly om op die tyd en plek in 'n dagvaarding bepaal, te verskyn en aanwesig te bly tot dat hy deur die Hof van verdere aanwesigheid vrygestel word, of om alle vrae wat wettiglik aan hom gestel word volledig en bevredigend, na die beste van sy vermoë, te beantwoord, of om, as hy daartoe gelas word, enige dokument in sy besit of onder sy beheer oor te lê, strafbaar is met 'n boete van hoogstens £100 of ses maande tronkstraf of met sowel die boete as die tronkstraf.

BYLAE C.

BEVEL IN VERBAND MET DIE BETALING VAN KOSTE DEUR 'N PARTY AANGEGAAN.

(REGULASIE 16.)

In die geval van 'n Seehof wat gehou is te (meld hier die plek waar die Hof gesit het) op die (meld hier al die dae waarop die Hof gesit het) om ondersoek in te stel na (meld hier kortliks die onderwerp van die ondersoek)

Beveel die Hof dat van die bedrag van aan van die bedrag van betaal as betaling (of gedeeltelike betaling, na gelang van die geval) van die koste deur gemelde aangegaan ten einde by die ondersoek aanwesig te wees of deur 'n regs persoon daarby verteenwoordig te word.

* Skrap die woorde wat nie van toepassing is nie.

in attending or being legally represented at the investigation and in bringing witnesses or adducing evidence (delete words not applicable).

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

Presiding Officer.

SCHEDULE D.

ORDER FOR PAYMENT OF COSTS INCURRED BY THE DIRECTOR OF MERCHANT SHIPPING.

(REGULATION 16.)

In the matter of an investigation by a Maritime Court held at (here state the place where the Court sat) on the (here state all the days on which the Court sat) into the (here state briefly the subject of investigation)

The Court orders that of do pay to the Director of Merchant Shipping of the Union of South Africa the sum of in payment (or in part payment, as the case may be) of the costs reasonably incurred by the said Director in connection with the investigation or hearing.

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

Presiding Officer.

SCHEDULE E.

REPORT OF MARITIME COURT.

(REGULATION 20.)

In the matter of an investigation by a Maritime Court held at (here state the place where the Court was held) on the (here state all the days on which the Court sat) before Presiding Officer, and and Members, into the (here state briefly the subject of investigation)

The Court, having carefully inquired into the circumstances attending the matter to be investigated, finds for the reasons stated in the Annex hereto, that the (here state the finding of the Court)

Dated at this day of

Presiding Officer.

We (or I) concur in the above report.

Member.

Member.

ANNEX TO THE REPORT.

(Here state fully the circumstances of the case, the opinion of the Court touching the truth of the allegation or the causes of the event and the conduct of any persons implicated therein, and whether the certificate of any officer has been suspended, and the reasons for the said opinion, and if the certificate of any officer has been suspended the reasons for such suspension.)

dig te wees, en ten einde getuies in te roep of getuies aan te voer (skrap die woorde wat nie van toepassing is nie).

Gegee onder my handtekening te hede die dag van 19.....

Voorsitter.

BYLAE D.

BEVEL IN VERBAND MET DIE BETALING VAN KOSTE DEUR DIE DIREKTEUR VAN HANDELSKEEPVAART AANGEGAAN.

(REGULASIE 16.)

In die geval van 'n seehof wat gehou is te (meld hier die plek waar die hof gesit het) op die (meld hier al die dae waarop die hof gesit het) om ondersoek in te stel na (meld hier kortliks die onderwerp van die ondersoek)

Beveel die hof dat van aan die Direkteur van Handelskeepvaart van die Unie van Suid-Afrika die bedrag van betaal as betaling (of gedeeltelike betaling, na gelang van die geval) van die koste wat redelikerwyse deur genoemde Direkteur aangegaan is in verband met die ondersoek of verhoor.

Gegee onder my handtekening te hede die dag van 19.....

Voorsitter.

BYLAE E.

VERSLAG VAN SEEHOF.

(REGULASIE 20.)

In die geval van 'n seehof gehou te (meld hierdie plek waar die hof gesit het) op die (meld hier al die dae waarop die hof gesit het) voor Voorsitter, en en Lede, om ondersoek in te stel na die (meld hier kortliks die onderwerp van ondersoek)

Beslis die hof, nadat hy noukeurig ondersoek ingestel het na die omstandighede van die saak wat ondersoek moes word, om die redes in die Aanhangsel hieraan uiteengesit, dat die (meld hier die beslissing van die hof)

Gedateer te hede die dag van 19.....

Voorsitter.

Ons (of Ek) stem saam met die bostaande verslag.

Lid.

Lid.

AANHANGSEL AAN DIE VERSLAG.

(Meld hier volledig die omstandighede van die saak, die opinie van die hof rakende die waarheid van die bewering of die oorsake van die voorval en die gedrag van enige persone wat daarby betrokke is, en of die sertifikaat van enige offisier opgeskort is, en die redes vir die gemelde opinie, en as die sertifikaat van enige offisier opgeskort is, die redes vir sodanige opskorting.)

APPENDIX TO MARITIME COURTS REGULATIONS.

AANHANGSEL AAN REGULASIES BETREFFENDE SEEHOWE.

Sections of Merchant Shipping Act, 1951 (Act No. 57 of 1951), reprinted for convenience of reference.

Artikels van Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), herdruk vir gerieflike naslaandoelinge.

Powers of Officers and Courts.

Bevoegdhede van beamptes en hove.

*9. (1) Any—

*9. (1) Enige—

- (a) proper officer or surveyor; or
- (b) court of marine enquiry, maritime court or court of survey; or
- (c) person appointed in terms of section two hundred and sixty-four or sub-section (1) of section two hundred and eighty-one, or to whom an appeal is referred in terms of sub-section (1) or (2) of section two hundred and eighty-two; or
- (d) other person authorised or required by or under this Act, or generally or specially authorised or required by the Director, to make any survey or inspection or conduct any investigation.

- (a) bevoegde beampte of opnemer; of
- (b) hof van marine-ondersoek, seehof of opnemingshof; of
- (c) persoon wat kragtens artikel tweehonderd vier-en-sestig of sub-artikel (1) van artikel tweehonderd een-en-tig aangestel is, of na wie 'n appel kragtens subartikel (1) of (2) van artikel tweehonderd twee-en-tig verwys is; of
- (d) ander persoon gemagtig of verplig deur of kragtens hierdie Wet of oor die algemeen of in besonder deur die Direkteur gemagtig of gelas om 'n opname of inspeksie te maak of 'n ondersoek te doen.

may, in the execution of his duty or the exercise of his functions—

kan in die uitvoering van sy plig of die uitoefening van sy werksaamhede—

- (i) board any South African ship wherever she may be, or any ship other than a South African ship while she is within the Union or the territorial waters of the Union, and inspect the same or any part thereof, or any equipment thereof, or any articles on board, or any log-books, certificates or other documents relating to the ship or the crew thereof, and muster the crew of the ship and interrogate them;
- (ii) enter any premises, including any land, structure, vehicle or vessel, and inspect the same or any articles therein;
- (iii) by written notice or otherwise summon any person who in his or its opinion may be able to give information which is likely to assist him or it in the carrying out of such duty, or who he or it suspects or believes has in his possession or custody or under his control any book, document or thing the inspection of which is likely to assist him or it in the carrying out of such duty, to appear before him or it at a time and place specified, to be interrogated or to produce that book, document or thing;
- (iv) administer an oath to any person appearing in obedience to any summons or otherwise, and interrogate him and inspect and detain any book, document or thing produced;
- (v) require any person interrogated to subscribe to a declaration of the truth of the statement made by him; and
- (vi) copy any document inspected by or produced to him or it.

- (i) aan boord gaan van 'n Suid-Afrikaanse skip, waar dit eokal is, of 'n ander skip as 'n Suid-Afrikaanse skip terwyl die skip in die Unie of die Unie se territoriale waters is, en die skip of enige deel daarvan, of uitrusting daarvan, of enige artikels aan boord daarvan, of enige skeepsjoernale, sertifikate of ander dokumente wat op die skip of die skip se bemanning betrekking het, inspekteer, en die skip se bemanning monster en ondervra;
- (ii) enige perseel, met inbegrip van enige grond, bouwerk, voertuig of vaartuig, betree en die perseel of enige artikels daarin ondersoek;
- (iii) by skriftelike kennisgewing of andersins enige persoon oproep wat na sy mening in staat mag wees om inligting te verstrek wat hom waarskynlik sal help om sodanige plig uit te voer, of wat na sy vermoede of mening enige boek, dokument of ding in sy besit of bewaring of onder sy beheer het wat by insae hom waarskynlik in die uitvoering van sodanige plig sal help, om voor hom te verskyn op 'n bepaalde tyd en plek om ondervra te word of om daardie boek, dokument of ding oor te lê;
- (iv) 'n eed afneem van enige persoon wat ingevoel 'n oproep of andersins verskyn en hom ondervra en enige boek, dokument of ding wat oorgeleë word, ondersoek en agterhou;
- (v) enige persoon wat ondervra is, 'n verklaring van die waarheid van die verklaring deur hom afgelê, laat onderteken; en
- (vi) 'n afskrif maak van enige dokument wat deur hom ingesien of aan hom getoon is.

(2) Every person—

(2) Iedere persoon—

- (a) shall upon demand assist to the best of his ability any officer or other person or court in the exercise any of the powers conferred by sub-section (1);
- (b) summoned under paragraph (iii) of sub-section (1) shall attend at the time and place specified, and remain in attendance until excused by the officer or other person or court from further attendance;
- (c) shall take the oath administered to him by any officer or other person or court under paragraph (iv) of sub-section (1);

- (a) help enige beampte of ander persoon of hof op versoek na die beste van sy vermoë in die uitoefening van eenigen van die bevoegdhede deur sub-artikel (1) verleë;
- (b) wat kragtens paragraaf (iii) van subartikel (1) opgeroep is, verskyn op die bepaalde tyd en plek en bly aanwesig totdat die beampte of ander persoon of hof hom vrystel van verdere aanwesigheid;
- (c) lê die eed af wat kragtens paragraaf (iv) van subartikel (1) deur 'n beampte of ander persoon of hof van hom afgeneem word;

* [NOTE.—Attention is invited to the fact that it is proposed to seek authority to amend section nine of the Act as follows:—

* [LET WEL.—Die aandag word gevestig op die feit dat die voorneme bestaan om magtiging te verkry om artikel nege van die Wet as volg te wysig:—

- (a) By the substitution in the English version of sub-section (1) for the words "duty or the exercise of his or its,"
- (b) by the insertion in paragraph (b) of sub-section (2) after the words "whose reasonable expenses have been paid or offered to him"; and
- (c) by the insertion in paragraph (d) of sub-section (2) after the words "or the word figure "sub-section (1)" of the words "is by any other person who in the course of the proceedings entitled to interrogate him in the course of the proceedings of any court or before any person referred to in paragraph (b) or (c) of that sub-section."

- (a) Deur in die Engelse teks van subartikel (1) die woorde „duty or the exercise of his or its" te vervang;
- (b) deur in paragraaf (b) van subartikel (2) na die woorde „opgeroep is" die woorde „en wie se redelike koste aan hom betaal of aangebied is" in te voeg; en
- (c) deur in paragraaf (d) van subartikel (2) na die woord en syfer „subartikel (1)" die woorde „of deur enige ander persoon wat ingevoel die regulasies geregtig is om hom in die loop van die verrigtings van 'n hof of voor 'n persoon in paragraaf (b) of (c) van daardie subartikel bedoel, te ondervra" in te voeg.]

- (d) shall answer fully and satisfactorily, to the best of his ability, all questions lawfully put to him by any officer or other person or court under paragraph (i) or (iv) of sub-section (1) and, upon being required to do so, produce any book, document or thing in his possession or under his control: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing to any such officer or other person or court, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law shall apply; and
- (e) upon being required to do so, shall subscribe to a declaration of the truth of any statement made by him.
- (3) Any person who, after being sworn by an officer or other person or court in the exercise of the said powers, gives a false answer to any question put to him, or makes a false statement on any matter, knowing that answer or statement to be false, shall be deemed to be guilty of perjury.
- (4) Any person or court referred to in paragraph (a), (b) or (c) of sub-section (1) may in the execution of his or its duty or the exercise of his or its functions, if he or it deems it necessary to do so, direct that any South African ship wherever she may be, or any ship other than a South African ship while she is within the Union or the territorial waters of the Union, be taken into dock at the owner's expense, in order that every part of the hull thereof may be inspected.

Convening of Maritime Courts Outside the Union.

270. Whenever—

- (a) a complaint which appears to a proper officer outside the Union to require immediate investigation is made to him by the master or any member of the crew of a South African ship; or
- (b) the interest of the owner of a South African ship or of the cargo thereof appears to such an officer to require it; or
- (c) an allegation of incompetency or misconduct is made to him against the master or any of the ship's officers of a South African ship; or
- (d) any South African ship is lost, abandoned or stranded at or near the place where such an officer may be, or whenever the crew or part of the crew of any South African ship which has been lost, abandoned or stranded arrives at that place; or
- (e) any loss of life or any serious injury to any person has occurred on board a South African ship at or near that place,

he may, in his discretion, convene a court (hereinafter referred to as a maritime court) to investigate the said complaint or allegation or the matter affecting the said interest or the cause of the loss, abandonment or stranding of the ship or of the loss of life or of the injury to the person.

Constitution of Maritime Courts.

271. (1) A maritime court shall consist of the proper officer who convenes it and either two or four other members.

(2) The other members of the court shall be appointed by the proper officer who convenes it, and shall be persons of suitable nautical, engineering or other special skill, knowledge or experience, and, whenever possible, at least one member shall be in active sea-going service.

(3) If by death, resignation or any other cause the number of members of the court is reduced to not less than two, the remaining members shall constitute the court.

(4) If the court, as originally constituted, or as reduced for any reason referred to in sub-section (3), consists of three members, two members shall form a quorum; and if it consists of more than three members, three members shall form a quorum.

(d) beantwoord volledig en bevredigend na die beste van sy vermoë alle vrae wat wettiglik deur 'n beampde of ander persoon of hof kragtens paragraaf (i) of (iv) van subartikel (1) aan hom gestel word, en as hy daartoe gelas word, ooreël hy enige boek, dokument of ding in sy besit of onder sy beheer: Met dien verstande dat die regsreëls betreffende privilegie soos van toepassing op 'n getuie wat gedagvaar is om voor enige gereghof getuie af te lê of enige boek, dokument of ding oor te lê van toepassing is op die ondervraging van so 'n persoon deur, of die oorlegging van so 'n boek, dokument of ding aan, so 'n beampde of ander persoon of hof; en

(e) as hy daartoe gelas word, onderteken 'n verklaring van die waarheid van 'n verklaring wat hy afgelê het.

(3) Enigeen wat onder eed gestel is deur 'n beampde of ander persoon of hof in die uitoefening van genoemde bevoegdhede en 'n valse antwoord op enige vraag wat aan hom gestel is, gee, of 'n valse verklaring oor enige saak doen wetende dat daardie antwoord of verklaring vals is, word geag aan meenede skuldig te wees.

(4) Enige persoon of hof beoel in paragraaf (a), (b) of (c) van subartikel (1) kan in die uitvoering van sy plig of die uitoefening van sy werksaamhede, as hy dit nodig ag, gelas dat 'n Suid-Afrikaanse skip, waar dit ookal is, of 'n ander skip as 'n Suid-Afrikaanse skip terwyl die skip in die Unie of die Unie se territoriale waters is, op die eienaar se koste in 'n dok geborg word sodat elke deel van die romp ondersoek kan word.

Byeenroeping van seehowe buite die Unie.

270. Wanneer—

- (a) 'n klage wat 'n bevoegde beampde buite die Unie voorkom as 'n klage wat onmiddellike ondersoek vereis, aan hom gemaak word deur die gesagvoerder of 'n lid van die bemanning van 'n Suid-Afrikaanse skip; of
- (b) dit vir so 'n beampde voorkom dat die belange van die eienaar van 'n Suid-Afrikaanse skip of van die vraag daarvan dit vereis; of
- (c) 'n bewering van onbevoegdheid of wangedrag teen die gesagvoerder of enigeen van die skeepsolisiere van 'n Suid-Afrikaanse skip aan hom gemaak word; of
- (d) 'n Suid-Afrikaanse skip verlore gaan, verlaat word of gestrand op of naby die plek waar so 'n beampde mag wees, of wanneer die bemanning of deel van die bemanning van 'n Suid-Afrikaanse skip wat verlore gegaan het, verlaat is of gestrand het, op daardie plek aankom; of
- (e) lewensverliese of ernstige besering van enige persoon aan boord van 'n Suid-Afrikaanse skip op of naby daardie plek plaasgevind het,

kan hy na goëddunke 'n hof byeenroep (hierna 'n seehof genoem) om ondersoek in te stel na genoemde klage of bewering of die saak rakende genoemde belang of die oorsaak van die verlies, verlaten of stranding van die skip of van die lewensverlies of van die besering van die persoon.

Samestelling van seehowe.

271. (1) 'n Seehof bestaan uit die bevoegde beampde wat dit byeenroep het, en of twee of vier ander lede.

(2) Die ander lede van die hof word aangestel deur die bevoegde beampde wat dit byeenroep, en hulle moet persone wees met geskikte marine-, ingenieurs- of ander besondere vaardigheid, kennis of ervaring, en waar moontlik moet minstens een lid in aktiewe seediens wees.

(3) As die getal lede van die hof verminder word deur dood, bedanking of enige ander oorsaak, tot nie minder as twee nie, maak die oorblywende lede die hof uit.

(4) As die hof, soos oorspronklik saamgestel of soos verminder om enige in subartikel (3) bedoelde rede, uit drie lede bestaan, is twee lede 'n kworum; en as dit bestaan uit meer as drie lede, is drie lede 'n kworum.

(5) The proper officer who convened the court shall be the presiding officer unless for any reason referred to in sub-section (3) he ceases to be a member of the court, in which event the proper officer (or his successor) shall appoint one of the other members of the court to be the presiding officer.

How Decisions of Maritime Courts are Reached and Announced.

272. (1) The decision of the majority of the members of a maritime court shall, subject to the provisions of paragraphs (a) and (b) of sub-section (1) of section two hundred and seventy-three, be the decision of the court.

(2) The decision of the court shall be declared by one of the members concurring in that decision, and the reasons therefor shall be stated by at least one such member. Any member who dissents from the decision of the court may declare his dissent and his reasons therefor.

(3) If for any reason a majority of the members of the court (or, if the court consists of only two members, both members) are not agreed upon any matter upon which a decision is necessary in order that the investigation may be completed, the presiding officer, if he is the proper officer, shall discharge the members of the court, and, if he thinks fit, he may summon another maritime court to hold the investigation, or, if he is not the proper officer, he shall report the fact to the proper officer, and thereupon the proper officer may refer the matter back to the court for reconsideration or may discharge the members of the court, and, if he thinks fit, summon another maritime court to hold the investigation.

Powers of Maritime Courts.

273. (1) A maritime court may, after hearing and investigating the case, and subject to the provisions of section two hundred and eighty-three—

(a) if unanimous that the safety of a South African ship or her cargo or crew or the interest of the owner of a South African ship or of the cargo thereof requires it, remove the master and appoint another qualified person to act in his stead;

(b) if unanimous that any master or ship's officer of a South African ship is incompetent or has been guilty of any act of misconduct, or that loss, abandonment or stranding of or serious damage to any ship or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer of a South African ship, suspend the certificate of competency or service of that master or ship's officer for a stated period;

(c) discharge a seaman from a South African ship and order the wages of any seaman so discharged or any part of those wages to be forfeited;

(d) decide any questions as to wages or fines or forfeitures arising between any of the parties to the proceedings;

(e) direct that any or all of the costs incurred by the master or owner of a South African ship in procuring the imprisonment of any seaman or apprentice-officer in a port outside the Union, or in his maintenance while so imprisoned, shall be paid out of and deducted from the wages of that seaman or apprentice-officer, whether then or subsequently earned;

(f) exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as consular representatives can in terms of section three hundred and forty-one;

(g) punish any master or member of the crew of a South African ship respecting whose conduct a complaint is brought before it for any offence under this Act of which he has been found guilty by the court and shall for that purpose have the same powers as a magistrate's court would have if the case were tried in the Union: Provided that

(5) Die bevoegde beampte wat die hof byeenroep het, moet as voorsitter optree, behalwe wanneer om een of ander van die in sub-artikel (3) bedoelde redes hy ophou om lid van die hof te wees, in welk geval die bevoegde beampte (of sy opvolger) een van die ander lede van die hof as voorsitter moet aanstel.

Hoe beslissings van seehove bereik en bekendgemaak word.

272. (1) Die beslissing van die meerderheid van die lede van 'n seehof is, behoudens die bepalings van paragrafe (a) en (b) van sub-artikel (1) van artikel tweehonderd drie-en-sewentig die beslissing van die hof.

(2) Die beslissing van die hof word bekendgemaak deur een van die lede wat met daardie beslissing saams em, en die redes daarvoor word deur minstens een sodanige lid verklaar. 'n Lid wat van die hof se beslissing verskil, kan die feit dat hy verskil, bekendmaak, en sy redes daarvoor gee.

(3) As die meerderheid van die lede van die hof (of as die hof uit net twee lede bestaan, albei lede) om enige rede nie saamstem oor enige saak waarvoor 'n beslissing nodig is om die ondersoek te kan voltooi nie, moet die voorsitter, as hy die bevoegde beampte is, die lede van die hof ontslaan, en as hy dit goedvind, kan hy 'n ander seehof saamroep om die ondersoek waar te neem, of, as hy nie die bevoegde beampte is nie, rapporteer hy die feit aan die bevoegde beampte, en daarop kan die bevoegde beampte die saak terugverwys na die hof vir heroorweging of kan hy die lede van die hof ontslaan en as hy dit goed vind, kan hy 'n ander seehof saamroep om die ondersoek waar te neem.

Bevoegdheid van seehove.

273. (1) 'n Seehof kan na die verhoor en ondersoek van 'n saak en behoudens die bepalings van artikel tweehonderd drie-en-tagtig—

(a) as die hof dit eens is dat die veiligheid van 'n Suid-Afrikaanse skip of sy vrug of bemanning of die belange van die eienaar van 'n Suid-Afrikaanse skip of van die vrug daarvan dit vereis, die gesagvoerder verwyder en 'n ander bevoegde persoon aanstel om in sy plek op te tree;

(b) as die hof dit eens is dat 'n gesagvoerder of skeeps-offisier van 'n Suid-Afrikaanse skip onbevoeg is of hom skuldig gemaak het aan 'n daad van wangedrag, of dat die verlies, verlatenheid of stranding van of ernstige skade aan 'n skip of lewensverlies of ernstige besering van 'n persoon veroorsaak is deur die wederregtelike daad of versuim van 'n gesagvoerder of skeeps-offisier van 'n Suid-Afrikaanse skip, die bekwaamheid- of dienssertifikaat van daardie gesagvoerder of skeeps-offisier vir 'n bepaalde tydperk opskort;

(c) 'n seeman uit diens op 'n Suid-Afrikaanse skip ontslaan en gelas dat die loon van 'n aldus ontslane seeman of enige deel van sy loon verbeur word;

(d) enige vrae aangaande loon of boetes of verbuerings wat tussen enige van die partye by die verrigtings ontstaan, beslis;

(e) gelas dat enige of al die koste opgeloop deur die gesagvoerder of eienaar van 'n Suid-Afrikaanse skip ten einde die opsluiting van 'n seeman of leerling-offisier in 'n hawe buite die Unie te bewerkstellig, of in verband met sy onderhoud terwyl hy so opgesluit was, betaal moet word uit en afgetrek moet word van die loon van daardie seeman of leerling-offisier, hetsy dit toe of later verdien is;

(f) dieselfde magte uitoefen ten aansien van persone wat voor die hof aangekla word van oortredings op see of in die buiteland soos konsulerende verteenwoordigers kragtens artikel driehonderd een-en-veertig kan doen;

(g) 'n gesagvoerder of lid van die bemanning van 'n Suid-Afrikaanse skip ten aansien van wie se gedrag 'n klage voor die hof gebring is oor 'n oortreding teen hierdie Wet, waarvan hy deur die hof skuldig bevind is, straf, en besit vir daardie doel dieselfde magte as wat 'n magistraatshof sou gehad het as die saak in die Unie verhoor was: Met dien ver-

where an offender is sentenced to imprisonment, the proper officer shall approve the place of imprisonment, whether on land or on board ship: Provided, further, that the court may direct that any fine imposed upon an offender shall be paid out of and deducted from his wages and paid over to the proper officer, who shall transmit it to the Director;

- (h) if it considers such a step expedient, order a survey to be made of any South African ship which is the subject of investigation;
- (i) order the costs of proceedings before it, or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or unjustified complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid by any person shall be paid by that person accordingly and may be recovered in the same manner in which wages of seamen are recoverable, or may, if the case admits, be deducted from the wages due to that person.
- (2) All orders made by a maritime court shall, whenever practicable, be entered in the official log-book of the ship which forms the subject of investigation or on board which the casualty or occurrence or conduct investigated took place, and be signed by the presiding officer of the court.

Interested Persons not to Serve on Courts of Marine Enquiry, Maritime Courts or Courts of Survey.

279. (1) No person who is connected, directly or indirectly, with the ship which forms the subject of investigation by a court of marine enquiry or a maritime court, or which forms the subject of an appeal to a court of survey, or on board which the casualty or occurrence or conduct to be investigated by a court of marine enquiry or a maritime court took place, or with the owners of that ship, shall be appointed as a member of that court or under section two hundred and eighty-two.

(2) Nothing in sub-section (1) contained shall prohibit the appointment as a member of a court of marine enquiry or a maritime court or a court of survey or under section two hundred and eighty-two of any person who is in the employ of or entitled to receive a pension from the Government of the Union, merely on the ground that the said Government is the owner of the ship referred to in sub-section (1).

Procedure at Court of Marine Enquiry or Maritime Court or Court of Survey.

280. (1) A court of marine enquiry, a maritime court or a court of survey, or an expert or experts to whom an appeal has been referred under section two hundred and eighty-two may, subject to the provisions of this Act, determine the procedure to be followed at the investigation or the hearing of the appeal.

(2) Every such investigation shall, unless the court decide otherwise, be held in open court, and the hearing of every such appeal shall be held in open court; and the decision or finding shall, at the conclusion of the investigation or hearing, or as soon afterwards as possible, be delivered in open court.

Opportunity of Making a Defence.

283. (1) If at an investigation by a court of marine enquiry or a maritime court it is alleged or suggested that the conduct of any person has amounted to a punishable act or omission, that person shall be given a reasonable opportunity for making a defence.

(2) A court of marine enquiry shall not cancel or suspend a certificate, and a maritime court shall not suspend a certificate—

- (a) unless the holder of the certificate has been present at the hearing of any evidence on which the decision of the court to cancel or suspend his certificate is based, or, if he has not been so present, unless a transcript of the notes of such evidence has been furnished to him at least forty-eight hours before he is called upon to make his defence; and

stande dat waar 'n oortreder tot gevangenisstraf veroordeel word, die bevoegde beampte die plek van gevangenskap goedkeur, hetsy op land of aan boord van 'n skip: Met dien verstande, voorts, dat die hof kan gelas dat enige geldboete wat aan 'n oortreder opgelê word, betaal moet word uit en afgetrek moet word van sy loon en aan die bevoegde beampte oorbetal moet word, wat dit aan die Direkteur moet stuur;

- (h) as dit so 'n stap dienstig ag, gelas dat 'n opneming van 'n Suid-Afrikaanse skip wat die voorwerp van ondersoek is, gemaak moet word;
- (i) beveel dat die koste van die verrigtings voor die hof, of enige deel van daardie koste, betaal word deur enige van die partye by bedoelde verrigtings, en kan 'n persoon wat 'n beuselagtige of onregverdigde klag ingedien het, gelas om vergoeding vir enige verlies of vertraging wat daardeur veroorsaak is, te betaal; en enige koste of vergoeding die betaling waarvan deur een of ander persoon aldus gelas is, word deur daardie persoon betaal en kan op dieselfde wyse as die loon van seelui verhaal word, of kan, as die geval dit toelaat, afgetrek word van die loon aan daardie persoon verskuldig.

(2) Alle bevele van 'n seehof word, waar dit doenlik is, aangeketen in die amptelike skeepsjoernaal van die skip wat die onderwerp van die ondersoek uitmaak of aan boord waarvan die ongeval of voorval of gedrag wat ondersoek word, plaasgevind het, en word deur die voorsitter van die hof onderteken.

Belanghebbendes dien nie in howe van marine-ondersoek, seehowe of opnemingshowe nie.

279. (1) Niemand wat regstreeks of onregstreeks verband het met die skip wat die onderwerp van 'n ondersoek deur 'n hof van marine-ondersoek of 'n seehof uitmaak of wat die onderwerp van 'n appél na 'n opnemingshof uitmaak, of aan boord waarvan die ongeval of gebeurtenis of gedrag wat deur 'n hof van marine-ondersoek of 'n seehof ondersoek moet word plaasgevind het, of met die eienaars van daardie skip, word as 'n lid van daardie hof of kragtens artikel tweehonderd twee-en-tagtig aangestel nie.

(2) Die bepalings van sub-artikel (1) verbied nie die aanstelling as lid van 'n hof van marine-ondersoek of 'n seehof of 'n opnemingshof of kragtens artikel tweehonderd twee-en-tagtig van enigiemand wat in die diens is of geregig is om 'n pensioen te ontvang van die Unie-regering, bloot op grond daarvan dat die gemelde Regering die eienaar van die in subartikel (1) bedoelde skip is nie.

Prosedure van hof van marine-ondersoek of seehof of opnemingshof.

280. (1) 'n Hof van marine-ondersoek, 'n seehof of 'n opnemingshof, of 'n deskundige of deskundiges na wie 'n appél kragtens artikel tweehonderd twee-en-tagtig verwys is, kan met inagneming van die bepalings van hierdie Wet die prosedure bepaal wat by die ondersoek of die verhoor van die appél sal geld.

(2) Elke sodanige ondersoek vind, tensy die hof anders beslis, in die ope hof plaas en die verhoor van elke sodanige appél vind in die ope hof plaas; en die bevinding of beslissing word by die voltooiing van die ondersoek of verhoor, of so gou moontlik daarna, in die ope hof bekendgemaak.

Geleentheid vir verweer.

283. (1) As daar by 'n ondersoek deur 'n hof van marine-ondersoek of 'n seehof beweer of aan die hand gedoen word dat die gedrag van enige persoon 'n strafbare handeling of versuim uitmaak, word aan daardie persoon 'n redelike geleentheid gegee om homself te verweer.

(2) 'n Hof van marine-ondersoek kanselleer of skort nie 'n sertifikaat op nie, en 'n seehof skort nie 'n sertifikaat op nie—

- (a) tensy die houer van die sertifikaat aanwesig was by die aanhoor van enige getuienis waarop die hof se besluit om sy sertifikaat te kanselleer of op te skort gebaseer is, of, as hy nie aldus aanwesig was nie, tensy 'n afskrif van die aantekeninge van sodanige getuienis minstens agt-en-veertig uur voordat 'n oproep op hom gedoen word om homself te verweer, aan hom verskaf is; en

(b) unless copies of any written depositions or reports upon which such decision is based have been furnished to him and a copy of the charges laid against him has been served upon him in the manner prescribed, at least forty-eight hours before he is called upon to make his defence, and if after a copy of a charge laid against him has been served upon him the charge is amended, he has been given a reasonable opportunity of making a defence to the amended charge.

(3) If the holder of the certificate concerned has been summoned to attend before the court and has not done so, or if upon being asked in writing or otherwise whether he wishes to make a defence he has not replied that he wishes to do so, it shall not be necessary to furnish to him the notes, depositions or reports referred to in sub-section (2).

Court may Require Delivery of Certificate During Course of Investigation.

284. A court of marine enquiry or a maritime court may at any time during the progress of the investigation order any master or ship's officer affected by the investigation to deliver his certificate to the court forthwith.

Transmission to Director of Record and Decision of Court of Marine Enquiry, Maritime Court, or Court of Survey.

286. (1) The presiding officer of a court of marine enquiry, maritime court or court of survey or body of experts to whom an appeal has been referred under section two hundred and eighty-two, or, if an appeal has been referred to only one expert that expert shall, at the conclusion of the investigation or hearing transmit to the Director the notes of evidence and as many copies as the Director may require of the record of the proceedings and the report and decisions; and any member of the court or any one of the experts who dissents from any decision may attach to the record his written reasons for so dissenting, and the presiding officer shall transmit such written reasons with the record.

(2) When the investigation affects a master or ship's officer of a ship other than a South African ship the Director shall transmit a copy of the court's finding or decision, together with the notes of the evidence, to the proper authority in the country where the ship is registered.

Effect of Cancellation or Suspension of Certificate.

287. The cancellation or suspension of a certificate by the Minister or a court of marine enquiry, or the suspension of a certificate by a maritime court shall—

- (a) if the certificate was issued in the Union, be effective everywhere and in respect of all ships; and
- (b) if the certificate was issued elsewhere than in the Union, be effective—
 - (i) within the Union and the territorial waters of the Union in respect of all ships; and
 - (ii) outside the Union and the territorial waters of the Union in respect of South African ships only.

Delivery of Union Certificate Cancelled or Suspended.

288. A master or ship's officer who is the holder of a certificate issued in the Union shall, if such certificate has been cancelled or suspended by the Minister or a court of marine enquiry or suspended by a maritime court, deliver his certificate to the Minister or court on demand, or if it is not demanded by the Minister or court, to the Director.

Suspended Certificate Not to be Endorsed.

289. If the certificate of a master or ship's officer is suspended by the Minister or a court of marine enquiry or a maritime court, or if a direction is given by the Minister under sub-section (2) of section eighty-seven in respect of the holder of a certificate, no person shall make any endorsement to that effect on the said certificate.

(b) tensy afskrifte van enige geskrewe getuieverklarings of verslae waarop sodanige besluit gebaseer is, aan hom verskaf is, en 'n afskrif van die aanklagte teen hom op die voorgeskrewe wyse op hom gedien is minstens agt-en-veertig uur voordat 'n oproep op hom gedoen word om homself te verweer en indien, nadat 'n afskrif van 'n aanklag teen hom op hom gedien is, die aanklag gewysig word, 'n redelike geleentheid aan hom gegee is om homself teen die gewysigde aanklag te verweer.

(3) Indien die houer van die betrokke sertifikaat gedagvaar is om voor die hof te verskyn en in gebreke gebly het om dit te doen, of indien, nadat aan hom skriftelik of andersins gevra is of hy verlang om homself te verweer, hy nie geantwoord het dat hy dit wel wil doen nie, is dit nie nodig om aan hom die in sub-artikel (2) bedoelde aantekeninge, getuieverklarings of verslae te verskaf nie.

Hof kan tydens ondersoek inlewering van sertifikaat gelas.

284. 'n Hof van marine-ondersoek of 'n seehof kan te eniger tyd tydens 'n ondersoek 'n gesagvoerder of skeeps-offisier wat in die ondersoek betrokke is, gelas om sy sertifikaat onmiddellik by die hof in te lewer.

Versending aan Direkteur van rekord en beslissing van hof van marine-ondersoek, seehof of opnemingshof.

286. (1) Die voorsitter van 'n hof van marine-ondersoek, seehof of opnemingshof of van die deskundiges na wie 'n appél kragsens artikel twee-honderd twee-en-tagtig verwys is, of as 'n appél na slegs een deskundige verwys is, daardie deskundige, versend aan die einde van die ondersoek of verhoor aan die Direkteur die aantekeninge van die getuënis en soveel afskrifte as wat die Direkteur gelas, van die rekord van die verrigtinge en die verslag en beslissings; en enige lid van die hof of enige van die deskundiges wat van 'n beslissing verskil kan sy geskrewe redes waarom hy aldus verskil aan die rekord heg, en die voorsitter versend sodanige geskrewe redes saam met die rekord.

(2) Wanneer die ondersoek 'n gesagvoerder of skeeps-offisier van 'n skip wat nie 'n Suid-Afrikaanse skip is nie raak, stuur die Direkteur 'n afskrif van die hof se bevinding of beslissing tesame met die aantekeninge van die getuënis aan die bevoegde gesag in die land waar die skip geregistreer is.

Gevolge van kansellering of opskorting van sertifikaat.

287. Die kansellering of opskorting van 'n sertifikaat deur die Minister of 'n hof van marine-ondersoek of die opskorting van 'n sertifikaat deur 'n seehof is—

- (a) as die sertifikaat in die Unie uitgereik is, orals en ten aansien van alle skepe van krag; en
- (b) as die sertifikaat elders as in die Unie uitgereik is, van krag—
 - (i) in die Unie en die Unie se territoriale waters ten aansien van alle skepe; en
 - (ii) buite die Unie en die Unie se territoriale waters net ten aansien van Suid-Afrikaanse skepe.

Aflewering van Unie-sertifikaat wat gekanselleer of opgeskort is.

288. 'n Gesagvoerder of skeeps-offisier wat die houer is van 'n sertifikaat wat in die Unie uitgereik is, lewer sy sertifikaat op aanvraag aan die Minister of hof af, of as dit nie deur die Minister of hof opgeëis word nie, aan die Direkteur, indien sodanige sertifikaat deur die Minister of 'n hof van marine-ondersoek gekanselleer of opgeskort is of deur 'n seehof opgeskort is.

Opgeskorte sertifikaat word nie geëndosseer nie.

289. As die sertifikaat van 'n gesagvoerder of skeeps-offisier deur die Minister of 'n hof van marine-ondersoek of 'n seehof opgeskort is, of as opdrag deur die Minister kragsens subartikel (2) van artikel sewe-en-tagtig met betrekking tot 'n houer van 'n sertifikaat gegee is, maak niemand enige endossement te dien effekte op genoemde sertifikaat nie.

Powers of Minister in Respect of Cancelled or Suspended Certificates.

290. The Minister may, if he thinks the justice of the case requires it—

- (a) set aside the suspension of a certificate suspended by a court of marine enquiry or a maritime court, or shorten or lengthen the period of suspension of, or cancel, a certificate so suspended; or
- (b) grant a new certificate of the same or any lower grade in the place of a certificate cancelled by any such court, if the certificate was issued in the Union, or return any certificate so cancelled, if it was issued elsewhere than in the Union.

Rehearing.

291. (1) Whenever an investigation has been held by a court of marine enquiry or a maritime court, the Minister may order the case to be reheard, either generally or as to any part thereof, and shall so order—

- (a) if new and important evidence which could not be produced at the investigation has been discovered; or
- (b) if for any other reason there has been in his opinion ground for suspicion that a miscarriage of justice has occurred.

(2) The Minister may order the case to be reheard by the court of marine enquiry or the maritime court, as the case may be, consisting (if such is practicable) of the same members who, or other members than, constituted the court when it held the investigation in the first instance; and may, if the investigation was held by a maritime court, order the case to be reheard by a court of marine enquiry.

Appeals Against Decisions of Courts of Marine Enquiry and Maritime Courts.

292. (1) Any person aggrieved by any decision of a court of marine enquiry or a maritime court may appeal to the superior court within the area of jurisdiction of which—

- (a) in the case of a court of marine enquiry, the court was held; or
- (b) in the case of a maritime court, the ship which formed the subject of investigation, or on board which the casualty or occurrence investigated by the court took place, is registered.

(2) An appeal to a superior court shall, if the appeal is made merely on a point of law, be heard by a judge of that court, and in every other case by a judge of that court assisted by at least one assessor acting in an advisory capacity, who shall be a person of suitable nautical, engineering or other special skill, knowledge or experience summoned by the judge for the purpose.

(3) The court to which the appeal is made may confirm or quash or vary the decision appealed from, or remit the case for rehearing either generally or as to any part thereof by the court from whose decision the appeal is brought, consisting (if such is practicable) of the same members who, or other members than, constituted that court when it held the investigation in the first instance.

(4) An appeal under this section shall be made in the manner and subject to the conditions and in accordance with the provisions laid down in the regulations.

* No. 2051, Union.]

[9 November 1956.]

MARINE SECTION.

The following draft regulations proposed to be made under the provisions of section three hundred and fifty-six (1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), are hereby published for general information. Any person who wishes to make any comments or suggestions may submit them to the Commissioner of Customs and Excise, Marine Section, P.O. Box 376, Pretoria, on or before the 28th February, 1957.

Bevoegdheide van Minister ten aansien van gekanselleerde of opgeskorte sertifikate.

290. Die Minister kan, as hy dit in die omstandighede van die geval billik ag—

- (a) die opskorting van 'n sertifikaat deur 'n hof van marine-onderzoek of 'n seehof tersyde stel, of die tydperk van opskorting van 'n aldus opgeskorte sertifikaat verkort of verleng of 'n aldus opgeskorte sertifikaat kanselleer; of
- (b) 'n nuwe sertifikaat van dieselfde of 'n laer graad uitreik in die plek van 'n sertifikaat deur 'n sodanige hof gekanselleer, as die sertifikaat in die Unie uitgereik is, of 'n sertifikaat wat aldus gekanselleer is, teruggee as dit elders as in die Unie uitgereik is.

Herverhoor.

291. (1) Wanneer 'n hof van marine-onderzoek of 'n seehof ondersoek gedoen het, kan die Minister gelas dat die saak opnuut verhoor word, of in die algemeen of ten aansien van 'n gedeelte daarvan, en moet hy dit gelas—

- (a) as nuwe en belangrike getuienis wat nie by die ondersoek gelower kon word nie, ontdek is; of
- (b) as daar om 'n ander rede na sy mening aanleiding is vir 'n vermoede dat 'n geregtelike dwaling plaasgevind het.

(2) Die Minister kan gelas dat die saak opnuut verhoor word deur die hof van marine-onderzoek of die seehof, na gelang van die geval, bestaande (as dit doenlik is) uit dieselfde lede, of ander lede as dié wat die hof uitgemaak het toe dit die ondersoek in die eerste instansie gehou het; en as die ondersoek deur 'n seehof gehou is, kan hy gelas dat dit opnuut verhoor word deur 'n hof van marine-onderzoek.

Appelle teen beslissings van howe van marine-onderzoek en seehowe.

292. (1) 'n Persoon wat hom veronreg voel deur 'n beslissing van 'n hof van marine-onderzoek of 'n seehof, kan appeller na die hoër hof in die regsgebied waarvan—

- (a) in die geval van 'n hof van marine-onderzoek, die hof gesit het; of
- (b) in die geval van 'n seehof, die skip wat die onderwerp van ondersoek was of aan boord waarvan die ongeval of gebeurtenis, wat deur die hof ondersoek is, plaasgevind het, geregistreer is.

(2) 'n Appél na 'n hoër hof word deur 'n regter van die hof verhoor as die appél slegs oor 'n regspunt gaan, en in elke ander geval deur 'n regter van daardie hof bygestaan deur minstens een assessor wat in 'n raaggewende hoedanigheid optree en wat 'n persoon met geskikte marine-, ingenieurs- of ander besondere vaardigheid, kennis of ervaring moet wees wat deur die regter vir daardie doel opgeroep is.

(3) Die hof waarna geappelleer word, kan die beslissing waarteen geappelleer word, bekragtig of tersyde stel of wysig, of dit kan die saak vir herverhoor terugverwys na die hof van waar geappelleer is, of in die algemeen of ten aansien van enige dele daarvan, en die hof van herverhoor bestaan (as dit doenlik is) uit dieselfde lede, of ander lede as dié wat daardie hof uitgemaak het toe dit die ondersoek in die eerste instansie gehou het.

(4) 'n Appél kragtens hierdie artikel word gevoer op die wyse en met inagneming van die voorwaardes en volgens die bepalings wat in die regulasies voorgeskryf is.

* No. 2051, Unie.]

[9 November 1956.]

MARINE-AFDELING.

Onderstaande ontwerp-regulasies voorgestel om kragtens die bepalings van artikel driehonderd ses-en-veertig (1) van die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), uitgevaardig te word, word hierby vir algemene inligting gepubliseer. Persone wat begeer om kommentaar te lewer of aanbevelings te maak kan hulle aan die Kommissaris van Doane en Aksyns, Marine-afdeling, Posbus 376, Pretoria, op of voor 28 Februarie 1957, deurstuur.

These regulations cover the procedure to be followed in investigations by Courts of Marine Enquiry convened in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), into shipping casualties or allegations of incompetency or misconduct against Masters or ship's officers and appeals against the decisions of such courts.

CONTENTS.

1. Title of these Regulations.
2. Interpretation.
3. List from which Members of Court to be Selected.
4. Appointment of Members of Court.
5. Notification of Appointment as Member.
6. Allowances Payable to Members.
7. Time when and Place where Investigation Held.
8. Appointment and Duties of Clerk of a Court of Marine Enquiry.
9. Parties to the Proceedings.
10. Summoning of Witnesses.
11. Commencement of Proceedings.
12. Representation of Parties.
13. Formulation of Questions for Decision by Court.
14. Evidence.
15. Addresses by the Parties.
16. Adjournments.
17. Orders for Costs.
18. Orders for Damages Caused by Frivolous or Vexatious Allegation.
19. Enforcement of Orders for Costs or Damages.
20. Records of Proceedings.
21. Transmission of Records to Director.
22. Appeal to Superior Court.
23. Rehearing by Order of the Minister.

ANNEXURES.

Schedule A.—Allowances Towards Subsistence and Transport Payable to Members of Courts of Marine Enquiry.

Schedule B.—Form of Subpoena.

Schedule C.—Report of Court of Marine Enquiry.

(INTRODUCTORY NOTES.)

(1) Attention is invited to section two hundred and eighty of Act No. 57 of 1951, which empowers a Court of Marine Enquiry, subject to the provisions of the Act and the regulations made thereunder, to determine the procedure to be followed at the investigation. In so far, therefore, as any matter of procedure is not covered by the Act itself or the regulations following, the Court is free to determine its own procedure.

(2) Attention is also invited to the fact that it is proposed to seek authority to amend section three hundred and fifty-six of the Act by the substitution for paragraph (XXXV) of sub-section (1) of the following paragraph:—

“(XXXV) prescribing, in regard to courts of marine enquiry, maritime courts, courts of survey or persons to whom appeals to courts of survey may be referred, rules to be followed in respect of—

- (a) the convening and appointment of such courts or experts;
- (b) procedure;
- (c) the noting and prosecution of appeals from courts of marine enquiry or maritime courts to superior courts, and the enforcement of judgments pronounced on appeal; and
- (d) the award by courts of marine enquiry or maritime courts of damages, and by such courts or courts of survey or persons to whom appeals to courts of survey may be referred of costs, including the costs incurred by the

Hierdie regulasies dek die prosedure wat gevolg moet word deur 'n hof van marine-onderzoek wat kragens die Handelskeerpvaartwet, 1951 (Wet No. 57 van 1951), byeengeroep word om ondersoek in te stel na skeepsongevalle of bewerings van onbevoegdheid of wangedrag teen gesagvoerders of skeeps-offisiere, en appelle teen die beslissings van so 'n hof.

INHOUD.

1. Opskrif van hierdie regulasies.
2. Woordbetekenis.
3. Lys waaruit lede van 'n hof gekies moet word.
4. Aanstelling van lede van 'n hof.
5. Bekendmaking van aanstelling as lid.
6. Toelae betaalbaar aan lede.
7. Tyd wanneer en plek waar die ondersoek plaasvind.
8. Aanstelling en pligte van die klerk van 'n hof van marine-onderzoek.
9. Partye tot die verrigtings.
10. Oproeping van getuiens.
11. Aanvang van verrigtings.
12. Verteenwoordiging van partye.
13. Formulering van vrae vir beslissing deur die hof.
14. Getuienis.
15. Toesprake deur die partye.
16. Verdagings.
17. Bevele in verband met die betaling van koste.
18. Bevele in verband met die betaling van vergoeding vir skade wat veroorsaak word deur beuselagtige of ongeregverdigde bewerings.
19. Uitvoering van bevele in verband met die betaling van koste of skadevergoeding.
20. Rekord van verrigtings.
21. Versending van rekords aan die Direkteur.
22. Appèl na hoër hof.
23. Herverhoor op las van die Minister.

BYLAES.

Bylae A.—Toelae vir onderhoud en vervoer betaalbaar aan lede van 'n hof van marine-onderzoek.

Bylae B.—Dagvaardingsvorm.

Bylae C.—Verslag van hof van marine-onderzoek.

(INLEIDINGSOPMERKINGS.)

(1) Die aandaag word gevestig op artikel tweehonderden-tagtig van Wet No. 57 van 1951, waarkragens 'n hof van marine-onderzoek gemagtig word om, behoudens die bepalings van die Wet en die regulasies wat daarkragens uitgevaardig word, die prosedure te bepaal wat by die ondersoek sal geld. Vir sover enige kwessie van prosedure dus nie deur die Wet self of deur die regulasies wat hieronder volg, gedek word nie, staan dit die hof vry om self die prosedure te bepaal wat gevolg sal word.

(2) Die aandaag word ook gevestig op die feit dat die voorneme bestaan om magtiging te verkry om artikel drie-honderd ses-en-veertig van die Wet te wysig deur paragraaf (XXXV) van subartikel (1) deur die volgende paragraaf te vervang:—

„(XXXV) wat met betrekking tot howe van marine-onderzoek, soewone, opnemingshowe of persone na wie appèlle na opnemingshowe verwys mag word, die reëls voorskryf wat nagekom moet word in verband met—

- (a) die sameroeping en aanstelling van sodanige howe of persone;
- (b) prosedure;
- (c) die aantekening en deurvoering van appèlle van howe van marine-onderzoek of soewone na hoër howe, en die uitvoering van vonnisse uitgespreek op appèl; en
- (d) die toekenning deur howe van marine-onderzoek of soewone van skadevergoeding en die toewysing deur bedoelde howe of opnemingshowe of persone na wie appèlle na opnemingshowe verwys mag word, van koste, met inbegrip van die koste deur die Staat aangegaan in verband met die

State in connection with the convening or appointment of such courts or persons and in connection with any investigation made by them, and to costs incurred by parties, the scales upon which costs shall be calculated, the taxation or assessment of costs, and the enforcement of awards of damages and costs."

TITLE OF THESE REGULATIONS.

1. These regulations are called the Courts of Marine Enquiry Regulations.

INTERPRETATION.

2. In these regulations, unless the context indicates otherwise—

"Act" means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);
 "Court" means a Court of Marine Enquiry convened under section two hundred and sixty-six of the Act;
 "clerk" means the clerk of a Court of Marine Enquiry appointed under regulation 8;
 "party" means a person declared by or under regulation 9 to be a party to the proceeding of a Court, and any phrases or words which occur in these regulations shall be construed as having the meaning assigned to them in the Act.

(NOTE.—Section two of the Act contains the following definitions:—

"Director" means the Director of Merchant Shipping appointed under section five;
 "Minister" means the Minister of Finance;
 "superior court" means a division of the Supreme Court of South Africa or the High Court of South West Africa.)

LIST FROM WHICH MEMBERS OF COURT TO BE SELECTED.

3. (1) The Director shall from time to time frame a list of persons qualified in terms of sub-section (2) of section two hundred and sixty-seven of the Act to be members (other than presiding officers) of Courts of Marine Enquiry.

(2) The Director shall submit the list framed under paragraph (1) of this regulation to the Minister for approval. The Minister may in his discretion remove from the list any names appearing therein and insert therein any names of persons qualified as aforesaid.

(3) When the Minister has approved any such list submitted to him, the list that up to that time had been in use shall be cancelled.

(4) Opposite every name appearing in the list shall be stated the kind of nautical, engineering or other special skill, knowledge or experience which the person named possesses.

(5) Upon receipt by the Director of a request in writing by any person whose name appears on any such list for the removal of his name from the list, the Director shall remove his name.

(6) Every person whose name appears in the current list approved by the Minister shall be eligible for selection as a member (other than a presiding officer) of a Court of Marine Enquiry.

(NOTE.—Section two hundred and sixty-seven (2) of the Act provides that all members, other than the presiding officer, shall be persons of suitable nautical, engineering or other special skill, knowledge or experience, and, whenever possible, at least one member shall be in active seagoing service.)

APPOINTMENT OF MEMBERS OF COURT.

4. (1) Whenever the Minister has decided that a Court of Marine Enquiry be convened, he shall appoint a magistrate to be the presiding officer thereof and two or four other persons to be members thereof.

(2) The members, other than the presiding officer, shall be selected from the current list framed in terms of regulation 3, unless by reason of the special nature of the investigation it appears to the Minister expedient to appoint as a member a person whose name does not appear on that list.

samerooting of aanstelling van bedoelede houe of persone en in verband met enige ondersoek deur hulle gedoen, en die koste deur partye aangegaan, die tariewe waarop koste bereken moet word, die taksasie of vaststelling van koste en die uitvoering van toekennings van vergoeding en toewysings van koste."

OPSKRIF VAN HIERDIE REGULASIES.

1. Hierdie regulasies heet die Regulasies betreffende Houe van Marine-ondersoek.

WOORDBETEKENIS.

2. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

„Wet”, die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951);
 „hof”, ’n hof van marine-ondersoek wat kragtens artikel tweehonderd ses-en-sestig van die Wet byeen-geroep word;
 „klerk”, die klerk van die hof van marine-ondersoek wat ooreenkomstig regulasie 8 aangestel word;
 „party”, ’n persoon wat by of ooreenkomstig regulasie 9 as ’n party tot die verrigtings van ’n hof verklaar word,

en enige uitdrukkings of woorde wat in hierdie regulasies voorkom, moet uitgele word volgens die betekenis by die Wet daaraan gegee.

(LET WEL.—In artikel twee van die Wet verskyn onderstaande woordbepalings:—

„Direkteur”, die Direkteur van Handelskeepvaart wat kragtens artikel vyf aangestel is;
 „Minister”, die Minister van Finansies;
 „hoër hof”, ’n afdeling van die Hooggeregshof van Suid-Afrika of die Hoë Hof van Suidwes-Afrika.)

LYS WAARUIT LEDE VAN ’N HOF GEKIES MOET WORD.

3. (1) Die Direkteur stel van tyd tot tyd ’n lys op van persone wat kragtens subartikel (2) van artikel tweehonderd sewe-en-sestig van die Wet bevoegd is om lede (behalwe die voorsitter) van ’n hof van marine-ondersoek te wees.

(2) Die Direkteur lê die lys wat ooreenkomstig paragraaf (1) van hierdie regulasie opgestel word, vir goedkeuring aan die Minister voor. Die Minister kan na goedgekeurde name wat op die lys voorkom, skrap en die name van persone wat bevoegd is soos hierbo vermeld by die lys voeg.

(3) Wanneer die Minister so ’n lys wat aan hom voorgelê word, goedgekeur het, word die lys wat tot op daardie tyd in gebruik was, ingetrek.

(4) Teenoor elke naam wat op die lys voorkom, word die marine-, ingenieurs- of ander besondere vaardigheid, kennis of ervaring waaroor die persoon beskik, vermeld.

(5) Wanneer die Direkteur deur ’n persoon wie se naam op so ’n lys voorkom, skriftelik versoek word om sy naam van die lys te verwyder, skrap die Direkteur die persoon se naam van die lys.

(6) Elke persoon wie se naam voorkom op die lopende lys wat deur die Minister goedgekeur is, is verkiesbaar as ’n lid (behalwe as voorsitter) van ’n hof van marine-ondersoek.

(LET WEL.—In artikel tweehonderd sewe-en-sestig (2) van die Wet word bepaal dat alle lede, behalwe die voorsitter, persone moet wees met geskikte marine-, ingenieurs- of ander besondere vaardigheid, kennis of ervaring, en dat, waar moontlik, minstens een lid in aktiewe seidiens moet wees.)

AANSTELLING VAN LEDE VAN ’N HOF.

4. (1) Wanneer die Minister besluit het dat ’n hof van marine-ondersoek byeen-geroep moet word, stel hy ’n magistraat aan as voorsitter van die hof en twee of vier ander persone as lede van die hof.

(2) Die lede, behalwe die voorsitter, word gekies uit die lopende lys wat ooreenkomstig regulasie 3 opgestel word, tensy dit na die mening van die Minister weens die spesiale aard van die ondersoek raadsaam is om ’n persoon wie se naam nie op gemelde lys voorkom nie as ’n lid aan te stel.

NOTIFICATION OF APPOINTMENT AS MEMBER.

5. The Director shall by letter inform all persons appointed by the Minister to be members of the Court that they have been so appointed, and of the questions which, on the information then in the possession of the Minister, are to be investigated by the Court. The Director may, at any time before the hearing of the investigation, by a subsequent letter, modify, add to or omit any of the questions specified in the letter of appointment.

ALLOWANCES PAYABLE TO MEMBERS.

6. Every member of the Court shall, if he is in the employ of the Government of the Union (including the Railway Administration) or the Administration of South West Africa be paid such allowances towards subsistence and transport as may be prescribed (otherwise than under the Act) for Government, Railway or Administration employees of his class, and if he is not in the employ of the Government of the Union (including the Railway Administration) or the Administration of South West Africa, or if no such allowances have been prescribed for Government, Railway or Administration employees of his class, he shall be paid the allowances towards subsistence and transport set forth in Schedule A to these regulations.

TIME WHEN AND PLACE WHERE INVESTIGATION HELD.

7. (1) The presiding officer shall appoint the time when and place where the investigation is to be held.

(2) The clerk shall by letter notify the Director and any other person who before the commencement of the proceedings has been declared a party thereto of the said time and place.

APPOINTMENT AND DUTIES OF CLERK OF A COURT OF MARINE ENQUIRY.

8. (1) The Director shall appoint a person to be clerk of the Court of Marine Enquiry.

(2) The clerk shall, subject to the provisions of regulation 20 and to any instructions by the presiding officer, make minutes of the proceedings of the Court, and take such minutes and any documents produced during or in connection with the investigation into his custody.

PARTIES TO THE PROCEEDINGS.

9. (1) The following persons shall be parties to the proceedings:—

(a) the Director; and

(b) any person who the presiding officer is satisfied has a direct interest in the subject of the investigation and who has been declared by the presiding officer to be a party.

(2) The presiding officer may make a declaration that any person is a party on the application of the person concerned or of any other party or of his own motion, and any such declaration may be made at any time after the presiding officer has been appointed and before or after the commencement of the investigation.

(3) A declaration by the presiding officer that any person is a party may be made during a sitting of the Court or otherwise, and if such a declaration is made otherwise than during a sitting of the Court at which the person concerned is present, the clerk shall notify him in writing that he has been declared to be a party and when and where the next meeting of the Court will be held.

SUMMONING OF WITNESSES.

10. (1) The summoning by the Court, in the exercise of its powers under paragraph (iii) of sub-section (1) of section nine of the Act, of any person to appear before it to be interrogated or to produce any book, document or thing shall be by subpoena in the form set forth in Schedule B to these regulations.

(2) Any such subpoena may be sued out by the Director or any other party desiring the attendance of the witness and shall be signed by the Clerk.

BEKENDMAKING VAN AANSTELLING AS LID.

5. Die Direkteur stel alle persone wat deur die Minister as lede van die hof aangestel word skriftelik in kennis van hul aanstelling, asook van die vrae wat, met die inligting wat die Minister op daardie tyd tot sy beskikking het, deur die hof ondersoek moet word. Die Direkteur kan te eniger tyd voor die verhoor van die ondersoek enige van die vrae wat in die aanstellingsbrief gespesifiseer is deur middel van 'n daaropvolgende brief wysig, daaraan toevoeg of weglaat.

TOELAES BETAALBAAR AAN LEDE.

6. Elke lid van 'n hof ontvang, as hy in die diens van die Unie-regering (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is, sodanige toelae vir onderhoud en vervoer as wat voorgeskryf is (anders as kragtens die Wet) vir Staats-, Spoorweg- of Administrasie-dienare van sy klas, en as hy nie in die diens van die Unie-regering (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is nie, of as geen sodanige toelae vir Staats-, Spoorweg- of Administrasie-dienare van sy klas voorgeskryf is nie, ontvang hy die toelae vir onderhoud en vervoer wat in Bylae A by hierdie regulasies uiteengesit word.

TYD WANNEER EN PLEK WAAR DIE ONDERSOEK PLAASVIND.

7. (1) Die voorsitter bepaal die tyd wanneer en die plek waar die ondersoek gehou sal word.

(2) Die klerk stel die Direkteur en enige ander persoon wat voor die aanvang van die verrigtings as 'n party tot die verrigtings verklaar word skriftelik in kennis van gemelde tyd en plek van die verrigtings.

AANSTELLING EN PLIGTE VAN DIE KLERK VAN 'N HOF VAN MARINE-ONDERSOEK.

8. (1) Die Direkteur stel 'n persoon aan as klerk van die hof van marine-ondersoek.

(2) Behoudens die bepaling van regulasie 20 en enige opdragte van die voorsitter, notuleer die klerk die verrigtings van die hof en neem hy sodanige notule en enige dokumente wat tydens of in verband met die ondersoek oorgelê word, in sy bewaring.

PARTYE TOT DIE VERRIGTINGS.

9. (1) Onderstaande persone is partye tot die verrigtings:—

(a) die Direkteur; en

(b) enige persoon wat volgens die oortuiging van die voorsitter regstreeks by die onderwerp van die ondersoek belang het en wat deur die voorsitter as 'n party tot die verrigtings verklaar is.

(2) Die voorsitter kan 'n verklaring doen dat 'n persoon 'n party is op aanvraag deur die betrokke persoon of deur enige ander party, of hy kan dit vrywillig doen, en so 'n verklaring kan gedoen word te eniger tyd nadat die voorsitter aangestel is en voor of na die aanvang van die ondersoek.

(3) 'n Verklaring deur die voorsitter dat 'n persoon 'n party is, kan gedoen word gedurende 'n sitting van die hof of andersins, en indien so 'n verklaring gedoen word anders as tydens 'n sitting van die hof waarop die betrokke persoon aanwesig is, stel die klerk die persoon skriftelik in kennis dat hy as 'n party verklaar is en wanneer en waar die volgende vergadering van die hof gehou sal word.

OPROEFING VAN GETUIES.

10. (1) Wanneer die hof, by die uitoefening van sy bevoegdhede kragtens paragraaf (iii) van subartikel (1) van artikel nege van die Wet, 'n persoon oproep om voor hom te verskyn om ondervra te word of om enige boek, dokument of ding oor te lê, geskied dit by wyse van 'n dagvaarding in die vorm wat in Bylae B by hierdie regulasies uiteengesit word.

(2) So 'n dagvaarding kan aangevra word deur die Direkteur of enige ander party wat verlang dat die getuie aanwesig moet wees, en dit word deur die klerk van die hof onderteken.

(3) The subpoena may be served on the person to be summoned by the Messenger of the Magistrate's Court within whose area of jurisdiction the Court of Marine Enquiry is held or by any other person, and the service shall be effected at a reasonable time before attendance is required.

(4) There shall be delivered to the person who is to effect service together with the subpoena so many copies thereof as there are witnesses to be summoned and also such sum or sums of money as the person suing out the subpoena intends that the person who is to effect service shall pay or offer to the said witnesses respectively for their conduct money.

(5) The service of any such subpoena may be proved by the affidavit of the person who has effected the service or by his testimony upon oath before the Court, or, if the service was effected by the Messenger, by a return of the service under his hand.

(6) The Messenger shall be entitled to be paid for the service of any subpoena the fees and charges that would be payable to him if the subpoena were a subpoena issued out of a Magistrate's Court.

(NOTE.—As to the method of service of a subpoena, attention is invited to section *three hundred and forty-two* (a) and (b) of the Act, which reads as follows:—

"Where for the purposes of this Act any document is to be served on any person, that document may be served—

(a) in any case by delivering a copy thereof personally to the person on whom the document is to be served; or by sending such copy to him, in accordance with the regulations, by registered post, enclosed in an envelope upon which is written his name and address; or by leaving such copy for him with a member of his household at his dwelling; or, if no person belonging to his household can be found there, then by affixing such copy to the principal outer door of the said dwelling or of any place where he actually resides or was last known to reside; or

(b) if the document is to be served on the master of a ship or on a person belonging to a ship, by leaving a copy thereof for him on board that ship with the person being or appearing to be in command or charge of the ship."

As to the fees payable to witnesses, attention is invited to section *two hundred and eighty-five* of the Act, which provides that a witness summoned by a Court of Marine Enquiry shall be paid such expenses as would be allowed to a witness attending or subpoenaed to give evidence in a civil case before a Magistrate's Court. The present tariff of such expenses is prescribed by Government Notice No. 1113, dated 19th May, 1950, as amended by Government Notice No. 1612, dated 29th June, 1951.

The present tariff of messengers' fees and charges is contained in Table B of the Second Annexure to the Magistrates' Courts' Rules published under Government Notice No. 814, dated 15th May, 1945, as amended by Government Notices Nos. 1154, dated the 25th June, 1954, and 918, dated the 6th May, 1955.

COMMENCEMENT OF PROCEEDINGS.

11. At the time and place appointed for holding the investigation, the Court may proceed with the investigation, whether the parties or any of them are present or not.

REPRESENTATION OF PARTIES.

12. (1) Any party may be represented by an attorney for the purpose of suing out subpoenas and by an advocate or attorney for the purposes of examining, cross-examining or re-examining witnesses or addressing the Court.

(3) Die dagvaarding kan op die persoon wat opgeroep word gedien word deur die geregsbode van die magistratshof binne die regsgebied waarvan die hof van marine-onderzoek sit, of deur enige ander persoon, en dit moet gedien word op 'n redelike tyd voordat die persoon se aanwesigheid verlang word.

(4) Aan die persoon wat die dagvaarding moet dien, moet saam met die dagvaarding, net soveel afskrifte daarvan oorhandig word as die aantal getuies wat opgeroep moet word, asook sodanige bedrag of bedrae as wat die persoon wat die dagvaarding aanvra bedoel dat die persoon wat die dagvaarding moet dien, aan gemelde getuies onderskeidelik vir hul padgeld moet betaal of aanbid.

(5) Die diening van enige sodanige dagvaarding kan bewys word deur die beëdigde verklaring deur die persoon wat dit bedien het of deur sy getuïenis onder eed voor die hof, of, as die diening deur die geregsbode uitgevoer is, deur 'n relaas van diening onder sy handtekening.

(6) Vir die diening van enige dagvaarding wat deur 'n hof van marine-onderzoek uitgereik word, is die geregsbode geregtig tot betaling van die gelde en koste wat aan hom betaalbaar sou wees as dit 'n dagvaarding was wat deur 'n magistratshof uitgereik is.

[LET WEL.—Wat betref die metode waarvolgens 'n dagvaarding gedien word, word die aandag gevestig op artikel *driehonderd twee-en-veertig* (a) en (b) van die Wet wat soos volg luit:—

"In die gevalle waar enige dokument by die toepassing van hierdie Wet op iemand gedien moet word, kan daardie dokument gedien word—

(a) in enige geval deur aflewering van 'n afskrif daarvan persoonlik aan die persoon op wie die dokument gedien moet word; of deur sodanige afskrif in 'n koefert waarop sy naam en adres geskryf is, aan hom per geregistreerde pos ooreenkomstig die regulasies te stuur; of deur sodanige afskrif vir hom te laat by 'n lid van sy huisgesin by sy woonplek; of as niemand wat tot sy huisgesin behoort aldaar gevind kan word nie, deur sodanige afskrif aan die hoofbuitendeur van gemelde woonplek of van enige plek waar hy werklik woon of (sover bekend is) laas gewoon het, te heg; of

(b) as die dokument gedien moet word op die gesagvoerder van 'n skip of op 'n persoon behorende tot 'n skip, deur 'n afskrif daarvan vir hom aan boord van daardie skip te laat by die persoon wat werklik of blykbaar gesag voer of toesig het oor die skip."

Wat betref die gelde wat aan getuies betaalbaar is, word die aandag gevestig op artikel *tweehonderd vyf-en-tagtig* van die Wet, waarin bepaal word dat aan 'n getuie wat deur 'n hof van marine-onderzoek opgeroep word sodanige getuigelde betaal word as wat toegestaan word aan enige getuie wat aanwesig is of gedagvaar is om getuïenis te gee in 'n siviele saak voor 'n magistratshof. Die huidige tarief van sodanige getuigelde is voorgeskryf by Goewermentskennissgewing No. 1113, gedateer 19 Mei 1950, soos gewysig by Goewermentskennissgewing No. 1612, gedateer 29 Junie 1951.

Die huidige tarief van gelde en koste betaalbaar aan 'n geregsbode is bevat in Tabel B van die Tweede Aanhangsel aan die Magistratshofreëls wat gepubliseer is by Goewermentskennissgewing No. 814, gedateer 15 Mei 1945, soos gewysig by Goewermentskennissgewings No. 1154, gedateer 25 Junie 1954, en No. 918, gedateer 6 Mei 1955.]

AANVANG VAN VERRIGTINGS.

11. Op die tyd en plek wat vir die hou van die ondersoek bepaal is, kan die hof van marine-onderzoek voortgaan met die ondersoek, hetsy die partye of enige van die partye aanwesig is of nie.

VERTEENWOORDIGING VAN PARTYE.

12. (1) 'n Party kan deur 'n prokureur verteenwoordig word vir die doel om dagvaardings aan te vra en deur 'n advokaat of prokureur vir die doel om getuies te onder-
vra, onder kruisverhoor te neem of te heronder-
vra of die hof toe te spreek.

(2) The Director may be represented for the said purposes and for the purposes mentioned in regulation 13 by any person appointed by him whether or not such person is an advocate or attorney.

FORMULATION OF QUESTIONS FOR DECISION BY COURT.

13. (1) After the Court has been opened, and before any evidence is given, the Director shall state in open court the question in reference to the allegation or event upon which the finding of the Court is required. In formulating the questions for the finding of the Court the Director may make such modifications in, additions to, or omissions from the questions set forth in the letter referred to in regulation 5, as amended in terms of that regulation, as, having regard to the information then known to him, he may think fit.

(2) The Director may at any stage of the investigation, with the approval of the presiding officer, make such further modifications in, additions to or omissions from any of the questions so formulated as, having regard to any evidence which may have been given, he may think fit.

EVIDENCE.

14. (1) After the questions upon which the finding of the Court is required have been formulated in terms of paragraph (1) of regulation 13, each of the parties shall be entitled to address the Court for the purpose of opening the evidence which he intends to adduce, and produce and examine witnesses or, with the approval of the presiding officer, recall any of the witnesses who have already been examined for further examination and generally adduce evidence. The witnesses may be cross-examined by the other parties in such order as the presiding officer may direct, and may then be re-examined by the party who has produced them. The parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the presiding officer may direct.

(2) Any party who has produced witnesses may at any stage of the investigation, with the approval of the presiding officer, produce and examine further witnesses, who may be cross-examined by the other parties in such order as the presiding officer may direct, and re-examined by the party who has produced them.

(3) The law as to admissibility of evidence and as to the competency, examination, cross-examination and re-examination of witnesses in courts of law shall not be binding upon a Court of Marine Enquiry, but the presiding officer may, in his discretion, disallow any question which any other member of the Court or any party proposes to put to any witness, on the ground that such question is irrelevant or that for any other cause it would be improper that the question be put, and may, in his discretion and on similar grounds, rule that the production of any book, document or thing required by any other member of the Court or any party shall not be allowed.

(4) Affidavits and statutory declarations may, by permission of the presiding officer, be used as evidence.

ADDRESSES BY THE PARTIES.

15. After all the evidence has been adduced, any of the parties (other than the Director) who desires to do so may, in such order as the presiding officer may direct, address the Court upon the evidence, and the Director may address the Court in reply upon the whole case.

ADJOURNMENTS.

16. 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 proceedings, 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.

(2) Die Direkteur kan vir gemelde doeleindes en vir die in regulasie 13 vermelde doeleindes verteenwoordig word deur 'n persoon deur hom aangestel, hetsy so 'n persoon 'n advokaat of prokureur is of nie.

FORMULERING VAN VRAE VIR BESLISSING DEUR DIE HOF.

13. (1) Nadat die hof geopen is, en voordat enige getuënis afgeleë word, stel die Direkteur in die ope hof die vrae met betrekking tot die bewering of voorval waaroor die hof moet beslis. By die formulering van die vrae waaroor die hof moet beslis, kan die Direkteur sodanige wysigings in, toevoegings tot of weglatings van die vrae maak wat uiteengesit is in die in regulasie 5 vermelde brief, soos ooreenkomstig daardie regulasie gewysig, as wat hy, met inagneming van die inligting wat hy op daardie tyd tot sy beskikking het, mag goeddink.

(2) Die Direkteur kan in enige stadium van die ondersoek, met die goedkeuring van die voorsitter, sodanige verdere wysigings in, toevoegings tot of weglatings van enige van die vrae maak wat aldus geformuleer is as wat hy, met inagneming van enige getuënis wat afgeleë is, mag goeddink.

GETUËNIS.

14. (1) Nadat die vrae waaroor die hof moet beslis, ooreenkomstig paragraaf (1) van regulasie 13 geformuleer is, is elk van die partye daartoe geregtig om die hof toe te spreek vir die doel om die getuënis wat hy voornemens is om aan te voer, in te lei, en om getuies in te roep en te ondervra om, met die goedkeuring van die voorsitter, enige van die getuies wat reeds ondervra is, terug te roep vir verdere ondervraging of om in die algemeen getuënis aan te voer. Die getuies kan deur die ander partye onder kruisverhoor geneem word in sodanige volgorde as wat die voorsitter mag gelas en kan daarna deur die party wat hulle ingeroep het, herondervra word. Die partye moet gehoor en hul getuies ondervra, onder kruisverhoor geneem en herondervra word in sodanige volgorde as wat die voorsitter mag gelas.

(2) Enige party wat getuies ingeroep het, kan in enige stadium van die ondersoek, met die goedkeuring van die voorsitter, verdere getuies inroep en ondervra, en dié getuies kan deur die ander partye onder kruisverhoor geneem word in sodanige volgorde as wat die voorsitter mag gelas en deur die party wat hulle ingeroep het, herondervra word.

(3) Die wet in verband met die toelaatbaarheid van getuënis en die bevoegdheid, ondervraging, kruisverhoor en herondervraging van getuies in gereghoue is nie bindend op 'n hof van marine-ondersoek nie, maar die voorsitter kan na eie goeddunke enige vraag wat 'n ander lid van die hof of 'n party voornemens is om aan 'n getuie te stel, verwerp op grond daarvan dat so 'n vraag nie ter sake is nie of dat dit om enige ander rede onbehoorlik sou wees om die vraag te stel, en hy kan, na eie goeddunke en om soortgelyke redes, beslis dat die oorlegging van 'n boek, dokument of ding wat deur 'n ander lid van die hof of deur 'n party verlang word nie toelaatbaar is nie.

(4) Beëdigde verklarings en statutêre verklarings kan, met die verlof van die voorsitter, as getuënis gebruik word.

TOESPREKE DEUR DIE PARTYE.

15. Nadat al die getuënis aangevoer is, kan enige van die partye (behalwe die Direkteur) wat verlang om dit te doen, die hof, in sodanige volgorde as wat die voorsitter mag gelas, oor die getuënis toesprek, en die Direkteur kan ten antwoord daarop die hof oor die hele saak toesprek.

VERDAGINGS.

16. Die hof kan die ondersoek van tyd tot tyd en van plek tot plek verdaag, en wanneer 'n party tot die verrigtings vra dat die ondersoek verdaag word, kan die hof sodanige voorwaardes opleë in verband met die betaling van koste of andersins as wat hy billik mag ag as 'n voorwaarde waarop die verdagting toegestaan word.

ORDERS FOR COSTS.

17. (1) The Court may make such order for the payment of the costs or any other party—

- (a) of the costs or any part thereof reasonably incurred by the Director or any other party in attending or being legally represented at the hearing or in bringing witnesses or adducing evidence; and
 - (b) of any other costs or any part thereof reasonably incurred by the Director in connection with the investigation or hearing.
- as may be just.

(2) Any costs awarded in terms of sub-paragraph (a) of paragraph (1) shall be subject to taxation by the clerk of the Magistrate's Court within whose area of jurisdiction the investigation was held. His taxation shall, unless the Court of Marine Enquiry has directed that it be made on the higher scale, be made on the ordinary scale applicable to the taxation of costs in an action tried in a Magistrate's Court, as though it was a taxation of the costs of such an action, and shall be subject to review as though it was such a taxation. The same fees as would be paid on the taxation of a bill of costs in a Magistrate's Court shall be paid in respect of the taxation of any costs so awarded.

(3) Any costs awarded in terms of sub-paragraph (b) of paragraph (1) of this regulation shall be assessed by the presiding officer of the Court of Marine Enquiry.

ORDERS FOR DAMAGES CAUSED BY FRIVOLOUS OR VEXATIOUS ALLEGATION.

18. If the Court finds that the allegation for the investigation of which the Court was convened was frivolous or vexatious, it may make such order for the payment by the party who made the allegation of damages for any loss or delay caused thereby as may be just.

ENFORCEMENT OF ORDERS FOR COSTS OR DAMAGES.

19. An order for the payment of costs or damages made under regulation 17 or 18, respectively, shall, on being filed with the clerk of the Magistrate's Court within the area of jurisdiction of which the Court of Marine Enquiry has held the investigation, have all the effects of and may be executed as if it were a civil judgment lawfully given in that Magistrate's Court in favour of the person who is by such order declared entitled to such costs or damages and against the person who is by such order directed to pay such costs or damages: Provided that if the person who is by such order directed to pay such costs or damages is or was a master, apprentice-officer or seaman in the employ of the person who is by such order declared entitled to such costs or damages, the amount of such costs or damages may be deducted from any wages that may be due to such master, apprentice-officer or seaman.

RECORDS OF PROCEEDINGS.

20. (1) The Court shall cause minutes to be made of—
- (a) any *viva voce* evidence given in court;
 - (b) any objection made to any evidence received or tendered;
 - (c) the proceedings of the court generally, including the record of any inspection *in loco*; and
 - (d) the decisions of the Court.

(2) The Court shall duly mark each document put in evidence and note such mark on the record.

(3) Such minutes and marks may be made by the clerk and, save where made by the clerk, or as hereinafter provided, they shall be made by the presiding officer.

BEVELE IN VERBAND MET DIE BETALING VAN KOSTE.

17. (1) Die hof kan sodanige bevel uitreik in verband met die betaling deur die Direkteur of enige ander party—

- (a) van die koste, of enige gedeelte daarvan, wat billikerwys deur die Direkteur of enige ander party aangegaan is ten einde by die verhoor aanwesig te wees of deur 'n regspersoon by die verhoor verteenwoordig te word, of ten einde getuienis in te roep of getuienis aan te voer; en
- (b) van enige ander koste, of enige gedeelte daarvan, wat billikerwys deur die Direkteur in verband met die ondersoek of verhoor aangegaan is, as wat hy billik ag.

(2) Koste wat ooreenkomstig subparagraaf (a) van paragraaf (1) toegestaan word, subgetakseer deur die klerk van die magistratshof binne die regsgebied waarvan die ondersoek plaasgevind het. Tensy die hof van marine-ondersoek gelas dat dit op die hoër skaal gemaak word, word die koste getakseer op die gewone skaal wat geld vir die taksering van koste in 'n geding wat in 'n magistratshof verhoor word, asof dit 'n taksering van die koste van so 'n geding is, en dit kan in hersiening geneem word asof dit so 'n taksering is. Dieselfde gelde wat betaalbaar is op die taksering van 'n kosterekening in 'n magistratshof is betaalbaar ten opsigte van die taksering van enige koste wat aldus toegestaan word.

(3) Koste wat ooreenkomstig subparagraaf (b) van paragraaf (1) van hierdie regulasie toegestaan word, word deur die voorsitter van die hof van marine-ondersoek bereken.

BEVELE IN VERBAND MET DIE BETALING VAN VERGOEDING VIR SKADE WAT VEROORSAAK WORD DEUR BEUSELAGTIGE OF ONGEREGRIGTE BEWERINGS.

18. Indien die hof beslis dat die bewering vir die ondersoek waarvan die hof byengeroep is, beuselagtig of ongegrigdig was, kan hy 'n bevel uitreik vir die betaling deur die party wat die bewering gemaak het van sodanige skadevergoeding vir enige verlies of vertraging daardeur veroorsaak as wat hy billik mag ag.

UITVOERING VAN BEVELE IN VERBAND MET DIE BETALING VAN KOSTE OF SKADEVERGOEDING.

19. 'n Bevel in verband met die betaling van koste of skadevergoeding wat ooreenkomstig onderskeidelik regulasie 17 of 18 uitgereik word, het, wanneer dit ingedien word by die klerk van die magistratshof binne die regsgebied waarvan die hof van marine-ondersoek gesit het, dieselfde krag as en kan uitgevoer word asof dit 'n siviele uitspraak is wat wettiglik in daardie magistratshof gegee is ten gunste van die persoon wat ooreenkomstig so 'n bevel geregtig verklaar word tot sodanige koste of skadevergoeding en teen die persoon wat ooreenkomstig so 'n bevel gelas word om sodanige koste of skadevergoeding te betaal: Met dien verstande dat, as die persoon wat ooreenkomstig so 'n bevel gelas word om sodanige koste of skadevergoeding te betaal 'n gesagvoerder, leerling-offisier of seeman is of was in die diens van die persoon wat ooreenkomstig so 'n bevel geregtig verklaar word tot sodanige koste of skadevergoeding, die bedrag van sodanige koste of skadevergoeding afgetrek kan word van enige lone wat aan sodanige gesagvoerder, leerling-offisier of seeman verskuldig mag wees.

REKORD VAN VERRIGTINGS.

20. (1) Die hof sien toe dat notule afgeneem word van—

- (a) enige *viva voce*-getuienis wat in die hof afgeleë word;
- (b) enige beswaar wat gemaak word teen enige getuienis wat ingewin of aangebied word;
- (c) die verrigtings van die hof in die algemeen, met inbegrip van die rekord van enige inspeksie *in loco*; en
- (d) die beslissings van die hof.

(2) Die hof laat 'n behoorlike merk aanbring op elke dokument wat as getuienis oorgelê word en teken sodanige merk in die rekord aan.

(3) Die afneem van die notule en merking van dokumente word deur die klerk gedoen, en as dit nie gedoen word deur die klerk of soos hieronder bepaal word nie, word dit deur die voorsitter gedoen.

(4) The Director may provide a shorthand writer to take down in shorthand a note of *viva voce* evidence and proceedings.

(5) Any party shall be entitled to a transcript of any such shorthand note certified as correct by the shorthand writer on payment of a fee to be fixed by the Director, having regard to the costs to the Director of such transcript.

(6) In the event of an appeal being noted and set down for hearing such shorthand note shall, so far as relevant to the appeal, be transcribed and certified on oath by such shorthand writer as a true record of the proceedings and such transcript shall thereafter form part of the record.

(7) Any party may apply to the presiding officer to correct any errors in the record. Such application shall be made not later than seven days after the decision of the Court has been declared: Provided that if the application is for a correction of any errors in the shorthand note of evidence the transcript of which has not been completed before the decision of the Court is declared, it shall be made not later than seven days after the transcript has been completed. Upon being satisfied that reasonable notice of the application has been given by the applicant to every other interested party, the presiding officer may, after consideration of any representations that may be made to him by any such party, and, if he thinks it necessary, after consultation with one or more of the other members of the Court, correct any such errors.

(8) If, before the hearing of the application, all parties affected file a consent to the corrections claimed, no costs of such application shall be allowed; otherwise, costs shall be in the discretion of the presiding officer, and the provisions of paragraph (2) of regulation 17 and regulation 19 shall apply in respect of any award by him of such costs.

TRANSMISSION OF RECORDS TO DIRECTOR.

21. (1) The records transmitted to the Director in terms of section two hundred and eighty-six of the Act shall be certified by the clerk.

(2) The report referred to in the said section shall be in the form set forth in Schedule C to these regulations, with such modifications as circumstances may require.

APPEAL TO SUPERIOR COURT.

22. (1) Any person aggrieved by a decision of a Court of Marine Enquiry who contemplates appealing to a Superior Court under section two hundred and ninety-two of the Act may apply to the Director for a copy of the report transmitted to him in terms of section two hundred and eighty-six. Such application shall be made in writing, shall state an address to which the report may be posted or the name of the person to whom it may be delivered and shall be delivered at the office of the Director or posted so as to reach him not later than fourteen days after the delivery of the decision of the Court at the conclusion of the investigation. The Director shall cause a copy of the report to be posted to the applicant at the address stated or to be delivered to the person named, upon payment by the applicant of a fee of 1s. per 100 words.

(2) An appeal may be noted by any person other than the Director within thirty days after the posting to him or the delivery to the person named of the copy of the report, and by the Director within thirty days after the receipt by him of the report from the presiding officer.

(3) An appeal shall be noted by the service upon the Director and every other person who was a party to the proceedings of a notice of appeal and, unless the Superior Court to which appeal is made otherwise directs, by that giving security to the satisfaction of the Registrar of that Court for the respondents' costs of appeal to the amount of forty pounds: Provided that no security shall be required from the State.

(4) Die Direkteur kan 'n snelskrywer aanstel om 'n snelskryf-aantekening van *viva voce*-getuïens en -verrigtings te maak.

(5) 'n Party is geregtig tot 'n transkripsie van enige sodanige snelskryf-aantekening wat deur die snelskrywer as korrek gewaarmerk is, by betaling van 'n bedrag wat deur die Direkteur, met inagneming van wat die transkripsie hom gekos het, vasgestel word.

(6) In gevalle waar appél aangeteken word en vir verhoor op die rol geplaas word, word 'n transkripsie van sodanige snelskryf-aantekening gemaak, vir sover dit op die appél betrekking het en deur die snelskrywer onder eed gewaarmerk as 'n ware weergawe van die verrigtings, en sodanige transkripsie maak daarna deel van die rekord uit.

(7) Enige party kan by die voorsitter aansoek doen om foute in die rekord te verbeter. Sodanige aansoek moet gedoen word hoogstens sewe dae nadat die beslissing van die hof bekendgemaak is: Met dien verstande dat, as aansoek gedoen word om die verbetering van foute in die snelskryf-aantekening van getuïens waarvan die transkripsie nie voltooi is 'voordat die hof se beslissing bekendgemaak is nie, dit gedoen moet word hoogstens sewe dae nadat die transkripsie voltooi is. As die voorsitter oortuig is dat die applikant aan al die ander belanghebbende partye redelike kennis van die aansoek gegee het, kan hy, na oorweging van enige verhoër wat deur enige sodanige party tot hom gerig mag word en, as hy dit nodig ag, na oorlegplegting met een of meer van die ander lede van die hof, sodanige foute verbeter.

(8) As al die betrokke partye voor die verhoor van die aansoek hul toestemming indien vir die verbetering van die foute wat aangevra word, word geen koste vir sodanige aansoek toegestaan nie; anders word koste toegestaan volgens die goeiedunke van die voorsitter en geld die bepalings van paragraaf (2) van regulasie 17 en regulasie 19 ten opsigte van enige koste wat die voorsitter mag toestaan.

VERSENDING VAN REKORDS AAN DIE DIREKTEUR.

21. (1) Die rekords wat kragtens artikel tweehonderd ses-en-tig van die Wet aan die Direkteur versend word, word deur die klerk gewaarmerk.

(2) Die verslag waarvan in gemelde artikel melding gemaak word, moet in die vorm wees wat uiteengesit word in Bylae C by hierdie regulasies, met sodanige wysigings as wat in die omstandighede nodig mag wees.

APPEL NA HOËR HOF.

22. (1) 'n Persoon wat hom veronreg voel deur 'n beslissing van 'n hof van marine-ondersoek en wat voornemens is om kragtens artikel tweehonderd twee-en-negentig van die Wet na 'n hoër hof te appelleer, kan by die Direkteur aansoek doen om 'n afskrif van die verslag wat kragtens artikel tweehonderd ses-en-tig aan hom versend is. So 'n aansoek moet skriftelik gerig word, moet 'n adres bevat waarheen die verslag geos kan word of die naam van die persoon aan wie dit afgelewer kan word, en moet by die kantoor van die Direkteur ingedien word of aan hom geos word sodat dit hom bereik hoogstens veertien dae nadat die hof aan die einde van die ondersoek sy beslissing gegee het. Die Direkteur sien toe dat, by betaling deur die applikant van 'n bedrag van 1s. per 100 woorde, 'n afskrif van die verslag aan die applikant geos word na die adres in die aansoek vermeld of dat dit aan die gemelde persoon afgelewer word.

(2) Enige persoon, behalwe die Direkteur, kan appél aanteken binne dertig dae nadat die afskrif van die verslag aan die persoon geos of aan hom afgelewer is, en die Direkteur kan appél aanteken binne dertig dae nadat hy die verslag van die voorsitter ontvang het.

(3) Appél word aangeteken deur 'n kennisgewing van appél te dien op die Direkteur en elke ander persoon wat 'n party tot die verrigtings was, en, tensy die hoër hof waarna geappelleer word anders gelas, deur tot bevrediging van die registrateur van daardie hof sekuriteit ten bedrae van veertig pond vir die verweerder se koste van appél te gee: Met dien verstande dat sekuriteit nie van die Staat geëis word nie.

(4) A notice of appeal shall state—

- (a) the Superior Court to which the appeal is noted;
- (b) whether the whole or part only of the decision is appealed against, and if part only, then what part;
- (c) the grounds of appeal, specifying the findings of fact or rulings of law appealed against.

(5) Whenever an appeal has been noted, the Director shall forthwith transmit a copy of the notice of appeal to the Magistrate who was the presiding officer of the Court, who shall within seven days of the receipt thereof by him transmit to the Director a statement, in writing, showing (so far as may be necessary having regard to any written decision already delivered by him or by the Court and to the report referred to in regulation 21)—

- (i) the facts the Court found to be proved;
- (ii) the grounds upon which the Court arrived at any finding of fact specified in the notice of appeal as appealed against; and
- (iii) the reasons for any ruling of law so specified as appealed against.

The statement shall become part of the record.

(6) Any party may apply to the Director for a copy of the statement referred to in paragraph (5) of this regulation. The application shall be made in writing, shall state an address to which the statement may be posted or the name of the person to whom it may be delivered, and shall be accompanied by a fee of one pound. The Director shall cause a copy of the statement to be posted to the applicant at the address stated or to be delivered to the person named.

(7) The Director shall, within seven days after he receives notice that the appeal has been set down for hearing, cause to be transmitted to the Registrar of the Superior Court the record of the proceedings before the Court of Marine Enquiry, including the notes of evidence, the decisions, the report by the presiding officer and any reasons and other documents transmitted to the Director in terms of section two hundred and eighty-six of the Act, and the statement referred to in paragraph (5) of this regulation.

(8) Subject to the provisions of this regulation, an appeal shall be prosecuted within the period and in accordance with the practice and rules which apply in the Superior Court to which appeal is made in respect of appeals in civil cases from Magistrates' Courts, and if the appeal is to a Local Division of the Supreme Court which has no jurisdiction to hear appeals in civil cases from the Magistrates' Courts, the appeal shall be prosecuted within the period and in accordance with the practice and rules which apply in respect of such appeals in the Provincial Division of the Province within which that Local Division exercises jurisdiction, and in default of such prosecution, the appeal shall be deemed to have lapsed, unless that Superior Court shall see fit to make an order to the contrary.

(9) The judgment of the Superior Court to which appeal is made may be enforced as if it had been given in the Court appealed from.

REHEARING BY ORDER OF THE MINISTER.

23. Whenever the Minister has directed under the provisions of section two hundred and ninety-one of the Act that a case heard by a Court of Marine Enquiry be reheard by such a Court or that a case heard by a Maritime Court be reheard by a Court of Marine Enquiry, the provisions of these regulations shall apply to such rehearing.

(4) In 'n kennisgewing van appèl word vermeld—

- (a) die hoër hof waarna geappelleer word;
- (b) of daar teen die beslissing in sy geheel of slegs teen 'n gedeelte daarvan geappelleer word en, indien slegs teen 'n gedeelte, watter gedeelte;
- (c) die gronde vir die appèl, met 'n uiteensetting van die feitebevindings of regsbeslissings waarteen daar geappelleer word.

(5) Wanneer daar appèl aangeteken word, stuur die Direkteur onverwyl 'n afskrif van die kennisgewing van appèl aan die magistraat wat as voorsitter van die hof opgetree het, en binne sewe dae na ontvangs daarvan stuur die magistraat aan die Direkteur 'n skriftelike verklaring waarin die volgende aangedui word (vir sover dit nodig mag wees, met inagneming van enige skriftelike beslissing wat reeds deur hom of deur die hof gegee is en van die in regulasie 21 vermelde verslag—

- (i) die feite wat volgens die beslissing van die hof bewys is;
- (ii) die gronde waarop die hof geraak het tot enige feitebevinding waarteen daar volgens die kennisgewing van appèl geappelleer word; en
- (iii) sy redes vir enige regsbeslissing waarteen daar volgens die kennisgewing van appèl geappelleer word.

Die verklaring word deel van die rekord.

(6) Enige party kan by die Direkteur aansoek doen om 'n afskrif van die in paragraaf (5) van hierdie regulasie vermelde verklaring. Die aansoek moet skriftelik gerig word, moet 'n adres bevat waarheen die verklaring gepos kan word of die naam van die persoon aan wie dit afgelewer kan word, en moet vergesel gaan van 'n bedrag van een pond. Die Direkteur sien toe dat 'n afskrif van die verklaring gepos word aan die applicant na die adres in die aansoek vermeld of dat dit aan die gemelde persoon afgelewer word.

(7) Binne sewe dae nadat hy kennis ontvang het dat die appèl vir verhoor op die rol geplaas is, sien die Direkteur toe dat die rekord van die verrigtings voor die hof van marine-ondersoek, met inbegrip van die aantekeninge van die getuienis, die beslissings, die verslag van die voorsitter en enige berekenings en ander dokumente wat kragtens artikel tweehonderd ses-en-tagtig van die Wet aan die Direkteur versend is, en die in paragraaf (5) van hierdie regulasie vermelde verklaring, aan die registrateur van die hoër hof versend word.

(8) Behoudens die bepaling van hierdie regulasie, word 'n appèl ingestel binne die tydperk en ooreenkomstig die gebruik en reëls wat in die hoër hof waarna geappelleer word, geld ten aansien van appèlle in siviele sake vanuit magistraatshowe, en as daar geappelleer word na 'n Plaaslike Afdeling van die Hoogergereshof wat geen regsbevoegdheid het om appèlle in siviele sake vanuit magistraatshowe te verhoor nie, word die appèl ingestel binne die tydperk en ooreenkomstig die gebruik en reëls wat geld ten aansien van sodanige appèlle in die Provinsiale Afdeling van die Provinsie waarin daardie Plaaslike Afdeling regsbevoegdheid uitoefen, en by verstek van sodanige instelling word gegag dat die appèl vervel het, tensy daardie hoër hof dit goed ag om 'n andersluidende bevel uit te vaardig.

(9) Die uitspraak van die hoër hof waarna geappelleer word, kan gehandhaaf word asof dit gegee was in die hof vanwaar geappelleer word.

HERVERHOOR OP LAS VAN DIE MINISTER.

23. Wanneer die Minister kragtens die bepaling van artikel tweehonderd een-en-negentig van die Wet gelas het dat 'n saak wat deur 'n hof van marine-ondersoek verhoor is deur so 'n hof opnuut verhoor word of dat 'n saak wat deur 'n seehof verhoor is deur 'n hof van marine-ondersoek opnuut verhoor word, is die bepaling van hierdie regulasies van toepassing op sodanige hervverhoor.

SCHEDULE A.

ALLOWANCES TOWARDS SUBSISTENCE AND
TRANSPORT PAYABLE TO MEMBERS OF
COURTS OF MARINE ENQUIRY.

(REGULASIE 6.)

1. A member shall be paid an allowance towards subsistence at the rate of £1. 1s. for every hour or part of an hour of any day on which he attends the investigation and on which the case is wholly or partly heard: Provided that he shall not be paid less than £3. 3s. or more than £5. 5s. for any such day.

2. The period for which payment shall be made in terms of paragraph 1 shall be reckoned from the time when the member attends to the time when he is released by the presiding officer from further attendance.

3. The member shall be paid an allowance towards subsistence of £1. 1s. for any day on which he attends the investigation but on which the case is not heard.

4. A member shall also be paid at the rate of one-twenty-fourth of £5. 5s. for every completed hour (one-twenty-fourth) of the time necessarily spent in travelling to and from the place at which the investigation is held.

5. In no case shall a member be paid under the foregoing paragraphs more than £5. 5s. for any period from midnight to midnight.

6. Where the railway or a railway bus serves, there shall be issued to the member a warrant entitling him to the issue of a first-class return ticket. If any other form of public transport is necessarily used, the fare disbursed by the member shall be refunded to him. For any part of the journey to and from the place at which the investigation is held which is not served by the railway or a railway bus or other form of public transport the member shall be paid a travelling allowance at the rate of one shilling a mile.

SCHEDULE B.

COURT OF MARINE ENQUIRY.

SUBPOENA.

(REGULASIE 10.)

To—
(1) of
(2) of
(3) of
(4) of

You are hereby required to appear in person before the Court of Marine Enquiry at on the day of 19..... at the hour of which has been appointed to investigate the circumstances attending the

..... and to bring with you and then produce to the Court the several documents specified in the list hereunder:—

Date.	Description.	Original or Copy.
Place		
Date		

Attention is invited to section nine, read with section three hundred and thirteen of the Merchant Shipping Act, 1951, which provides that any person who fails to attend at the time and place specified in a subpoena and remain in attendance until excused by the Court from further

BYLAE A.

TOELAES VIR ONDERHOUD EN VERVOER
BETAALBAAR AAN LEDE VAN 'N HOF VAN
MARINE-ONDERSOEK.

(REGULASIE 6.)

1. 'n Lid ontvang 'n toelae vir onderhoud teen die koers van £1. 1s. vir elke uur of gedeelte van 'n uur van enige dag waarop hy die ondersoek bywoon en waarop die saak in sy geheel of gedeeltelik verhoor word: Met dien verstande dat hy minstens £3. 3s. of hoogstens £5. 5s. vir enige sodanige dag ontvang.

2. Die tydperk waarvoor betaling ooreenkomstig paragraaf 1 gemaak word, word gereken vanaf die tyd wanneer die lid aanwesig is tot die tyd wanneer die voorsitter hom van verdere aanwesigheid vrystel.

3. Die lid ontvang 'n onderhoudstoelae van £1. 1s. vir enige dag waarop hy die ondersoek bywoon maar waarop die saak nie verhoor word nie.

4. 'n Lid ontvang ook 'n toelae teen 'n koers van een-vier-en-twintigste van £5. 5s. vir elke voltooidde uur (een-vier-en-twintigste) van die tyd wat noodwendig in beslag geneem word om na en van die plek te reis waar die ondersoek plaasvind.

5. In geen geval ontvang 'n lid ooreenkomstig bostaande paragrafe meer as £5. 5s. vir enige tydperk van middernag tot middernag nie.

6. In gebiede wat deur die spoorweg of deur 'n spoorwegbus bedien word, word daar aan die lid 'n magbrief uitgereik wat hom geregtig maak op die uitreiking van 'n eerste-klassereteerkaartjie. Indien daar noodwendig van enige ander vorm van openbare vervoer gebruik gemaak word, word die reisgeld wat die lid uitbetaal het aan hom terugbetaal. Vir enige deel van die reis na en van die plek waar die ondersoek gehou word, wat nie deur die spoorweg of 'n spoorwegbus of ander vorm van openbare vervoer bedien word nie, ontvang die lid 'n reistoeelag van een shilling per myl.

BYLAE B.

HOF VAN MARINE-ONDERSOEK.

DAGVAARDING.

(REGULASIE 10.)

Aan—
(1) van
(2) van
(3) van
(4) van

U word hierby versoek om op die dag van 19..... om uur, te

persoonlik te verskyn voor die Hof van Marine-ondersoek wat aangestel is om ondersoek in te stel na die omstandighede in verband met die

..... en om die verskillende dokumente in onderstaande lys gespesifiseer, met u saam te bring en aan die Hof oor te lê:—

Datum.	Beskrywing.	Oorspronklike of Afskrif.
Plek		
Datum		

Die aandag word gevestig op artikel nege, gelees saam met artikel driehonderd-derdient van die Handelskeepvaartwet, 1951, waarin bepaal word dat enige persoon wat in gebreke bly om op die tyd en plek in 'n dagvaarding bepaal, te verskyn en aanwesig te bly totdat hy deur die

attendance, or to answer fully and satisfactorily, to the best of his ability, all questions lawfully put to him, or upon his being required to do so to produce any document in his possession or control, shall be liable to a penalty not exceeding a fine of £100 or six months' imprisonment or both such fine and imprisonment.

SCHEDULE C.

REPORT OF COURT OF MARINE ENQUIRY.

(REGULATION 21.)

In the matter of a formal investigation by a Court of Marine Enquiry held at on the (here state all the days on which the Court sat) before Presiding Officer, and and Members, into the circumstances attending the (here state briefly the substance of the allegation or describe the event for the investigation of which the Court was convened)

The Court, having carefully inquired into the circumstances attending the matter to be investigated, finds for the reasons stated in the Annex hereto, that the (here state the finding of the Court)

Dated at this day of 19

Presiding Officer.

We (or I) concur in the above report.

Member.

Member.

ANNEX TO THE REPORT.

(Here state fully the circumstances of the case, the opinion of the Court touching the truth of the allegation or the causes of the event and the conduct of any persons implicated therein, and whether the certificate of any officer has been either suspended or cancelled, and the reasons for the said opinion, and if the certificates of any officer has been suspended or cancelled the reasons for such suspension or cancellation.)

* No. 2052, Union.] [9 November 1956.
MARINE SECTION.

The following draft regulations proposed to be made under the provisions of section three hundred and fifty-six (1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), are hereby published for general information. Any person who wishes to make any comments or suggestions may submit them to the Commissioner of Customs and Excise, Marine Section, P.O. Box 376, Pretoria, on or before the 28th February, 1957.

These regulations cover the procedure to be followed in the hearing of appeals of Courts of Survey convened in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

CONTENTS.

1. Title of these Regulations.
2. Interpretation.
3. List from which Members of Court to be Selected.
4. Noting of Appeal.
5. Appointment of Members of Court.
6. Notification of Appointment as Member.
7. Allowances Payable to Members.
8. Time and Place for Hearing of Appeal.
9. Appointment and Duties of Clerk of a Court of Survey.

hof van verdere aanwesigheid rygestel word, of om alle vroe wat wetlik aan hom gestel word volledig en bevestigend, na die beste van sy vermoë, te beantwoord, of om, as hy daartoe gelas word, enige dokument in sy besit of onder sy beheer oor te lê, strafbaar is met 'n boete van hoogstens £100 of ses maande tronkstraf of met sowel die boete as die tronkstraf.

BYLAE C.

VERSLAG VAN HOF VAN MARINE-ONDERSOEK.

(REGULASIE 21.)

In die geval van 'n formele ondersoek deur 'n Hof van Marine-onderzoek gehou te op die (meld hier al die dae waarop die Hof gesit het) voor Voorzitter, en en Lede, na die omstandighede in verband met die (meld hier kortliks die inhoud van die bewering of beskryf die voorval vir die ondersoek waarvan die Hof byengeroep is)

Beslis die Hof, nadat hy noukeurig ondersoek ingestel het na die omstandighede in verband met die saak wat ondersoek moes word, om die redes in die Aanhangel hiervan uiteengesit, dat die (meld hier die beslissing van die Hof)

Gedateer te hede die dag van 19

Voorzitter.

Ons (of Ek) stem saam met bostaande verslag.

Lid.

Lid.

AANHANGSEL AAN DIE VERSLAG.

(Meld hier volledig die omstandighede van die saak, die opinie van die Hof rakende die waarheid van die bewering of die oorsake van die voorval en die gedrag van enige persone wat daarby betrokke is, en of die sertifikaat van enige offisier of opskort of gekanselleer is, en die gronde vir die genoemde opinie, en indien die sertifikaat van enige offisier opskort of gekanselleer is, die redes vir sodanige opskorting of kansellering.)

* No. 2052, Unie.] [9 November 1956.
MARINE-AFDELING.

Onderstande ontwerp-regulasies voorgestel om kragtens die benadins van artikel driehonderd ses-en-veertig (1) van die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), uitgevaardig te word, word hierby vir algemene infing gepubliseer. Persone wat begeer om kommentaar te lewer of aanbevelings te maak kan hulle aan die Kommissaris van Doane en Aksys, Marine-afdeling, Posbus 376, Pretoria op of voor 28 Februarie 1957, deurstuur.

Hierdie regulasies dek die prosedure wat gevolg moet word by die verhoor van appèls deur opnemingshowe wat kragtens die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), byengeroep word.

INHOUD.

1. Opskrif van hierdie regulasies.
2. Woordbetekenis.
3. Lys waaruit lede van die hof gekies moet word.
4. Kennisgewing van appèl.
5. Aanstelling van lede van die hof.
6. Bekendmaking van aanstelling as lid.
7. Toelae betaalbaar aan lede.
8. Tyd wanneer en plek waar die appèl verhoor word.
9. Aanstelling en pligte van die klerk van 'n opnemingshof.

10. Parties to the Proceedings.
11. Summoning of Witnesses.
12. Representation of Parties.
13. Evidence.
14. Addresses by the Parties.
15. Adjournments.
16. Orders for Costs.
17. Enforcement of Orders for Costs.
18. Records of Proceedings.
19. Transmission of Records to Director.
20. Hearing of Appeal referred to Experts.

SCHEDULES.

- Schedule A.—Notice of Appeal to a Court of Survey.
 Schedule B.—Allowances towards subsistence and transport payable to Members of Courts of Survey.
 Schedule C.—Form of Subpoena.
 Schedule D.—Report of Court of Survey.

(INTRODUCTORY NOTES.)

(1) Attention is invited to section two hundred and eighty of Act No. 57 of 1951, which empowers a Court of Survey or an expert or experts to whom an appeal to a Court of Survey has been referred under section two hundred and eighty-two to determine the procedure to be followed at the hearing of the appeal, subject to the provisions of the Act and the regulations made thereunder. In so far, therefore, as any matter of procedure is not covered by the Act itself or the regulations following, the Court or the expert or experts are free to determine its or their own procedure.

(2) Attention is also invited to the fact that it is proposed to seek authority to amend section three hundred and fifty-six of the Act by the substitution for paragraph (XXXV) of sub-section (1) of the following paragraph:—

“(XXXV) prescribing, in regard to courts of marine enquiry, maritime courts, courts of survey or persons to whom appeals to courts of survey may be referred, rules to be followed in respect of—

- (a) the convening and appointment of such courts or experts;
- (b) procedure;
- (c) the noting and prosecution of appeals from courts of marine enquiry or maritime courts to superior courts, and the enforcement of judgments pronounced on appeal; and
- (d) the award by courts of marine enquiry or maritime courts of damages, and by such courts or courts of survey or persons to whom appeals to courts of survey may be referred of costs, including the costs incurred by the State in connection with the convening or appointment of such courts or persons and in connection with any investigation made by them, and to costs incurred by parties, the scales upon which costs shall be calculated, the taxation or assessment of costs, and the enforcement of awards of damages and costs.”

TITLE OF THESE REGULATIONS.

1. These regulations are called the Courts of Survey Regulations.

INTERPRETATION.

2. In these regulations, unless the context indicates otherwise—
 “Act” means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);
 “appellant” means the person who has noted an appeal to a Court of Survey;

10. Party tot die verrigtings.
11. Oproeping van getuies.
12. Verteenwoordiging van partye.
13. Getuienis.
14. Toesprake deur die partye.
15. Verdagings.
16. Bevele in verband met die betaling van koste.
17. Uitvoering van bevele in verband met die betaling van koste.
18. Rekord van verrigtings.
19. Versending van rekords aan die Direkteur.
20. Verhoor van appél wat na deskundiges verwys word.

BYLAES.

- Bylae A.—Kenningsgewing van appél na 'n opnemingshof.
 Bylae B.—Toelaes vir onderhouid en vervoer betaalbaar aan lede van opnemingshove.
 Bylae C.—Dagvaardingsvorm.
 Bylae D.—Verslag van opnemingshof.

(INLEIDINGSOPMERKINGS.)

(1) Die aandaag word gevestig op artikel tweehonderden-tagtig van Wet No. 57 van 1951 waarkragtens 'n opnemingshof of 'n deskundige of deskundiges na wie 'n appél na 'n opnemingshof kragtens artikel tweehonderd twee-en-tagtig verwys word, gemagtig word om die prosedure te bepaal wat, behoudens die bepalings van die Wet en die regulasies wat daarkragtens uitgevaardig word, by die verhoor van die appél sal geld. Vir sover enige kwessie van prosedure dus nie deur die Wet self of deur die regulasies wat hieronder volg, gedek word nie staan dit die hof of die deskundige of deskundiges vry om self die prosedure te bepaal wat gevolg sal word.

(2) Die aandaag word ook gevestig op die feit dat die voorneme bestaan om magtiging te verkry om artikel drie-honderd ses-en-veertig van die Wet te wysig deur paragraaf (XXXV) van subartikel (1) deur die volgende paragraaf te vervang:—

“(XXXV) wat met betrekking tot houe van marine-onderzoek, seehoue, opnemingshove of persone na wie appélle na opnemingshove verwys mag word, die reëls voorskryf wat nagekom moet word in verband met—

- (a) die sameroeping en aanstelling van sodanige houe of persone;
- (b) prosedure;
- (c) die aantekening en deursoering van appélle van houe van marine-onderzoek of seehoue na hoër houe, en die uitvoering van vonnisse uitgespreek op appél; en
- (d) die toekenning deur houe van marine-onderzoek of seehoue van skadevergoeding en die toewysing deur bedoelde houe of opnemingshove of persone na wie appélle na opnemingshove verwys mag word, van koste, met inbegrip van die koste deur die Staat aangegaan in verband met die sameroeping of aanstelling van bedoelde houe of persone en in verband met enige ondersoek deur hulle gedoen, en die koste deur partye aangegaan, die tariewe waarop koste bereken moet word, die taksasie of vasstelling van koste en die uitvoering van toekennings van vergoeding en toewysings van koste.”

OPSKRIJ VAN HIERDIE REGULASIES.

1. Onderstaande regulasies heet die Regulasies Betreffende Opnemingshove.

* WOORDBETEKENIS.

2. In hierdie regulasies, tensy uit die samhang anders blyk, beteken—
 “Wet” die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951);
 “appellant”, die persoon wat na 'n opnemingshof geappelleer het;

"Court" means a Court of Survey convened under section two hundred and seventy-five of the Act;
 "clerk" means the clerk of a Court of Survey appointed under regulation 9;
 "party" means a person declared by or under regulation 10 to be a party to the proceedings of a Court,

and any phrases or words which occur in these regulations shall be construed as having the meaning assigned to them in the Act.

(NOTE.—Section two of the Act contains the following definitions:—

"Director" means the Director of Merchant Shipping appointed under section five;

"Minister" means the Minister of Finance.)

LIST FROM WHICH MEMBERS OF COURT TO BE SELECTED.

3. (1) The Director shall from time to time frame a list of persons qualified in terms of sub-section (2) of section two hundred and seventy-six of the Act to be members (other than presiding officers) of Courts of Survey.

(2) The Director shall submit the list framed under paragraph (1) of this regulation to the Minister for approval. The Minister may in his discretion remove from the list any names appearing therein and insert therein any names of persons qualified as aforesaid.

(3) When the Minister has approved any such list submitted to him the list that up to that time had been in use shall be cancelled.

(4) Opposite every name appearing in the list shall be stated the kind of nautical, engineering or other special skill, knowledge or experience which the person named possesses.

(5) Upon receipt by the Director of a request in writing by any person whose name appears on any such list for the removal of his name from the list, the Director shall remove his name.

(6) Every person whose name appears in the current list approved by the Minister shall be eligible for selection as a member of a Court of Survey.

NOTING OF APPEAL.

4. (1) An appeal to a Court of Survey under sub-section (1) of section two hundred and seventy-four of the Act shall be noted by the service on the Director of a notice of appeal in the form set forth in Schedule A to these regulations: Provided that if the ship is at Cape Town or Durban, the notice may be served on the Principal Officer of the Marine Survey Office at the port; or if the ship is at Port Elizabeth or East London, the notice may be served on the Shipping Master at the port; or if the ship is at Mossel Bay, Port Nolloth, Luderitz or Walvis Bay, the notice may be served on the Collector of Customs at the port.

(2) If the notice of appeal is served on a principal officer of the Marine Survey Office or a shipping master or a Collector of Customs, in terms of paragraph (1) of this regulation, he shall forthwith transmit it to the Director.

(NOTE.—As to the method of service, attention is invited to section three hundred and forty-two (a) and (b) of the Act, set out in the note to regulation 11.)

APPOINTMENT OF MEMBERS OF COURT.

5. (1) Whenever an appeal to a Court of Survey lies in terms of section two hundred and seventy-four of the Act and has been duly noted the Minister shall, subject to the provisions of section two hundred and eighty-two of the Act, convene a Court of Survey to hear the appeal, and shall appoint a magistrate to be the presiding officer thereof and two or four other persons to be members thereof.

(2) The members, other than the presiding officer, shall be selected from the current list framed in terms of regulation 3, unless by reason of the special nature of the questions involved in the appeal it appears to the Minister expedient to appoint as a member a person whose name does not appear on that list.

„hof", 'n opnemingshof wat kragtens artikel twee-honderd vyf-en-sewentig van die Wet bygeengeroep word;

„klerk", die klerk van 'n opnemingshof wat ooreenkomstig regulasie 9 aangestel word;

„party", 'n persoon wat by of ooreenkomstig regulasie 10 as 'n party tot die verrigtings van 'n hof verklaar word,

en enige uitdrukkings of woorde wat in hierdie regulasies voorkom, moet uitgêl word volgens die betekenis by die Wet daaraan gegee.

(LET WEL.—In artikel twee van die Wet verskyn onderstaande woordbepalings:—

„Direkteur", die Direkteur van Handelskeepvaart wat kragtens artikel vyf aangestel is;

„Minister", die Minister van Finansies.)

LYS WAARUIT LEDE VAN DIE HOF GEKIES MOET WORD.

3. (1) Die Direkteur stel van tyd tot tyd 'n lys op van persone wat kragtens subartikel (2) van artikel tweehonderd ses-en-sewentig van die Wet bevoegd is om lede (behalwe die voorsitter) van 'n opnemingshof te wees.

(2) Die Direkteur lê die lys wat ooreenkomstig paragraaf (1) van hierdie regulasie opgestel word vir sy goedkeuring aan die Minister voor. Die Minister kan na goedgekeurde name wat op die lys voorkom, skrap en die name van persone wat bevoegd is soos hierbo vermeld, by die lys voeg.

(3) Wanneer die Minister so 'n lys wat aan hom voorgelê word, goedgekeur het, word die lys wat tot op daardie tyd in gebruik was, ingetrek.

(4) Teenoor elke naam wat op die lys voorkom, word die marine-, ingenieurs- of ander besondere vaardigheid, kennis of ervaring waaroor die persoon beskik, vermeld.

(5) Wanneer die Direkteur deur 'n persoon wie se naam op so 'n lys voorkom, skriftelik versoek word om sy naam van die lys te verwyder, skrap die Direkteur die persoon se naam van die lys.

(6) Elke persoon wie se naam voorkom op die lopende lys wat deur die Minister goedgekeur is, is verkiesbaar as 'n lid van 'n opnemingshof.

KENNISGEWING VAN APPEL.

4. (1) Wanneer daar kragtens subartikel (1) van artikel tweehonderd vier-en-sewentig van die Wet na 'n opnemingshof geappelleer word, geskied dit deur op die Direkteur 'n kennisgewing van appel te dien in die vorm wat in Bylae A by hierdie regulasies uiteengesit word: Met dien verstande dat, as die skip in Kaapstad of Durban is, die kennisgewing van appel op die Hoofbeamt van die Marine-opnemingskantoor in die betrokke hawe gedien kan word; of as die skip in Port Elizabeth of Oos-Londen is, op die Koopvaardymeester; of as die skip in Mosselbaai, Port Nolloth, Luderitz of Walvisbaai is, op die Ontvanger van Doeane in daardie hawens.

(2) As die kennisgewing van appel ooreenkomstig paragraaf (1) van hierdie regulasie op 'n Hoofbeamt van die Marine-opnemingskantoor, of op 'n Koopvaardymeester, of op 'n Ontvanger van Doeane gedien word, moet hy dit onverwylde aan die Direkteur versend.

[LET WEL.—Wat betref die wyse waarop die kennisgewing gedien word, word die aandag gevestig op artikel driehonderd twee-en-veertig (a) en (b) van die Wet wat in die Opmerking by regulasie 11 uiteengesit word.]

AANSTELLING VAN LEDE VAN DIE HOF.

5. (1) Wanneer daar 'n reg van appel na 'n opnemingshof kragtens artikel tweehonderd vier-en-sewentig van die Wet is en appel behoortlik aangeteken is, roep die Minister behoudens die bepaling van artikel tweehonderd twee-en-tagtig van die Wet 'n opnemingshof byeen om die appel te verhoor en stel hy 'n magistraat aan as voorsitter en twee of vier ander persone as lede van die hof.

(2) Die lede, behalwe die voorsitter, word gekies uit die lopende lys wat ooreenkomstig regulasie 3 opgestel word, tensy dit na die mening van die Minister, weens die spesiale aard van die vrae wat by die appel betrokke is, raadsaam is om 'n persoon wie se naam nie op gemelde lys voorkom nie as 'n lid aan te stel.

NOTIFICATION OF APPOINTMENT AS MEMBER.

6. The Director shall by letter inform all persons appointed by the Minister to be members of the Court that they have been so appointed, and shall send to them copies of the notice of appeal and of all annexes thereto.

ALLOWANCES PAYABLE TO MEMBERS.

7. Every member of a Court shall, if he is in the employ of the Government of the Union (including the Railway Administration) or the Administration of South West Africa, be paid such allowances towards subsistence and transport as may be prescribed (otherwise than under the Act) for Government, Railway or Administration employees of his class, and if he is not in the employ of the Government of the Union (including the Railway Administration) or the Administration of South West Africa, or if no such allowances have been prescribed for Government, Railway or Administration employees of his class, he shall be paid the allowances towards subsistence and transport set forth in Schedule B to these regulations.

TIME AND PLACE FOR HEARING OF APPEAL.

8. (1) The presiding officer shall appoint the time and place for the hearing of the appeal.

(2) The clerk shall by letter notify the Director and the appellant of the said time and place.

(3) If the survey in connection with which the appeal has arisen was made on the complaint of any person, the clerk shall notify him of the said time and place and shall send to him a copy of the notice of appeal and of all annexes thereto.

APPOINTMENT AND DUTIES OF CLERK OF A COURT OF SURVEY.

9. (1) The Director shall appoint a person to be clerk of the Court.

(2) The clerk shall, subject to the provisions of regulation 18 and to any instructions by the presiding officer, make minutes of the proceedings of the Court, and take such minutes and any documents produced during or in connection with the investigation into his custody.

PARTIES TO THE PROCEEDINGS.

10. The following persons shall be parties to the proceedings:—

- (a) the Director;
- (b) the appellant; and
- (c) any person who on his own application has been declared by the presiding officer to be a party.

SUMMONING OF WITNESSES.

11. (1) The summoning by the Court, in the exercise of its powers under paragraph (iii) of sub-section (1) of section nine of the Act, of any person to appear before it to be interrogated or to produce any book, document or thing shall be by subpoena in the form set forth in Schedule C to these regulations.

(2) Any such subpoena may be sued out by the Director or any other party desiring the attendance of the witness and shall be signed by the clerk.

(3) The subpoena may be served on the person to be summoned by the Messenger of the Magistrate's Court within whose area of jurisdiction the Court of Survey is held or by any other person, and the service shall be effected at a reasonable time before attendance is required.

(4) There shall be delivered to the person who is to effect service together with the subpoena so many copies thereof as there are witnesses to be summoned and also such sum or sums of money as the person suing out the subpoena intends that the person who is to effect service shall pay or offer to the said witnesses respectively for their conduct money.

(5) The service of any such subpoena may be proved by the affidavit of the person who has effected the service or by his testimony upon oath before the Court, or, if the service was effected by the messenger, by a return of service under his hand.

BEKENDEMAKING VAN AANSTELLING AS LID.

6. Die Direkteur stel alle persone wat deur die Minister as lede van die hof aangestel is skriftelik in kennis van hul aanstelling, en stuur aan hulle afskrifte van die kennisgewing van appél en van alle aanhangsels daaraan.

TOELAES BETAALBAAR AAN LIDE.

7. Elke lid van 'n hof ontvang, as hy in die diens van die Unie-regering (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is, sodanige toelae vir onderhoud en vervoer as wat voorgeskryf is (anders as kragtens die Wet), vir Staats-, Spoorweg- of Administrasie-dienare van sy klas, en as hy nie in die diens van die Unie-regering (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is nie, of as geen sodanige toelae vir Staats-, Spoorweg- of Administrasie-dienare van sy klas voorgeskryf is nie, ontvang hy die toelae vir onderhoud en vervoer wat in Bylae B by hierdie regulasies uiteengesit word.

TYD WANNEER EN PLEK WAAR DIE APPEL VERHOOR WORD.

8. (1) Die voorsitter bepaal die tyd wanneer en die plek waar die appél verhoor sal word.

(2) Die klerk stel die Direkteur en die appellant skriftelik in kennis van die gemelde tyd en plek.

(3) As die opneming in verband waarmee die appél ontstaan het, gemaak is as gevolg van 'n klage deur 'n persoon ingedien, stel die klerk sodanige persoon in kennis van die gemelde tyd en plek vir die verhoor van die appél en stuur hy aan hom 'n afskrif van die kennisgewing van appél en van alle aanhangsels daaraan.

AANSTELLING EN PLIGTE VAN DIE KLERK VAN 'N OPNEMINGSHOF.

9. (1) Die Direkteur stel 'n persoon aan as klerk van die opnemingshof.

(2) Behoudens die bepaling van regulasie 18 en enige opdragte van die voorsitter, notuleer die klerk die verrigtings van die hof en neem hy sodanige notule en enige dokumente wat tydens of in verband met die ondersoek oorgelê word, in sy bewaring.

PARTYE TOT DIE VERRIGTINGS.

10. Onderstaande persone is partye tot die verrigtings—

- (a) die Direkteur;
- (b) die appellant; en
- (c) enige persoon wat op sy eie versoek deur die voorsitter as 'n party tot die verrigtings verklaar is.

OPROEPING VAN GETUIES.

11. (1) Wanneer die hof, by die uitoefening van sy bevoegdhede kragtens paragraaf (iii) van sub-artikel (1) van artikel nege van die Wet, 'n persoon oproep om voor hem te verskyn om enderwa te word of om enige boek, dokument of ding oor te lê, geskied dit by wyse van 'n dagvaarding in die vorm wat in Bylae C by hierdie regulasie uiteengesit word.

(2) So 'n dagvaarding kan aangevaar word deur die Direkteur of enige ander party wat verlang dat die getuie aanwesig moet wees, en dit word deur die klerk van die hof onderteken.

(3) Die dagvaarding kan op die persoon wat opgeroep word, gedien word deur die geregsbode van die magistratshof binne die regsgebied waarvan die opnemingshof sit, of deur enige ander persoon, en dit moet gedien word op 'n redelike tyd voordat die persoon se aanwesigheid verlang word.

(4) Aan die persoon wat die dagvaarding moet dien, moet, saam met die dagvaarding, net soveel afskrifte daarvan oorhandig word as die aantal getuias wat opgeroep moet word, asook sodanige bedrag of bedrae as wat die persoon wat die dagvaarding aanvaar, bedoel dat die persoon wat die dagvaarding moet dien aan gemelde getuias onderskeidelik vir hul padgeld moet betaal of aanbid.

(5) Die diening van enige sodanige dagvaarding kan bewys word deur 'n beëdigde verklaring deur die persoon wat dit gedien het of deur sy getuicnis onder eed voor die hof of, as die diening deur die geregsbode uitgevoer is, deur 'n relaas van diening onder sy handtekening.

(6) The messenger shall be entitled to be paid for the service of any subpoena the fees and charges that would be payable to him if the subpoena were a subpoena issued out of a Magistrate's Court.

(NOTE.—As to the method of service, attention is invited to section three hundred and forty-two (a) and (b) of the Act, which reads as follows:—

"Where for the purposes of this Act any document is to be served on any person, that document may be served—

(a) in any case by delivering a copy thereof personally to the person on whom the document is to be served; or by sending such copy to him, in accordance with the regulations, by registered post, enclosed in an envelope upon which is written his name and address; or by leaving such copy for him with a member of his household at his dwelling; or, if no person belonging to his household can be found there, then by affixing such copy to the principal outer door of the said dwelling or of any place where he actually resides or was last known to reside; or

(b) if the document is to be served on the master of a ship or on a person belonging to a ship, by leaving a copy thereof for him on board that ship with the person being or appearing to be in command or charge of the ship."

As to the fees payable to witnesses, attention is invited to section two hundred and eighty-five of the Act, which provides that a witness summoned by a Court of Survey shall be paid such expenses as would be allowed to a witness attending or subpoenaed to give evidence in a civil case before a Magistrate's Court. The present tariff of such expenses is prescribed by Government Notice No. 1113, dated 19th May, 1950, as amended by Government Notice No. 1612, dated 29th June, 1951.

The present tariff of messengers' fees and charges is contained in Table B of the Second Annexure to the Magistrates' Courts' Rules, published under Government Notice No. 814, dated 15th May, 1945, as amended by Government Notices Nos. 1154, dated the 25th June, 1954, and 918, dated the 6th May, 1955.)

REPRESENTATION OF PARTIES.

12. (1) Any party may be represented by an attorney for the purpose of suing out subpoenas and by an advocate or attorney for the purposes of examining, cross-examining or re-examining witnesses or addressing the Court.

(2) The Director may be represented for the said purposes by any person appointed by him whether or not such person is an advocate or attorney.

EVIDENCE.

13. (1) Before the hearing of the appeal the Director shall transmit to the clerk, to be produced as evidence at the hearing, a certified copy of the surveyor's report in connection with which the appeal has arisen.

(2) After the Court has been opened, each of the parties shall be entitled to address the Court for the purpose of opening the evidence which he intends to adduce, and produce and examine witnesses or, with the approval of the presiding officer, recall any of the witnesses who have already been examined for further examination and generally adduce evidence. The witnesses may be cross-examined by the other parties in such order as the presiding officer may direct, and may then be re-examined by the party who has produced them. The parties shall be heard in the order in which their witnesses examined, cross-examined and re-examined in such order as the presiding officer may direct.

(6) Vir die diening van enige dagvaarding wat deur 'n opnemingshof uitgereik word, is die geregsbode geregtig tot betaling van die gelde en koste wat aan hom betaalbaar sou wees as dit 'n dagvaarding was wat deur 'n magistratshof uitgereik is.

[LET WEL.—Wat betref die metode waarvolgens 'n dagvaarding gedien word, word die aandag gevestig op artikel drie-honderd twee-en-veertig (a) en (b) van die Wet wat soos volg lui:—

"In die gevalle waar enige dokument by die toepassing van hierdie Wet op iemand gedien moet word, kan daardie dokument gedien word—

(a) in enige geval deur aflewering van 'n afskrif daarvan persoonlik aan die persoon op wie die dokument gedien moet word; of deur sodanige afskrif in 'n koervert waarop sy naam en adres geskryf is, aan hom per geregisterde pos ooreenkomstig die regulasies te stuur; of deur sodanige afskrif vir hom te laat by 'n lid van sy huisgesin by sy woonplek; of as niemand wat tot sy huisgesin behoort aldaar gevind kan word nie, deur sodanige afskrif aan die hoofbuitendeur van gemelde woonplek of van enige plek waar hy werklik woon of (sover bekend is) laas gewoon het, te heg; of

(b) as die dokument gedien moet word op die gesagvoerder van 'n skip of op 'n persoon behorende tot 'n skip, deur 'n afskrif daarvan vir hom aan boord van daardie skip te laat by die persoon wat werklik of blykbaar gesag voer of toesig het oor die skip."

Wat betref die gelde wat aan getuies betaalbaar is, word die aandag gevestig op artikel twee-honderd vyf-en-tagtig van die Wet, waarin bepaal word dat aan 'n getuie wat deur 'n opnemingshof opgeroep word sodanige getuiegelde betaal word as wat toegestaan word aan enige getuie wat aanwesig is of gedagvaar is om getuie te gee in 'n siviele saak voor 'n magistratshof. Die huidige tarief van sodanige getuiegelde is voorgeskryf by Goewermentskennisgewing No. 1113, gedateer 19 Mei 1950, soos gewysig by Goewermentskennisgewing No. 1612, gedateer 29 Junie 1951.

Die huidige tarief van gelde en koste betaalbaar aan 'n geregsbode is bevat in Tabel B van die Tweede Aanhangs aan die Magistratshofreëls wat gepubliseer is by Goewermentskennisgewing No. 814, gedateer 15 Mei 1945, soos gewysig by Goewermentskennisgewings No. 1154, gedateer 25 Junie 1954, en No. 918, gedateer 6 Mei 1955.]

VERTEENWOORDIGING VAN PARTYE.

12. (1) 'n Party kan deur 'n prokureur verteenwoordig word vir die doel om dagvaardings aan te vra en deur 'n advokaat of prokureur vir die doel om getuies te ondervra, onder kruisverhoor te neem of te herondervra of om die hof toe te spreek.

(2) Die Direkteur kan vir gemelde doeleindes verteenwoordig word deur 'n persoon deur hom aangestel, hetsy so 'n persoon 'n advokaat of prokureur is of nie.

GETUENIS.

13. (1) Voor die verhoor van die appél stuur die Direkteur aan die klerk, vir oorlegging as getuie is die verhoor, 'n gewaarmerkte afskrif van die opnemer se verslag in verband waarmee die appél ontstaan het.

(2) Nadat die hof geopen is, is elk van die partye daartoe geregtig om die hof toe te spreek vir die doel om die getuie te laat hy voornemens is om aan te voer, in te lei, en om getuies in te roep en te ondervra of om, met die goedkeuring van die voorsitter, enige van die getuies wat reeds ondervra is, terug te roep vir verdere ondervraging en om in die algemeen getuie te aan te voer. Die getuies kan deur die ander partye onder kruisverhoor geneem word in sodanige volgorde as wat die voorsitter mag gelas en kan daarna deur die party wat hulle ingeroep het, herondervra word. Die partye moet gehoor en hul getuies ondervra, onder kruisverhoor geneem en herondervra word in sodanige volgorde as wat die voorsitter mag gelas.

(3) Any party who has produced witnesses may at any stage of the investigation, with the approval of the presiding officer, produce and examine further witnesses, who may be cross-examined by the other parties in such order as the presiding officer may direct, and re-examined by the party who has produced them.

(4) The law as to the admissibility of evidence and as to the competency, examination, cross-examination and re-examination of witnesses in courts of law shall not be binding upon a Court of Survey, but the presiding officer may, in his discretion, disallow any question which any other member of the Court or any party proposes to put to any witness, on the ground that such question is irrelevant or that for any other cause it would be improper that the question be put, and may, in his discretion and on similar grounds, rule that the production of any book, document or thing required by any other member of the Court or any party shall not be allowed.

(5) Affidavits and statutory declarations may, by permission of the presiding officer, be used as evidence.

ADDRESSES BY THE PARTIES.

14. After all the evidence has been adduced, any of the parties (other than the Director) who desires to do so may, in such order as the presiding officer may direct, address the Court upon the evidence, and the Director may address the Court in reply upon the whole case.

ADJOURNMENTS.

15. The Court may adjourn the hearing from time to time and from place to place, and where an adjournment is asked for by a party to the proceedings, 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.

ORDERS FOR COSTS.

16. (1) The Court may make such order for the payment by the Director or any other party—

- (a) of the costs, or any part thereof, reasonably incurred by the Director or any other party in attending or being legally represented at the hearing or in bringing witnesses or adducing evidence; and
 - (b) of any other costs, or any part thereof, reasonably incurred by the Director in connection with the investigation or hearing,
- as may be just.

(2) Any costs awarded in terms of sub-paragraph (a) of paragraph (1) shall be subject to taxation by the clerk of the Magistrate's Court within whose area of jurisdiction the investigation was held. His taxation shall, unless the Court of Survey has directed that it be made on the higher scale, be made on the ordinary scale applicable to the taxation of costs in an action tried in a Magistrate's Court, as though it was a taxation of the costs of such an action, and shall be subject to review as though it was such a taxation. The same fees as would be paid on the taxation of a bill of costs in a Magistrate's Court shall be paid in respect of the taxation of any costs so awarded.

(3) Any costs awarded in terms of sub-paragraph (b) of paragraph (1) shall be assessed by the presiding officer of the Court of Survey.

ENFORCEMENT OF ORDERS FOR COSTS.

17. An order for the payment of costs made under regulation 16 shall, on being filed with the clerk of the Magistrate's Court within the area of jurisdiction of which the Court of Survey has heard the appeal, have all the effects of and may be executed as if it were a civil judgment lawfully given in that Magistrate's Court in favour of the person who is by such order declared entitled to such costs and against the person who is by such order directed to pay such costs: Provided that if the person

(3) Enige party wat getuies ingeroep het, kan in enige stadium van die ondersoek, met die goedkeuring van die voorsitter, verdere getuies inroep en ondervra, en dié getuies kan deur die ander partye onder kruisverhoor geneem word in sodanige volgorde as wat die voorsitter mag gelas en deur die party wat hulle ingeroep het, herondervra word.

(4) Die wet in verband met die toelaatbaarheid van getuies en die bevoegdheid, ondervraging, kruisverhoor en herondervraging van getuies in geregtshof, is nie bindend op 'n opnemingshof nie, maar die voorsitter kan na die goeddunke enige vraag wat 'n ander lid van die hof of 'n party voornemens is om aan 'n getuie te stel, verwerp op grond daarvan dat so 'n vraag nie ter sake is nie of dat dit om enige ander rede onbehoorlik sou wees om die vraag te stel, en hy kan, na die goeddunke en om soortgelyke redes, besluit dat die oorlegging van 'n boek, dokument of ding wat deur 'n ander lid van die hof of deur 'n party verlang word nie toelaatbaar is nie.

(5) Beëdigde verklarings en statutêre verklarings kan, met die verlof van die voorsitter, as getuies gebruik word.

TOPSRAKE DEUR DIE PARTYE.

14. Nadat al die getuies aangevoer is, kan enige van die partye (behalwe die Direkteur) wat verlang om dit te doen, die hof in sodanige volgorde as wat die voorsitter mag gelas, oor die getuies toesprek, en die Direkteur kan ten antwoord daarop die hof oor die hele saak toesprek.

VERDAGINGS.

15. Die hof kan die verhoor van tyd tot tyd en van plek tot plek verdaag, en wanneer 'n party tot die verrigtinge vra dat die ondersoek verdaag word, kan die hof sodanige voorwaardes opleë in verband met die betaling van koste of andersins as wat hy billik mag ag as 'n voorwaarde waarop die verdagting toegestaan word.

BEVELE IN VERBAND MET DIE BETALING VAN KOSTE.

16. (1) Die hof kan sodanige bevel uitreik in verband met die betaling deur die Direkteur of enige ander party—

- (a) van die koste, of enige deel daarvan, wat billikerwyse deur die Direkteur of enige ander party aangegaan is ten einde by die verhoor aanwesig te wees of deur 'n regspersoon by die verhoor verteenwoordig te word, of ten einde getuies in te roep of getuies aan te voer; en
 - (b) van enige ander koste, of enige deel daarvan, wat billikerwyse deur die Direkteur in verband met die ondersoek of verhoor aangegaan is,
- as wat hy billik ag.

(2) Koste wat ooreenkomstig subparagraaf (a) van paragraaf (1) toegestaan word, word getaksier deur die klerk van die magistratshof binne die regsgebied waarvan die ondersoek plaasgevind het. Tensy die opnemingshof gelas dat dit op die hoër skaal gemaak word, word die koste getaksier op die gewone skaal wat geld vir die taksering van koste in 'n geding wat in 'n magistratshof verhoor word, asof dit 'n taksering van die koste van so 'n geding is, en dit kan in hersiening geneem word asof dit so 'n taksering is. Dieselfde geldte wat betaalbaar is op die taksering van 'n kosterekening in 'n magistratshof is betaalbaar ten opsigte van die taksering van enige koste wat aldus toegestaan word.

(3) Koste wat ooreenkomstig subparagraaf (b) van paragraaf (1) toegestaan word, word deur die voorsitter van die opnemingshof bereken.

UITVOERING VAN BEVELE IN VERBAND MET DIE BETALING VAN KOSTE.

17. 'n Bevel in verband met die betaling van koste wat ooreenkomstig regulasie 16 uitgereik word, het, wanneer dit ingedien word by die klerk van die magistratshof binne die regsgebied waarvan die opnemingshof die appel verhoor het, dieselfde krag as en kan uitgevoer word asof dit 'n siviele uitspraak is wat wettiglik in daardie magistratshof gegee is ten gunste van die persoon wat ooreenkomstig so 'n bevel geregtig verklaar word tot sodanige koste en teen die persoon wat ooreenkomstig so 'n bevel gelas word om sodanige koste te betaal: Met dien verstande dat, as die persoon wat ooreenkomstig so 'n bevel

who is by such order directed to pay such costs is or was a master, apprentice-officer or seaman in the employ of the person who is by such order declared entitled to such costs, the amount of such costs may be deducted from any wages that may be due to such master, apprentice-officer or seaman.

RECORDS OF PROCEEDINGS.

18. (1) The Court shall cause minutes to be made of—
 - (a) any *viva voce* evidence given in court;
 - (b) any objection made to any evidence received or tendered;
 - (c) the proceedings of the court generally, including the record of any inspection *in loco*; and
 - (d) the decisions of the Court.
- (2) The Court shall duly mark each document put in evidence and note such mark on the record.
- (3) Such minutes and marks may be made by the clerk and, save where made by the clerk, or as hereinafter provided, they shall be made by the presiding officer.
- (4) The Director may provide a shorthand writer to take down in shorthand a note of *viva voce* evidence and proceedings.
- (5) Any party shall be entitled to a transcript of any such shorthand note certified as correct by the shorthand writer on payment of a fee to be fixed by the Director, having regard to the cost to the Director of such transcript.

TRANSMISSION OF RECORDS TO DIRECTOR.

19. (1) The records transmitted to the Director in terms of section two hundred and eighty-six of the Act shall be certified by the clerk.
- (2) The report referred to in the said section shall be in the form set forth in Schedule D to these regulations, with such modifications as circumstances may require.

HEARING OF APPEAL REFERRED TO EXPERTS.

20. Whenever an appeal has been referred by the Director to one or more experts under section two hundred and eighty-two of the Act, the provisions of these regulations shall apply, *mutatis mutandis*, to the hearing of the appeal.

SCHEDULE A.

NOTICE OF APPEAL TO A COURT OF SURVEY.

(REGULATION 4.)

In the matter of the ship.....(here state name of ship)
To the Director of Merchant Shipping.

Take notice that in terms of section two hundred and seventy-four of the Merchant Shipping Act, 1951, I.....
(here state the name)....., of.....(here state the address)....., being the.....(here state whether owner or agent of owner, and if owner of share in ship state what share owned, or master).....of the ship.....(here state name of ship).....of the port.....(here state port at which ship registered)....., do appeal to a Court of Survey against—

- * (1) the statement contained in the report by.....
(here state name)....., a surveyor, of the inspection by him of the said ship, a copy of which statement is annexed to this notice of appeal.

* Delete inapplicable words.

gelas word om sodanige koste te betaal 'n gesagvoerder, leerling-offisier of seeman is of was in die diens van die persoon wat ooreenkomstig so 'n bevel geregtig verklaar word tot sodanige koste, die bedrag van sodanige koste afgetrek kan word van enige lone wat aan sodanige gesagvoerder, leerling-offisier of seeman verskuldig mag wees.

REKORD VAN VERRIGTINGS.

18. (1) Die hof sien toe dat notule afgeneem word van—
 - (a) enige *viva voce*-getuienis wat in die hof afgeleg word;
 - (b) enige beswaar wat gemaak word teen enige getuienis wat ingewin of aangebied word;
 - (c) die verrigtings van die hof in die algemeen, met inbegrip van die rekord van enige inspeksie *in loco*; en
 - (d) die beslissings van die hof.
- (2) Die hof laat 'n behoorlike merk aanbring op elke dokument wat as getuienis oorgeleë word en teken sodanige merk in die rekord aan.
- (3) Die afneem van die notule en merking van dokumente word deur die klerk gedoen, en as dit nie gedoen word deur die klerk of soos hieronder bepaal word nie, word dit deur die voorsitter gedoen.
- (4) Die Direkteur kan 'n snelskrywer aanstel om 'n snelskrief-aantekening van *viva voce*-getuienis en -verrigtings te maak.
- (5) 'n Party is geregtig tot 'n transkripsie van enige sodanige snelskrief-aantekening wat deur die snelskrywer as korrek gewaarmerk is, by betaling van 'n bedrag wat deur die Direkteur, met inagneming van wat die transkripsie hom gekos het, vasgestel word.

VERSENDING VAN REKORDS AAN DIE DIREKTEUR.

19. (1) Die rekords wat kragsens artikel tweehonderd ses-en-tig van die Wet aan die Direkteur versend word, word deur die klerk gewaarmerk.
- (2) Die verslag waarvan in gemelde artikel melding gemaak word, moet in die vorm wees wat uiteengesit word in Bylae D by hierdie regulasies, met sodanige wysigings as wat in die omstandighede nodig mag wees.

VERHOOR VAN APPEL WAT NA DESKUNDIGES VERWYS WORD.

20. Wanneer 'n appél deur die Direkteur kragsens artikel tweehonderd twee-en-tig van die Wet na een of meer deskundiges verwys word, geld die bepalings van hierdie regulasies *mutatis mutandis* vir die verhoor van die appél.

BYLAE A.

KENNISGEWING VAN APPEL NA 'N OPNEMINGSHOF.

(REGULASIE 4.)

In die geval van die skip.....(meld hier naam van skip).....

Aan die Direkteur van Handelskeepvaart.

Geliewe kennis te neem dat ek.....(meld hier die naam)....., van.....(meld hier die adres)....., synde die.....(meld hier of u die eienaar of agent van die eienaar is, en indien u die eienaar van 'n aandeel in die skip is, meld watter aandeel besit word, of gesagvoerder).....van die skip.....(meld hier naam van die skip).....van die hawe.....(meld hier die hawe waar skip geregistreer is)....., kragsens artikel tweehonderd vier-en-sewentig van die Handelskeepvaartwet, 1951, na 'n opnemingshof appél aanteken teen—

- * (1) die verklaring bevat in die verslag deur.....
(meld hier die naam)....., 'n opnemer, oor die ondersoek van gemelde skip deur hom uitgevoer. 'n Afskrif van hierdie verklaring word by hierdie kennisgewing van appél aangeheg;

* Skrap die woorde wat nie van toepassing is nie.

(2) the notice given by.....(here state name)....., a surveyor, under * sub-section (2) of section two hundred and fourteen/sub-section (2) of section two hundred and sixteen/sub-section (3) of section two hundred and sixteen/sub-section (1) of section two hundred and twenty-three of the above-mentioned Act, a copy of which notice is annexed to this notice of appeal,

(3) the refusal of.....(here state name)....., a surveyor, to give the certificate referred to in * sub-section (3) of section two hundred and fourteen/sub-section (4) of section two hundred and sixteen/sub-section (2) of section two hundred and twenty-three of the above-mentioned Act, in respect of the said ship.

The address at which all notices and documents may be served on me is.....(here state address).....

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

Appellant.

SCHEDULE B.

ALLOWANCES TOWARDS SUBSISTENCE AND TRANSPORT PAYABLE TO MEMBERS OF COURTS OF SURVEY.

(REGULATION 7.)

1. A member shall be paid an allowance towards subsistence at the rate of £1. 1s. for every hour or part of an hour of any day on which he attends the investigation and on which the case is wholly or partly heard: Provided that he shall not be paid less than £3. 3s. or more than £5. 5s. for any such day.

2. The period for which payment shall be made in terms of paragraph 1 shall be reckoned from the time when the member attends to the time when he is released by the presiding officer from further attendance.

3. The member shall be paid an allowance towards subsistence of £1. 1s. for any day on which he attends the investigation but on which the case is not heard.

4. A member shall also be paid at the rate of one-twenty-fourth of £5. 5s. for every completed hour (one-twenty-fourth) of the time necessarily spent in travelling to and from the place at which the investigation is held.

5. In no case shall a member be paid under the foregoing paragraphs more than £5. 5s. for any period from midnight to midnight.

6. Where the railway or a railway bus serves, there shall be issued to the member a warrant entitling him to the issue of a first-class return ticket. If any other form of public transport is necessarily used, the fare disbursed by the member shall be refunded to him. For any part of the journey to and from the place at which the investigation is held which is not served by the railway or a railway bus or other form of public transport the member shall be paid a travelling allowance at the rate of one shilling a mile.

SCHEDULE C.

COURT OF SURVEY.

SUBPOENA.

(REGULATION 11.)

To—
(1) of
(2) of
(3) of
(4) of

* Delete inapplicable words.

(2) die kennisgewing deur.....(meld hier die naam)....., 'n opnemer, gegee kragtens * subartikel (2) van artikel tweehonderd-en-veertien/subartikel (2) van artikel tweehonderd-en-estien/subartikel (3) van artikel tweehonderd-en-estien/subartikel (1) van artikel tweehonderd drie-en-twintig van bogenoemde Wet. 'n Afskrif van gemelde kennisgewing word by hierdie kennisgewing van appel aangehang;

(3) die weiering deur.....(meld hier die naam)....., 'n opnemer, om die sertifikaat waarvan in * subartikel (3) van artikel tweehonderd-en-veertien/subartikel (4) van artikel tweehonderd-en-estien/subartikel (2) van artikel tweehonderd drie-en-twintig van bogenoemde Wet melding gemaak word, ten opsigte van gemelde skip uit te reik.

Die adres waar alle kennisgewings en dokumente op my gedien kan word is.....(meld hier die adres)...

Gedateer te.....hede die.....dag van.....19.....

Appellant.

BYLAE B.

TOELAES VIR ONDERHOUD EN VERVOER BETAALBAAR AAN LEDE VAN OPNEMINGS-HOWE.

(REGULASIE 7.)

1. 'n Lid ontvang 'n toelae vir onderhoud teen die koers van £1. 1s. vir elke uur of gedeelte van 'n uur van enige dag waarop hy die ondersoek bywoon en waarop die saak in sy geheel of gedeeltelik verhoor word: Met dien verstande dat hy minstens £3. 3s. of hoogstens £5. 5s. vir enige sodanige dag ontvang.

2. Die tydperk waarvoor betaling ooreenkomstig paragraaf 1 gemaak word, word gereken vanaf die tyd wanneer die lid aanwesig is tot die tyd wanneer die voorsitter hom van verdere aanwesigheid vrystel.

3. Die lid ontvang 'n onderhoudstoelae van £1. 1s. vir enige dag waarop hy die ondersoek bywoon maar waarop die saak nie verhoor word nie.

4. 'n Lid ontvang ook 'n toelae teen 'n koers van een-veertien-en-twintigste van £5. 5s. vir elke voltooiende uur (een-veertien-en-twintigste) van die tyd wat noodwendig in beslag geneem word om na en van die plek te reis waar die ondersoek plaasvind.

5. In geen geval ontvang 'n lid ooreenkomstig bostaande paragrafe meer as £5. 5s. vir enige tydperk van middernag tot middernag nie.

6. In gebiede wat deur die spoorweg of deur 'n spoorwegbus bedien word, word daar aan die lid 'n magbrieff uitgereik wat hom geregtig maak op die uitreiking van 'n eerste-klas-retoerkaartjie. Indien daar noodwendig van enige ander vorm van openbare vervoer gebruik gemaak word, word die reisegeld wat die lid uitbetaal het aan hom terugbetaal. Vir enige deel van die reis na en van die plek waar die ondersoek gehou word, wat nie deur die spoorweg of 'n spoorwegbus of ander vorm van openbare vervoer bedien word nie ontvang die lid 'n reistoelae van een shilling per myl.

BYLAE C.

OPNEMINGSHOF.

DAGVAARDING.

(REGULASIE 11.)

Aan—
(1) van.....
(2) van.....
(3) van.....
(4) van.....

* Skrap die woorde wat nie van toepassing is nie.

You are hereby required to appear in person before the Court of Survey at on the day of 19....., at the hour of which has been appointed to hear the appeal noted by (here state the name of the appellant) against—

* the statement made by (here state the name of the surveyor) a surveyor,

or
the notice given by (here state the name of the surveyor) a surveyor,

or
the refusal by (here state the name of the surveyor) a surveyor, to give a certificate in respect of the ship (here state the name of the ship)

and to bring with you and then produce to the Court the several documents specified in the list hereunder:—

Date.	Description.	Original or Copy.

Place

Date Clerk of the Court.

Attention is invited to section nine, read with section three hundred and thirteen of the Merchant Shipping Act, 1951, which provides that any person who fails to attend at the time and place specified in a subpoena and remain in attendance until excused by the Court from further attendance, or to answer fully and satisfactorily, to the best of his ability, all questions lawfully put to him, or upon his being required to do so to produce any document in his possession or control, shall be liable to a penalty not exceeding a fine of £100 or six months' imprisonment or both such fine and imprisonment.

SCHEDULE D.

REPORT OF COURT OF SURVEY.

(REGULATION 19.)

In the matter of the appeal noted by against the statement made by a surveyor (or the notice given by a surveyor; or the refusal by a surveyor, to give a certificate, as the case may be) in respect of the ship registered at the port of

The Court, having sat at on the (here state all the days on which the Court sat) for the hearing of the appeal, makes, for the reasons stated in the Annex hereto, the following order:—†

Dated at this day of

Presiding Officer.

Member.

Member.

We (or I) concur in the above report.

ANNEX TO THE REPORT.

(Here state fully the circumstances of the case and the reasons for the order made by the Court.)

* Delete inapplicable words.

† As to the orders which a Court of Survey is competent to make, attention is invited to section two hundred and seventy-eight of Act No. 57 of 1951.

U word hierby versoek om op die dag van 19..... om te persoonlik te verskyn voor die opnemingshof wat aangestel is om die appél te verhoor wat aangeteken is deur (meld hier die naam van die appellant) teen

* die verklaring gedoen deur (meld hier die naam van die opnemer) opnemer,

of
die kennisgewing gegee deur (meld hier die naam van die opnemer) opnemer,

of
die weiering deur (meld hier die naam van die opnemer) opnemer, om 'n sertifikaat uit te reik ten opsigte van die skip (meld hier die naam van die skip)

en om die verskillende dokumente in onderstaande lys gespesifiseer met u saam te bring en aan die hof oor te lê:—

Datum.	Beskrywing.	Oorspronklike of Afskrif.

Plek

Datum Klerk van die Hof.

Die aandaag word gevestig op artikel nege, gelees saam met artikel driehonderd-en-dertien van die Handelskeepvaartwet, 1951, waarin bepaal word dat enige persoon wat in gebreke bly om op die tyd en plek in 'n dagvaarding bepaal, te verskyn en aanwesig te bly totdat hy deur die hof van verdere aanwesigheid vrygestel word, of om alle vrae wat wetlik aan hom gestel word volledig en bevreëdigend, na die beste van sy vermoë te beantwoord, of om, as hy daartoe gelas word, enige dokument in sy besit of onder sy beheer oor te lê, strafbaar is met 'n boete van hoogstens £100 of ses maande tronkstraf of met sowel die boete as die tronkstraf.

BYLAE D.

VERSLAG VAN OPNEMINGSHOF.

(REGULASIE 19.)

In die geval van die appél aangestel deur teen die verklaring gemaak deur opnemer (of die kennisgewing gegee deur opnemer; of die weiering deur opnemer, om 'n sertifikaat uit te reik, na gelang van die geval) ten opsigte van die skip geregistreer by die hawe.....

Beveel die hof, wat vir die verhoor van die appél op die (meld hier al die dae waarop die hof gesit het) gesit het te om die redes in die Aanhangsel hieraan uiteengesit, dat—†

Gedateer te hede die dag van 19.....

Voorsitter.

Ons (of Ek) stem saam met bostaande verslag.

Lid.

Lid.

AANHANGSEL AAN DIE VERSLAG.

(Meld hier volledig die omstandighede van die geval en die redes vir die bevel deur die hof uitgereik.)

* Skrap woorde wat nie van toepassing is nie.

† Wat betref die bevele wat 'n Opnemingshof bevoegd is om uit te reik, word die aandaag gevestig op artikel tweehonderd agt-en-sewentig van Wet No. 57 van 1951.