



ST. HELENA

CHAPTER 47

HARBOURS ORDINANCE and Subsidiary Legislation

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown
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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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CHAPTER 47**HARBOURS ORDINANCE**

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CHAPTER 47

HARBOURS ORDINANCE

(Ordinance 12 of 1997 as amended by Ordinance 8 of 2004)

AN ORDINANCE TO PROVIDE FOR THE REGULATION, MANAGEMENT AND CONTROL OF HARBOURS IN ST. HELENA, AND OF VESSELS THEREIN, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[21 January 1998]

Short title

1. This Ordinance may be cited as the Harbours Ordinance.

Interpretation

2. In this Ordinance—
 - “**boat**” includes a lighter, barge, hulk, or any open or partly decked craft;
 - “**boat for hire**” means a boat let for hire for carrying persons, and includes a passenger boat;
 - “**certificate of competency**” means a certificate issued to a person under regulations made pursuant to section 28 authorising him to use a boat or class or description of boats in harbour waters, and “**certificate**” shall be construed accordingly;
 - “**charges**” includes any fee, charge, rate, toll or due of every description which may for the time being, be authorised by this Ordinance or any regulations made hereunder;
 - “**customs officer**” means any person appointed by the Governor as such by section 3 of the Customs Ordinance¹, or any statutory modification to or re-enactment of the same;
 - “**disqualified**” means disqualified by reason of an order made under section 27 from holding or obtaining a certificate of competency, and “**disqualification**” shall be construed accordingly;
 - “**fish**” includes all shell fish, and also the spawn, brood and fry of fish and shell fish;
 - “**goods**” includes motor vehicles, and all tangible personal property of any kind;
 - “**Government**” means the Government of St. Helena and its dependencies;
 - “**harbour**” means any area which is declared to be a harbour under section 29;
 - “**harbour master**” means the person for the time being appointed by the Governor pursuant to section 3 and shall include the deputies and assistants of a person so appointed;
 - “**harbour waters**” means the water within any harbour up to a limit of three miles from the coast, and “**waters**” shall be construed accordingly;
 - “**land**” includes land which for the time being may be covered by water, and any interest in land;
 - “**landing place**” means wharves and other waterside landing places, piers, jetties and similar installations, and includes approaches from land to such installations;
 - “**lighter**” includes a barge or other like craft for carrying goods;
 - “**master**”, in relation to a vessel, means any person having or taking the command, charge or management of a vessel for the time being;
 - “**mooring**” includes anchorage;

¹ Cap. 145

- “**navigating**” in relation to a vessel means any time when the vessel is in motion, and “**navigation**” shall be construed accordingly;
- “**owner**”, in relation to a vessel, includes the charterer;
- “**passenger boat**” means a boat used for carrying passengers, whether or not for reward;
- “**prescribed**” means anything which may be or is provided for by regulations made under section 28;
- “**road**” means any highway or other place to which the public has access, and includes any bridge over which a road passes;
- “**rowing boat**” means a boat capable only of being propelled by oars;
- “**summarily**”, in relation to the recovery of expenses or charges, means proceedings issued by way of complaint to the Magistrates’ Court;
- “**vessel**” means every description of ship or boat, however propelled or moved, and includes anything constructed or used to carry persons or goods by water, and a seaplane on or in the water, a hovercraft and a hydrofoil vessel.

Appointment of Harbour Master

3. (1) The Governor shall from time to time appoint a Harbour Master who, subject to the provisions of this Ordinance and any regulations made thereunder, shall have the control and management of harbours in St. Helena.

(2) The Governor may appoint a deputy harbour master and assistant harbour masters whenever he considers it appropriate to do so.

(3) The Governor, in his discretion, may from time to time issue policy directions for guidance to the Harbour Master, who shall comply with the same in the exercise of all powers and duties contained in this Ordinance, or any regulations made thereunder.

Orders of Harbour Master

4. (1) The Harbour Master may order the owner or master of any vessel within a harbour—

- (a) to move the mooring of such vessel to such other place as he may specify;
- (b) to make a declaration, in writing, containing information sufficient to answer any query made by the Harbour Master in relation to such vessel, its cargo or crew.

(2) Any person who without reasonable cause (the proof whereof shall lie with him) fails to obey any such order, or who fails to make such declaration when requested, or makes any declaration he knows to be false, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months, and/or to a fine not exceeding £500.

Boarding of vessels

5. (1) The Harbour Master may board any vessel which is moored in harbour waters for the purpose of granting pratique, and in consideration thereof shall demand of the Master payment of the prescribed fee.

(2) If payment of the prescribed fee is not made upon demand, the Harbour Master may—

- (a) refuse to grant pratique until such fee is paid; or
- (b) grant pratique and proceed to recover such fee summarily from the master, the owner or agent of such vessel.

(3) Any person receiving any goods from any vessel, or boarding or leaving, or making fast to any vessel moored in harbour waters before the Harbour Master has boarded, and before such vessel has received pratique, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

Removal of wrecks

6. (1)² If, in the opinion of the Harbour Master, any vessel is sunk, stranded or abandoned in harbour waters in such a manner as to be a danger or obstruction to safe navigation, he may—

- (a) take possession of and raise, remove or destroy the whole or any part of the vessel; and
- (b) light or buoy any such vessel or part thereof until it can conveniently be raised, removed or destroyed; and
- (c) deliver to the owner or his agent, on demand, and on payment of all expenses incurred, or in the absence of such demand and payment sell, in such manner as he shall think fit, any vessel or part thereof so raised or removed, and also any other goods recovered in consequence thereof, and out of the proceeds of such sale, deduct all expenses incurred by him, and deposit in the Bank of St. Helena the surplus (if any) of such proceeds, in trust for the person or persons entitled thereto.

(2) If the proceeds of sale of any vessel or part thereof raised or removed pursuant to subsection (1) are insufficient to fully reimburse the Harbour Master for all expenses he has incurred in the exercise of such powers, he may recover the balance thereof summarily from the owner.

Removal of obstructions other than vessels

7. (1) Without prejudice to the powers contained in section 6, the Harbour Master may remove—

- (a) any goods, other than a vessel, causing or likely to become an obstruction or impediment to the safety of any vessel navigating or moored in harbour waters, or persons using the same;
- (b) any other goods causing, or likely to become an obstruction or impediment to the proper use of any landing place.

(2) If any goods removed by the Harbour Master under subsection (1)—

- (a) are so marked as to be readily identifiable as the property of a particular person or persons, the Harbour Master shall, within one month of such removal, give written notice in accordance with subsection (5) to such person or persons, and if possession is not retaken within the period specified in, and in accordance with the terms of such notice; or
- (b) are not so marked, and are not within three months of the date of such removal proved to the reasonable satisfaction of the Harbour Master to belong to any identifiable person or persons,

the ownership of such goods shall thereupon vest in the Government.

(3) The Harbour Master may, at such time and in such manner as he deems appropriate, dispose of any goods referred to in paragraph (b) of subsection (2) which are of a perishable nature, or the custody of which involves unreasonable expense or inconvenience, notwithstanding that the ownership of such goods has not yet vested in the Government

² Section 6(1) amended by Ord. 8 of 2004

pursuant to this section, and if such goods are sold the proceeds of sale shall be applied in payment of the expenses incurred under this section in relation to such goods, and any balance—

- (a) shall be paid to any person who within three months from the date of removal proves to the reasonable satisfaction of the Harbour Master that he was the owner thereof at that time; or
 - (b) if within the said period no person proves his ownership at the said time, shall belong to the Government.
- (4) If any goods removed under this section—
- (a) are sold by the Harbour Master and the proceeds of sale are insufficient to reimburse the total expenses incurred in the exercise of such powers of removal and sale; or
 - (b) cannot be sold,

the Harbour Master may recover summarily the deficiency or the whole of the expenses, as the circumstances require, from the person who was the owner at the time such goods were abandoned or lost.

(5) Any notice given under paragraph (a) of subsection (2) shall specify the goods removed, and state that upon proof of ownership to the reasonable satisfaction of the Harbour Master possession may be retaken at the place named in the notice within the time specified therein, being not less than fourteen days after the date of such notice, subject to payment of any expenses incurred in such removal.

(6) In the exercise of his powers under this section the Harbour Master shall not remove anything placed or constructed by the Government or by any person or body of persons exercising statutory functions.

Removal of projections

8. (1) For the purposes of this section, “**projection**” means anything which projects over any part of harbour waters, and includes rocks, stairs, trees, bushes or other plants, but does not include any such thing authorised by Ordinance or by a works licence granted by the Government to be placed or constructed.

(2) If any projection is, in the opinion of the Harbour Master, a danger to the navigation of harbour waters the Harbour Master may remove it, and may recover the expenses of such removal from the owner or occupier of the land on which the projection was situated.

(3) Before exercising his powers under subsection (2) the Harbour Master shall, if it is reasonably practicable to do so, give notice of such intention to the owner or occupier of the land on which the projection is situated.

(4) If any projection is, in the opinion of the Harbour Master, an obstruction or inconvenience to the navigation of harbour waters but not a danger thereto, the Harbour Master may, by notice in writing, require the owner or occupier of the land on which the projection is situated to remove the projection within such time, not being less than seven days, as may be specified in the notice.

(5) A person aggrieved by a notice served under subsection (4) may appeal to the Magistrates’ Court.

(6) If a person to whom notice is given under subsection (4) fails to comply with its terms within the time specified therein, or if he appeals and the appeal is not allowed, within the time specified in the notice or such other time as the Court may substitute therefor, the Harbour Master may in either case exercise the powers contained in subsection (2).

(7) Any notice given under subsection (4) shall refer to the right of appeal provided for by subsection (5).

(8) In any proceedings to recover expenses pursuant to subsection (2), the Magistrates' Court may enquire whether the Harbour Master might reasonably have proceeded alternatively under subsection (4), and if the Court so determines, shall decline to award such expenses.

Cargo and other items lost

9. (1) The Master of a vessel from which any anchor, cable, cargo, apparel or other goods have slipped or become lost in harbour waters shall immediately buoy the spot, and cause to be delivered to the Harbour Master a full report, in writing, of such loss and of the position of such buoy.

(2) All expenses incurred by the Harbour Master in locating, raising and removing any goods lost in harbour waters may be recovered summarily from the Master of the vessel to which they belonged.

(3) If the Master has left St. Helena before repaying any and all expenses for which he is liable under subsection (2), the owner, agent and consignee of such vessel at the time of such loss shall be jointly and severally liable for payment of such expenses.

(4) Any person being the Master of any vessel liable to comply with the provisions of subsection (1) who—

(a) fails without reasonable cause (the proof whereof shall lie with him) to buoy the spot where any anchor, cable, cargo, apparel or other goods have slipped or become lost in harbour waters; or

(b) fails to supply a report thereof; or

(c) supplies a report containing any information he knows to be false,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months, or a fine not exceeding £500, or both.

Abandoned equipment of vessels

10. (1) Any person who finds or otherwise comes into possession of any abandoned rowing boat or anchor, chain or other equipment which, from its appearance, can be reasonably concluded to have formerly belonged to any vessel, shall notify the Harbour Master of the location thereof.

(2) Any person liable to comply with the provisions of subsection (1) who fails without reasonable cause (the proof whereof shall lie with him) to do so within seven days of such find or possession, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

Damage by a vessel

11. (1) There shall be absolute liability to pay to the Harbour Master the full cost of making good any damage caused by any means whatsoever by any vessel, or by any person employed on or in connection with any vessel, to any landing place or to any goods on the same or in harbour waters which belong to the Government.

(2) The Harbour Master may recover summarily the cost of making good any such damage from either the Master or the owner of such vessel.

(3) Without prejudice to any other remedy available, the Harbour Master may detain and exercise the right of lien upon any vessel causing such damage until the cost of making good such damage has been paid or security therefor, acceptable to the Harbour Master, has been given.

Identity of Master

12. (1) The Harbour Master may require the owner of a vessel to supply, in writing, all information in his possession as to the identity and present whereabouts of the person who at any particular time was the Master of such vessel.

(2) Any person to whom a requirement is made under subsection (1) who without reasonable cause (the proof whereof shall lie with him) fails to comply therewith, or who supplies any information which he knows to be false, shall be guilty of an offence, and liable on summary conviction to imprisonment for a term not exceeding 3 months and/or a fine not exceeding £500.

(3) In any proceedings relating to the vessel or its Master any written information supplied pursuant to subsection (1) shall be admissible evidence for the purpose of determining the identity of the Master of the vessel at a particular time.

Directions to vessels in harbour waters

13. (1) The Harbour Master may give directions applicable to a particular vessel, to all vessels, or to a specified class of vessels in harbour waters for the purpose of ensuring the safety of moored vessels at, or to property at, or forming part of, any landing place, or of securing the efficient conduct of the business of boarding, unloading, arriving at or departing from any landing place, and without prejudice to the generality of the foregoing, such directions may relate to—

- (a) the movement, berthing or mooring of any vessel;
- (b) the dispatch of its business at any landing place;
- (c) the disposition or use of its appurtenances or equipment;
- (d) the use of its motive power;
- (e) the embarking or landing of passengers;
- (f) the loading or discharging of cargo, fuel, water or ships' stores;
- (g) the use of ballast.

(2) The Harbour Master may give a direction requiring the immediate removal of a vessel from or to any other location within harbour waters if—

- (a) it is on fire;
- (b) it is in a condition where, in his opinion, it is liable to become immobilised or waterlogged, or to sink;
- (c) it is making any unlawful or improper use of harbour waters or any landing place;
- (d) it is wilfully interfering with the use of harbour waters or any landing place by other vessels or the despatch of business therein or thereat;
- (e) the removal is, in the opinion of the Harbour Master, necessary to enable maintenance or repair work to be carried out to any landing place.

(3) Any direction given pursuant to this section may be given verbally or in writing, as the Harbour Master may deem appropriate.

(4) Any person who, without lawful authority or reasonable cause (the proof whereof shall lie with him), fails to obey any direction given by the Harbour Master pursuant to the provisions of this section, shall be guilty of an offence, and liable on summary conviction to imprisonment for a period not exceeding 3 months and/or a fine not exceeding £500.

Enforcement of directions

14. (1) Without prejudice to any other remedy available to the Harbour Master, if any direction given pursuant to section 13 of this Ordinance is not complied with in what, in the opinion of the Harbour Master, is a reasonable time, the Harbour Master may, where practicable, put persons on board the vessel to carry out the direction given, or may otherwise cause the vessel to be handled in accordance with the terms thereof.

(2) If there is no person on board a vessel to attend to any direction given pursuant to section 13 of this Ordinance, the Harbour Master may proceed as if the direction had been given but not complied with:

Provided that the powers of this subsection shall not be exercised—

- (a)* in relation to a vessel other than a lighter, unless after reasonable enquiry has been made the Master or owner cannot be found; or
- (b)* in relation to a lighter unless it is obstructing the access to or exit from any landing place or otherwise interfering with navigation.

(3) The expenses incurred by the Harbour Master in the exercise of the powers conferred by this section may be recovered summarily, as if they were a charge of the Government in respect of that vessel.

Regulation of crowds

15. (1) The Chief of Police, after consultation with the Harbour Master, with a view to maintaining order and securing the safety of the public, may give such orders as he considers expedient for the purpose of regulating the passage of vessels in harbour waters, or for regulating the number of persons permitted access to any landing place, on any occasion when he has reason to believe crowds of persons are likely to assemble.

(2) The Harbour Master or any police officer may board a vessel, the Master of which refuses or neglects to comply with any order given pursuant to subsection (1), for the purpose of taking such measures as he or they deem necessary for carrying into effect the objects of such order.

(3) Any person who refuses or neglects to obey any order given pursuant to subsection (1), or any person who impedes the right of access to a vessel thereunder, or who otherwise obstructs the Harbour Master or any police officer in the exercise of their powers under this section shall be guilty of an offence, and liable on summary conviction to imprisonment for a period not exceeding 3 months and/or a fine not exceeding £500.

Service of documents

16. Any notice or other document required or authorised by or under this Ordinance to be given to or served upon a person—

- (a)* being a corporate body, society or association, may be duly given to or served upon the secretary, manager or other officer of that corporate body, society or association;
- (b)* being a partnership, may be duly given or served by addressing the same to the partnership, identifying it by the name or style under which its business is carried on;
- (c)* being an individual may be duly given or served by delivering it to him or by leaving it at or posting it to his last known address.

Crown exemption

17. With the exception of the provisions of this Ordinance relating to dangerous projections and the removal of obstructions, nothing in this Ordinance shall affect prejudicially any estate, interest, right, power, privilege or exemption of the Crown and, in particular, nothing in this Ordinance shall authorise the Harbour Master to take, use or interfere with any land, goods or rights therein belonging to the Crown in right of the Government or used for the purposes of any Government department.

Impersonation of Harbour Master

18. Any person who, with intent to deceive, impersonates the Harbour Master, or makes any statement or does any act calculated falsely to suggest that he is acting under the authority of or on behalf of the Harbour Master, shall be guilty of an offence, and liable on summary conviction to imprisonment for a period not exceeding 6 months and/or a fine of £1,000.

Taking a vessel without consent

19. Any person who, without the consent of the owner or other lawful authority, takes, causes to be taken, or uses any vessel in harbour waters shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months and/or a fine not exceeding £1,000, or on conviction on indictment to imprisonment for a period not exceeding 3 years and/or a fine:

Provided that it shall be a defence for a person so charged to prove that he believed on reasonable grounds that he had lawful authority, or that the owner would, if asked, have consented to the taking or use of such vessel.

Stowaways

20. Any Master of a vessel who permits, suffers or facilitates in any way the landing in St. Helena of any person who is or has been a stowaway on such vessel, without the permission, in writing, of the Governor, shall be guilty of an offence, and liable on summary conviction to imprisonment for a period not exceeding 6 months and/or a fine not exceeding £1,000.

Navigation of vessels by persons affected by alcohol

21. (1) Any person who, while he is navigating a vessel in harbour waters, having consumed so much alcohol that the proportion thereof in his breath, blood or urine exceeds the limits respectively specified in subsection (2), shall be guilty of an offence, and liable on summary conviction to a period of imprisonment not exceeding 6 months and/or a fine not exceeding £1,000, or to conviction on indictment to imprisonment for a period not exceeding 3 years and/or a fine.

(2) The limits referred to in subsection (1) are:

- (a) 50 microgrammes of alcohol per 100 millilitres of breath; or
- (b) 115 milligrammes of alcohol per 100 millilitres of blood; or
- (c) 153 milligrammes of alcohol per 100 millilitres of urine.

- (3) A person charged with an offence under subsection (1) shall not be convicted if he proves—
- (a) that at the material time the circumstances were such that there was no reasonable probability of his being required to navigate such vessel while the level of alcohol in his body exceeded the limits specified in subsection (2); and
 - (b) that he had not navigated the vessel in harbour waters between the time of his consumption of the alcohol and the material time.
- (4) For the purpose of subsection (3), the “**material time**” means the time of the alleged offence.

Breath test and other specimens

22. (1) Where a police officer has reasonable cause to believe that any person has committed any offence under section 21 of this Ordinance, such police officer may require that person to supply a specimen of breath for analysis, using an approved device.

(2) For the purposes of this section, an approved device shall mean a Lion Alcolmeter S-D2 device, or any other device approved from time to time by the Governor in exercise of his powers under the Road Traffic Ordinance², or any statutory modification or re-enactment thereof for the time being in force.

(3) No Court shall entertain any argument relating to the suitability or reliability of any such approved device.

(4) If an approved device is not readily available to a police officer who is entitled to make to a person a requirement under subsection (1), such police officer may require that person to accompany him to a police station or any other place where an approved device is available for use.

(5) Where the result of an analysis of breath of a person under subsection (1) leads a police officer to suspect such person may have committed an offence under section 21, such officer may arrest that person, and whether or not he does so may require such person to supply a further specimen of breath for analysis, using an approved device.

(6) Where it appears to any police officer who is entitled to require any person to supply a specimen of breath for the purposes of this section that by reason of—

- (a) the inability of that person to comply; or
- (b) that no approved device can be made available within a reasonable time; or
- (c) any other cause which the police officer considers sufficient,

it is not practicable to require such specimen, he may require that person to accompany him to a police station or hospital, and there require him to provide, as the police officer may choose, a specimen of blood or of urine:

Provided that no specimen of blood shall be taken for the purposes of this section other than by or under the direct supervision of a qualified medical practitioner.

Failure to provide specimen

23. (1) Any person who, without reasonable cause (the proof whereof shall lie with him) fails or refuses to supply any specimen of breath, blood or urine which he has been required to provide under section 22 of this Ordinance, or fails to accompany a police officer to a police station or hospital when required to do so under subsection (6) thereof, shall be guilty of an offence, and liable on summary conviction to imprisonment for a period not exceeding 6

² Cap. 101

months and/or a fine not exceeding £1,000, or to conviction on indictment to a period of imprisonment not exceeding 3 years and/or a fine.

(2) For the purposes of this section, a person shall be deemed to have failed to provide a specimen of either breath or urine required of him if, in either case, he fails to supply it in a manner and quantity suitable for analysis.

Analysis of specimens in evidence

24. (1) In the prosecution of any offence alleged under section 21 of this Ordinance, evidence of the result of any analysis of a specimen of breath, blood or urine taken pursuant to section 22 thereof shall be admissible in evidence, and the Court shall presume that the proportion of alcohol in the Defendant's breath, blood or urine at the time of the alleged offence was not less than the proportion revealed by such analysis:

Provided that no such presumption shall be made if the Court is satisfied that there is sufficient evidence to justify the acquittal of the Defendant by reason of the provisions of section 21(3) of this Ordinance.

(2) Evidence of the proportion of alcohol in a specimen of breath may be given by the police officer who operated the approved device by which the specimen was analysed, but no person shall be convicted unless it is proved—

- (a) that two separate specimens of breath were analysed by different devices (which may be devices of the same type); and
- (b) that the results of the two analyses, after making the allowance mentioned in subsection (3), were at variance with one-another by no more than fifteen per cent of the higher of the two results; and
- (c) that the lower of the two results disclosed a proportion of alcohol in the specimen which exceeded the prescribed limit.

(3) The allowance mentioned in subsection (2)(b) is an allowance for the fact that (during the time that elapsed between the taking of the two specimens) alcohol would be eliminated from the Defendant's body at a rate approximately equivalent to six-and-a-half microgrammes of alcohol per one hundred millilitres of breath per hour.

(4) Evidence of the proportion of alcohol in any specimen of blood or urine may be given by a certificate, signed by either a qualified medical practitioner or an analyst approved by the Governor pursuant to the Road Traffic Ordinance, by whom or under whose direction the specimen was analysed:

Provided that such certificate shall be admissible in evidence only if a copy thereof has been served upon the Defendant prior to the commencement of the hearing of the offence or offences with which he is charged.

Further provisions as to specimens

25. (1) Every specimen of blood or urine provided by any person pursuant to section 22 of this Ordinance shall be divided into two parts, as equal as possible, and—

- (a) subject to paragraph (b) of this subsection, only one part thereof shall be analysed, and the other part ("the retained part") shall be preserved until the conclusion of all proceedings for any offence in connection with which the specimen was provided;
- (b) the Court which tries any alleged offence upon the trial of which the prosecutor relies upon evidence of the result of the analysis of a specimen of blood or urine provided under section 22 of this Ordinance, may (if it appears to be in the interests of justice so to do) order that the retained part shall be analysed, and adjourn the hearing to enable such analysis to be carried out;

- (c) on making any order under paragraph (b) of this subsection the Court may require that the analysis be carried out by or under the supervision of such qualified medical practitioner or approved analyst as it considers appropriate, and any such medical practitioner or analyst to whom such requirement is addressed shall comply therewith, and send a report of the result of the analysis, as soon as is practicable, to the Clerk of the Peace.
- (2) Where a specimen of urine has been provided, a second such specimen shall be provided within one hour thereafter, and the first specimen discarded.
- (3) Of any two specimens of breath provided by any person pursuant to section 22 of this Ordinance, that which, on analysis, contains the lower proportion of alcohol shall be relied upon and, save for the purposes of section 24(2) of this Ordinance, the other shall be disregarded:
- Provided that if the specimen with the lower proportion of alcohol contains less than 70 microgrammes of alcohol per 100 millilitres of breath, the person who provided it may require that it be replaced with a specimen of a type which may be required under section 22(6) of this Ordinance, and if he then provides such a specimen neither analysis of the specimens of breath shall be admitted in evidence.

Hospital patients

26. Where a person is at a hospital as a patient, it shall not be lawful for a police officer to require such a person to provide any specimen of breath, blood or urine for the purposes of section 22 of this Ordinance unless the medical practitioner in charge of the patient's treatment has been notified of the officer's intention to require the specimen and has confirmed that such a requirement would not be prejudicial to the health or treatment of the patient.

Disqualification provisions

27. (1) Where a person is convicted by either the Magistrates Court or the Supreme Court of any offence contrary to sections 19, 21 or 23 of this Ordinance, the provisions of this section shall apply with respect to the making of an Order that such person may or shall be disqualified from obtaining or holding a certificate of competency in respect of the use of any vessel in harbour waters, or a particular class or description of vessel.

(2) The Court may order that any person convicted of an offence under section 19 of this Ordinance shall be disqualified from obtaining or holding a certificate of competency in respect of the use of vessels generally, or vessels only of the class or description to which such offence relates, for such period as the Court deems appropriate.

(3) Subject to subsection (4), where a person is convicted of any offence contrary to either sections 21 or 23, the Court shall order him to be disqualified from holding or obtaining a certificate of competency in respect of all vessels—

(a) on a first conviction, for a period of not less than 1 year;

(b) on a second or subsequent conviction, for a period of not less than 3 years.

(4) Where any person is convicted of an offence contrary to either sections 21 or 23, or subsection (6), and there is evidence, given upon oath which, in the opinion of the Court, is sufficient to establish special reasons, as defined by subsection (5), the Court may either refrain from making any order of disqualification, or may order disqualification for a shorter period.

(5) For the purposes of subsection (4), no fact or circumstance shall be held to be a special reason unless it or they relate to the commission of the offence, as distinct from relating to or concerning the offender.

(6) Any person who acts as coxswain of or otherwise uses, manages or controls a vessel in harbour waters during the subsistence of an order made under this section disqualifying him from holding or obtaining a certificate of competency in respect of any vessel, or of a class or description of vessel of the same type, shall be guilty of an offence, and liable—

- (a) on summary conviction to imprisonment for a period not exceeding 6 months and/or a fine not exceeding £1,000; or
- (b) on conviction on indictment to imprisonment for a period not exceeding 3 years and/or a fine; and
- (c) subject to the provisions of subsections (4) and (5) shall, in either case, be disqualified for a further period of not less than 1 year, consecutive to the period of disqualification subsisting at the time of such offence.

Regulations

28. The Governor in Council, may make regulations for the further and better execution of this Ordinance and, without prejudice to the generality of this power, such regulations may provide for—

- (a) anything which by this Ordinance is required or permitted to be prescribed;
- (b) for the repair, maintenance and preservation of any land or landing place, road or goods, and for the maintenance of good order and safe navigation of vessels;
- (c) for the safety of persons entering upon any landing place or road adjacent thereto for any purpose, including the disembarking from or boarding of any vessel;
- (d) the mooring, removal and general navigation of vessels of all descriptions, and the packing, landing, deposit or removal of firearms and ammunition, gunpowder, explosives or other dangerous goods;
- (e) the watering, ballasting, loading and general discharging of the cargo of vessels, whether within harbour waters or on any landing place;
- (f) the management and control generally of all vessels, or any particular class of vessel, in harbour waters, including any requirements pertaining to the arrival in or departure therefrom, and the raising, removal and destruction of wrecks or other obstructions;
- (g) the licensing of vessels, or any class thereof permitted to operate in harbour waters, and the fees to be charged for and the conditions attached to such licences;
- (h) the renewal of such licences, and their suspension or revocation;
- (i) tests of competence to be undertaken by applicants for certificates, and conditions which may be attached to certificates issued;
- (j) the condition and examination of vessels, or any class of vessel, the fees to be charged for such examination, and the numbering or marking of such vessels;
- (k) the rates, charges or other expenses permitted to be charged by any vessel licensed as a passenger boat or boat for hire, the number of persons permitted to be carried as passengers in any boat or class thereof, the lights and safety equipment to be carried on board, and provisions for the safety of passengers carried on such vessels;
- (l) the establishment of a Harbours Board, the appointment, resignation, and dismissal of members thereof, and the powers, duties and remuneration of members of the Board;
- (m) provisions authorising any person or class of persons to sell, buy or exchange any goods, including the boarding of any vessel moored in harbour waters for that purpose, and the fees to be charged for such authorisation;

- (n) provisions authorising the Harbour Master or the Chief of Police to permit or prohibit any person boarding or disembarking from any vessel moored in harbour waters, in such circumstances as may be deemed appropriate, and conditions which may be attached to any permission granted;
- (o) provisions for the order of precedence between different classes of vessels, whether moored or navigating in harbour waters;
- (p) provisions for circumstances which will constitute an offence, and the respective penalties for such offences, not exceeding a penalty of 6 months imprisonment and/or a fine £1,000 on summary conviction for any particular offence;
- (q) the documents necessary and the procedure for the making, determination and notification of the result of appeals by persons aggrieved by any decision or determination of the Harbour Master or Chief of Police under the provisions of this Ordinance;
- (r) the exemption by such authority as may be specified from all or any of the provisions of this Ordinance in respect of any person, vessel, or of any respective class thereof, for such period and in such circumstances as may be deemed appropriate.

Power to declare harbours

29. The Governor may, by order published in the *Gazette*, declare any area of the coast and waters of St. Helena to be a harbour.

HARBOUR REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
2. Interpretation
3. Establishment of Harbour Board
4. Powers and duties of the Board
5. Meetings of the Board
6. Disclosure of interests by Board members
7. Remuneration of Board members
8. Duty of confidentiality of Board members
9. Books of account
10. Licensing of vessels
11. Lights on vessels
12. Marking of certain vessels
13. Licensing of coxswains
14. Suspension of or revocation of vessel licences
15. Suspension of certificates of competency
16. Payment of pratique
17. Communication between coxswain and passengers
18. No person to remove sand etc. without permission
19. Materials deposited on landing places
20. Employment of local labour
21. Discharging missiles at birds or wild animals
22. Mooring of vessels
23. Order of precedence in harbour waters
24. Landing of fish
25. Charges by and obligations of boats carrying passengers
26. General penalty, and aiders and abettors
27. Appeal provisions

FIRST SCHEDULE: Part 1 — Application for a licence to use a vessel in harbour waters.

Part 2 — Application for a certificate of competency to use a vessel in harbour waters.

SECOND SCHEDULE: Annual fees to be paid in respect of a licence for a vessel to be used in harbour waters.