

THE COURTS OF SURVEY REGULATIONS, 1961.

The Minister of Transport has, under the provisions of sub-section (1) of section *three hundred and fifty-six* of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), as amended, repealed the Courts of Survey Regulations, 1960 promulgated by Government Notice No. 1896 dated 20 November 1959 and has, in terms of the said sub-section, made the regulations contained in the Schedule hereto, with effect in each case from the date of promulgation hereof.

SCHEDULE.

ARRANGEMENT OF REGULATIONS.

Regulation
No.

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INTRODUCTORY NOTE.

Attention is invited to section 280 of the Act, 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 282 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.

TITLE OF THESE REGULATIONS.

1. These regulations are called the Courts of Survey Regulations, 1961.

DIE REGULASIES BETREFFENDE
OPNEMINGSHOWE, 1961.

Die Minister van Vervoer het, kragtens die bepalings van sub-artikel (1) van artikel *driehonderd ses-en-vyftig* van die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), soos gewysig, die Regulasies betreffende Opnemingshowe, 1960 soos afgekondig by Goewermentskennisgewing No. 1896 van 20 November 1959, herroep en kragtens genoemde subartikel die regulasies in bygaande Bylae vervat uitgevaardig, met ingang in beide gevalle vanaf die datum van afkondiging hiervan.

BYLAE.

INHOUDSOPGAWE.

Regulasie
No.

1. Opskrif van hierdie regulasies.
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5. Aanstelling van lede van die hof.
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7. Toelaes betaalbaar aan lede.
8. Tyd wanneer en plek waar die appèl verhoor word.
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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 Sekretaris.
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BYLAES.

- Bylae A.—Kennisgewing van appèl na 'n opnemingshof.
Bylae B.—Toelaes vir onderhoud en vervoer betaalbaar aan lede van opnemingshowe.
Bylae C.—Dagvaardingsvorm.
Bylae D.—Verslag van opnemingshof.

INLEIDINGSOPMERKING.

Die aandag word gevestig op artikel 280 van die Wet waarkragtens 'n opnemingshof of 'n deskundige of deskundiges na wie 'n appèl na 'n opnemingshof kragtens artikel 282 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 appèl 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.

OPSKRIF VAN HIERDIE REGULASIES.

1. Onderstaande regulasies heet die Regulasies Betreffende Opnemingshowe, 1961.

INTERPRETATION.

2. In these regulations the expression "the Act" means the Merchant Shipping Act, 1951 (Act No. 57 of 1951), and unless the context otherwise indicates, any expression used in these regulations to which a meaning has been assigned in the Act, bears the meaning so assigned, and—

- (i) "appellant" means the person who has noted an appeal to a Court of Survey;
- (ii) "Court" means a Court of Survey convened under section *two hundred and seventy-five* of the Act;
- (iii) "clerk" means the clerk of a Court of Survey appointed under regulation 9;
- (iv) "party" means a person declared by or under regulation 10 to be a party to the proceedings of a Court.

LIST FROM WHICH MEMBERS OF COURT TO BE SELECTED.

3. (1) The Secretary 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 Secretary shall submit the list framed under paragraph (1) 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 Secretary 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 Secretary 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 Secretary of a notice of appeal in the form set forth in Annex A: Provided that if the ship is at Cape Town, Durban, Port Elizabeth or Walvis Bay, the notice may be served on the Principal Officer of the Marine Division at that port; or if the ship is at East London, Mossel Bay, Port Nolloth or Lüderitz, the notice may be served on the Shipping Master at that port.

(2) If the notice of appeal is served on a Principal Officer of the Marine Division or a Shipping Master in terms of paragraph (1), he shall forthwith transmit it to the Secretary.

[NOTE.—As to the method of service, attention is invited to section 342 (a) and (b) of the Act.]

APPOINTMENT OF MEMBERS OF THE 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.

WOORDBETEKENIS.

2. In hierdie regulasies beteken die uitdrukking „die Wet” die Handelsskeepvaartwet, 1951 (Wet No. 57 van 1951), en, tensy uit die samehang anders blyk, het enige uitdrukking waaraan daar in die Wet ’n betekenis toegeken is, wanneer dit in hierdie regulasie gebruik word, die aldus toegekende betekenis, en beteken—

- (i) „appellant”, die persoon wat na ’n opnemingshof geappelleer het;
- (ii) „hof”, ’n opnemingshof wat kragtens artikel *tweehonderd vyf-en-sewentig* van die Wet byeengeroep word;
- (iii) „klerk”, die klerk van ’n opnemingshof wat ooreenkomstig regulasie 9 aangestel word;
- (iv) „party”, ’n persoon wat by of ooreenkomstig regulasie 10 as ’n party tot die verrigtings van ’n hof verklaar word.

LYS WAARUIT LEDE VAN DIE HOF GEKIES MOET WORD.

3. (1) Die Sekretaris 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 Sekretaris lê die lys wat ooreenkomstig paragraaf (1) opgestel word vir sy goedkeuring aan die Minister voor. Die Minister kan na goeiddunke 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 waarvoor die persoon beskik, vermeld.

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

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 Sekretaris ’n kennisgewing van appèl te dien in die vorm wat in Bylae A uiteengesit word: Met dien verstande dat, as die skip in Kaapstad, Durban, Port Elizabeth of Walvisbaai is, die kennisgewing van appèl op die Eerste Beampte van die Marine-afdeling by daardie hawe gedien kan word; of as die skip in Ocs-Londen, Mosselbaai, Port Nolloth of Lüderitz is, op die Koopvaardymeester by daardie hawe.

(2) As die kennisgewing van appèl ooreenkomstig paragraaf (1) op ’n Eerste Beampte van die Marine-afdeling, of op ’n Koopvaardymeester gedien word, moet hy dit onverwyld aan die Sekretaris versend.

[LET WEL.—Wat betref die wyse waarop die kennisgewing gedien word, word die aandag gevestig op artikel 342 (a) en (b) van die Wet.]

AANSTELLING VAN LEDE VAN DIE HOF.

5. (1) Wanneer daar ’n reg van appèl na ’n opnemingshof kragtens artikel *tweehonderd vier-en-sewentig* van die Wet is en appèl behoorlik aangeteken is, roep die Minister behoudens die bepalings van artikel *tweehonderd twee-en-tagtig* van die Wet ’n opnemingshof byeen om die appèl te verhoor en stel hy ’n landdros 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 appèl 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 Secretary 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 Republic (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 Republic (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 Annex B.

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 Secretary 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 Secretary 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 Secretary;
- (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 Annex C.

(2) Any such subpoena may be sued out by the Secretary 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 issuing 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.

BEKENDMAKING VAN AANSTELLING AS LID.

6. Die Sekretaris 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 appèl en van alle bylaes daarby.

TOELAES BETAALBAAR AAN LEDE.

7. Elke lid van 'n hof ontvang, as hy in die diens van die Regering van die Republiek (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is, sodanige toelaes 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 Regering van die Republiek (met inbegrip van die Spoorwegadministrasie) of die Administrasie van Suidwes-Afrika is nie, of as geen sodanige toelaes vir Staats-, Spoorweg- of Administrasie-dienare van sy klas voorgeskryf is nie, ontvang hy die toelaes vir onderhoud en vervoer wat in Bylae B uiteengesit word.

TYD WANNEER EN PLEK WAAR DIE APPÈL VERHOOR WORD.

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

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

(3) as die opneming in verband waarmee die appèl 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 appèl en stuur hy aan hom 'n afskrif van die kennisgewing van appèl en van alle bylaes daarby.

AANSTELLING EN PLIGTE VAN DIE KLERK VAN 'N OPNEMINGSHOF.

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

(2) Behoudens die bepalings 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 voorgelê word, in sy bewaring.

PARTYE TOT DIE VERRIGTINGS

10. Onderstaande persone is partye tot die verrigtings:—

- (a) Die Sekretaris;
- (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 bevoegdheids kragtens paragraaf (iii) van sub-artikel (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 voor te lê, geskied dit by wyse van 'n dagvaarding in die vorm wat in Bylae C uiteengesit word.

(2) So 'n dagvaarding kan aangevra word deur die Sekretaris 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 landdroshof 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 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 aanbied.

(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.

(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. (1) As to the method of service, attention is invited to section 342 (a) and (b) of the Act.

(2) As to the fees payable to witnesses, attention is invited to section 285 of the Act.]

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 Secretary 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 Secretary 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 and their witnesses examined, cross-examined and re-examined in such order as the presiding officer may direct.

(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 proposed 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 Secretary) who desires to do so may, in such order as the presiding officer may direct, address the Court upon the evidence, and the Secretary may address the Court in reply upon the whole case.

(5) Die diening van enige sodanige dagvaarding kan bewys word deur 'n beëdigde verklaring deur die persoon wat dit gedien het of deur sy getuienis 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 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 landdros uitgereik is.

[LET WEL. (1) Wat betref die metode waarvolgens 'n dagvaarding gedien word, word die aandag gevestig op artikel 342 (a) en (b) van die Wet.

(2) Wat betref die gelde wat aan getuies betaalbaar is, word die aandag gevestig op artikel 285 van die Wet.]

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 Sekretaris kan vir gemeelde doeleindes verteenwoordig word deur 'n persoon deur hom aangestel, hetsy so 'n persoon 'n advokaat of prokureur is of nie.

GETUIENIS.

13. (1) Voor die verhoor van die appèl stuur die Sekretaris aan die klerk, vir voorlegging as getuienis by die verhoor, 'n gewaarmerkte afskrif van die opnemer se verslag in verband waarmee die appèl 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 getuienis wat hy voornemens is om aan te voer, in te lei, en om getuienis 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 getuienis 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) 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 getuienis en die bevoegdheid, ondervraging, kruisverhoor en herondervraging van getuies in geregshowe is nie bindend op 'n opnemingshof 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 voorlegging 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 verloop van die voorsitter, as getuienis gebruik word.

TOESPRAKE DEUR DIE PARTYE.

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

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 Secretary or any other party—

- (a) of the costs, or any part thereof, reasonably incurred by the Secretary 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 Secretary 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 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 Secretary may provide a shorthand writer to take down in shorthand a note of *viva voce* evidence and proceedings.

VERDAGINGS.

15. Die hof kan die verhoor 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 die Sekretaris of enige ander party—

- (a) van die koste, of enige deel daarvan, wat billikerwyse deur die Sekretaris of enige ander party aangegaan is ten einde by die verhoor aanwesig te wees of deur 'n regs persoon by die verhoor verteenwoordig te word, of ten einde getuies in te roep of getuienis aan te voer; en
- (b) van enige ander koste, of enige deel daarvan, wat billikerwyse deur die Sekretaris 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 getakseer deur die klerk van die landdroshof binne die regsgebied waarvan die ondersoek plaasgevind het. Tensy die opnemingshof gelas dat dit op die hoër skaal gemaak word, word die koste getakseer op die gewone skaal wat geld vir die traksering van koste in 'n geding wat in 'n landdroshof 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 landdroshof 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 landdroshof binne die regsgebied waarvan die opnemingshof die appèl verhoor het, dieselfde krag as en kan uitgevoer word asof dit 'n siviele uitspraak is wat wettiglik in daardie landdroshof 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 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 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 voorgelê 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 Sekretaris kan 'n snelskrywer aanstel om 'n snelskrif-aantekening van *viva voce*-getuienis en -verrigtings te maak.

(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 Secretary, having regard to the cost to the Secretary of such transcript.

TRANSMISSION OF RECORDS TO SECRETARY.

19. (1) The records transmitted to the Secretary 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 Annex D, with such modifications as circumstances may require.

HEARING OF APPEAL REFERRED TO EXPERTS.

20. Whenever an appeal has been referred by the Secretary 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.

ANNEX A. T.V. 5/403.

NOTICE OF APPEAL TO A COURT OF SURVEY.

(REGULATION 4.)

In the matter of the ship.....(here state name of ship).....
To the Secretary for Transport.

Take notice that in terms of section 274 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,

or

(2) the notice given by.....(here state name)....., a surveyor, under *section 214 (2), section 216 (2), section 216 (3), section 223 (1) of the above-mentioned Act, a copy of which notice is annexed to this notice of appeal,

or

(3) the refusal of.....(here state name)..... a surveyor, to give the certificate referred to in *section 214 (3), section 216 (4), section 223 (2) 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.

* Delete inapplicable words.

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

VERSENDING VAN REKORDS AAN DIE SEKRETARIS.

19. (1) Die rekords wat kragtens artikel *tweehonderd ses-en-tagtig* van die Wet aan die Sekretaris 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, met sodanige wysigings as wat in die omstandighede nodig mag wees.

VERHOOR VAN APPEL WAT NA DESKUNDIGES VERWYS WORD.

20. Wanneer 'n appel deur die Sekretaris kragtens artikel *tweehonderd twee-en-tagtig* van die Wet na een of meer deskundiges verwys word, geld die bepalings van hierdie regulasies *mutatis mutandis* vir die verhoor van die appel.

BYLAE A. T.V. 5/403.

KENNISGEWING VAN APPEL NA 'N OPNEMINGSHOF.

(REGULASIE 4.)

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

Aan die Sekretaris van Vervoer.

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)....., kragtens artikel 274 van die Handelskeepvaartwet, 1951, na 'n opnemingshof appellê aantekening 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 appellê aangeheg;

of

(2) die kennisgewing deur.....(meld hier die naam)....., 'n opnemer, gegee kragtens *artikel 214 (2), artikel 216 (2), artikel 216 (3), artikel 223 (1) van bogenoemde Wet. 'n Afskrif van gemelde kennisgewing word by hierdie kennisgewing van appellê aangeheg;

of

(3) die weiering deur.....(meld hier die naam)....., 'n opnemer, om die sertifikaat waarvan in *artikel 214 (3), artikel 216 (4), artikel 223 (2) van bogemelde 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.

* Skrap die woorde wat nie van toepassing is nie.

ANNEX 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 R2.10 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 R6.30 or more than R10.50 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 R2.10 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 R10.50 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 R10.50 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 ten cents a mile.

ANNEX C. T.V. 5/404.

COURT OF SURVEY.

SUBPOENA.

(REGULATION 11.)

To—

- (1) of
- (2) of
- (3) of
- (4) of

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).....

* Delete inapplicable words.

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 R2.10 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 R6.30 of hoogstens R10.50 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 R2.10 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 R10.50 vir elke voltooide 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 paragrawe meer as R10.50 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 eersteklas-retoerkaartjie. 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 reistoelaag van tien sent per myl.

BYLAE C. T.V. 5/404.

OPNEMINGSHOF.

DAGVAARDING.

(REGULASIE 11.)

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 opnemingshof wat aangestel is om die appèl 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)....., 'n opnemer,

of

die kennisgewing gegee deur..... (meld hier die naam van die opnemer)....., 'n opnemer,

of

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

* Skrap die woorde wat nie van toepassing is nie.

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.....
 Clerk of the Court.

Date.....

Attention is invited to section 9, read with section 313 of Act 57/1951, 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 R200 or six months' imprisonment or both such fine and imprisonment.

ANNEX D. TV. 5/405

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 Appendix hereto, the following order*:—

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

Presiding Officer.

We (or I) concur in the above report.

Member.

Member.

APPENDIX TO THE REPORT.

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

* As to the orders which a Court of Survey is competent to make, attention is invited to section 278 of Act No. 57 of 1951.

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

Datum.	Beskrywing.	Oorspronklike of afskrif.

Plek.....
 Klerk van die Hof.

Die aandag word gevestig op artikel 9, gelees met artikel 313 van Wet 57/1951, 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 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 voor te lê, strafbaar is met 'n boete van hoogstens R200 of ses maande tronkstraf of met sowel die boete as die tronkstraf.

BYLAE D. T.V. 5/405.

VERSLAG VAN OPNEMINGSHOF.

(REGULASIE 19.)

In die geval van die appèl aangeteken deur..... teen die verklaring gemaak deur....., 'n opnemer (of die kennisgewing gegee deur....., 'n opnemer; of die weiering deur....., 'n 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 appèl 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.)

* Wat betref die bevel wat 'n Opnemingshof bevoegd is om uit te reik, word die aandag gevestig op artikel 278 van Wet No. 47 van 1951.