

HARBOUR REGULATIONS – SECTION 28

(Legal Notices 4/1998, 8/1998, 21/1998, 7/2001 and 4/2007)

Commencement

[19 February 1998]

Short title

1. These regulations may be cited as the Harbour Regulations.

Interpretation

2. (1) In these regulations any reference to “**the Ordinance**” means the Harbours Ordinance, and the provisions contained in section 2 of the Ordinance governing interpretation shall apply to these regulations.

(2) Subject to subregulation (1) of these regulations, and for the purposes thereof, and unless the context otherwise requires—

“**at St. Helena**” in relation to a vessel means at any port, harbour, bay or landing place, or in harbour waters;

“**authorised persons**” means any persons who are—

- (a) performing any work or task, whether for payment or otherwise, under the directions or at the request of the Government or any public officer; or
- (b) engaged in the loading or discharging of cargo, the boarding or disembarking of a vessel’s crew or passengers, or the supply of fuel, water or ballast to any vessel, under the direction of the owner or agent thereof; or
- (c) authorised under the terms of any permission required or permitted by the Ordinance or these regulations;

“**Board**” means the Harbour Board established under regulation 3;

“**coxswain**” means the person who for the time being, is exercising the actual control of any vessel navigating in harbour waters;

“**the Island**” means the Island of St. Helena;

“**Jamestown Wharf**” means the area between the landing steps and the gates adjoining the customs shed, and “**Wharf**” shall be construed accordingly;

“**Jet-Ski**” means a motor-powered vehicle for use in water, constructed or adapted to carry a maximum of two persons, whether seated or standing thereon;

“**landing steps**” means the steps at the north-east end of Jamestown Wharf;

“**sail boat**” means a yacht and any boat so constructed or adapted that it can be propelled by wind power, whether or not it is fitted with one or more engines;

“**ship**” means a deep-sea registered vessel under the control of a registered Master and authorised to carry passengers or cargo, or both, on a commercial basis;

“**trader**” means any person who sells, buys or exchanges goods of any kind, or offers to do so, whether or not licensed to do so under the Trade Licensing Ordinance;³

“**windsurfer**” means a board with sails attached, which is not fitted with an engine, can be propelled only by windpower, and is constructed or adapted to carry one person only.

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Establishment of Harbour Board

3. (1)⁴ There is hereby established a Harbour Board which shall consist of the persons who for the time being hold the offices of the Harbour Master (who shall be the Chairman), the Chief of Police (or his representative), the Chief Engineer⁵ (or his representative) the Senior Fisheries Officer and the Chairman of the Fishermen's Association (or his representative).

(2) The Governor may appoint such other person or persons as members of the Board as he shall deem appropriate from time to time, whether by reference to name or office held, and may revoke any such appointment whenever he considers it expedient to do so.

Powers and duties of the Board

4. (1) The Board may make recommendations to the Governor regarding the supervision, safety measures, fees to be charged, and any other matters which, in its opinion, will result in the better execution of the objects of the Ordinance or these regulations.

(2) The Board may make such enquiries and carry out such examinations or inspections as it considers appropriate from time to time with respect to the suitability of any vessel (other than a ship) which is moored in harbour waters, and the competency of the owners thereof and their servants or licensees intending to control or use the same in harbour waters.

(3) The Board shall be the licensing authority in respect of vessels permitted to be used in harbour waters, and in respect of persons controlling the same and subject to the provisions of the regulations, may suspend or revoke any licence or suspend any certificate issued for good cause.

(4) In the discharge of its functions under these regulations the Board may procure such expert, technical or other advice and assistance as it may from time to time deem appropriate.

Meetings of the Board

5. (1) Subject to subregulation (2), meetings of the Board shall be convened by the Chairman as often as he considers expedient. Three Board members present shall constitute a quorum. No business shall be transacted at any time when a quorum is not present, except to adjourn that meeting.

(2) The Chairman shall convene a meeting of the Board at the earliest possible opportunity—

- (a) if directed to do so by the Governor; or
- (b) on receipt of a written request stating the matters to be discussed at such meeting, and signed by at least two Board members.

(3) The Chairman, when present, shall preside at all Board meetings. In his absence the members present at the meeting shall elect one of their number to preside.

(4) All matters before the Board for decision at a meeting shall be decided in accordance with the views of the majority of members present. In the event of an equality of votes, the Chairman or other member presiding shall have and shall exercise a second or casting vote.

⁴ Regulation 3(1) amended by L.N. 17/2000

⁵ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Infrastructure and Utilities

(5) An applicant for a licence to use a vessel in harbour waters, a licence holder, or any other person may attend a meeting of the Board only if requested to do so. He or they may address the Board but shall not be entitled to vote:

Provided that no licence or certificate in force shall be revoked or suspended by the Board pursuant to its powers under these regulations, unless the holder thereof has been given an opportunity to appear before the Board to make representations, if desired, against revocation or suspension.

(6) The Board shall keep minutes of all meetings held, and for that purpose may appoint one of their members or some other person. The Chairman shall supply, or cause to be supplied, copies of the minutes of any meeting or meetings whenever requested to do so by either the Governor or the Financial Secretary.

(7) Subject to the provisions of the previous subregulations of this regulation, the Board may regulate its own procedure.

Disclosure of interests by Board members

6. (1) Any member of the Board who has a direct or indirect interest in any matter which is to be considered shall, if present at such meeting, make full disclosure of such interest, and refrain from participation in discussion or voting thereon.

(2) Any member of the Board who knowingly fails to comply with the provisions of subregulation (1) shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £500.

Remuneration of Board members

7. The Chairman and other Board members shall receive such fees, allowances or other remuneration as the Governor may from time to time determine by notice in the *Gazette*.

Duty of confidentiality of Board members

8. (1) Any member of the Board who, without reasonable cause (the proof whereof shall lie with him) discloses to any other person who is not a member of the Board information relating to any matter which has been or is to be considered by the Board, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £500.

(2) The duty imposed by subregulation (1) shall continue to apply to members of the Board after they have ceased, for any reason, to act as such.

Books of account

9. (1) The Board shall compile and maintain such separate books of account as are reasonably necessary, and faithfully record all licensing, examination and other fees or charges received, and details of any other financial transactions undertaken. The Board shall comply at all times with any request made by the Financial Secretary or Chief Auditor for production thereof.

(2) The provisions of the Audit Ordinance, concerning the audit of accounts shall apply to the books of account required to be kept by subregulation (1), as if they were kept in relation to the income and expenditure of a Government department.

Licensing of vessels

10. (1) Subject to subregulation (3), no person shall use a vessel in harbour waters, unless he has first obtained from the Board a licence to use such vessel.

(2) An application for a licence shall be made to the Harbour Master, in his capacity as Chairman of the Board, in the form contained in Part 1 of the First Schedule to these regulations, accompanied by payment of the annual fee applicable to a licence in respect of that class or category of vessel, as contained in the Second Schedule to these regulations.

(3) The provisions of this regulation shall not apply to ships registered elsewhere in the world, or to windsurfers.

(4) A licence granted in respect of a vessel shall be valid for a period of one year from the date of issue, unless earlier revoked or suspended. Subject to the provisions of these regulations, a licence may be renewed from time to time for a further period or periods of one year.

(5) No licence shall be issued by the Board in respect of any vessel, unless the Board is satisfied it is in all respects sea-worthy and safe for use in harbour waters for its intended purpose.

(6) The Board may attach to the grant of a licence in respect of a vessel, such conditions as it deems appropriate to the use of that class or type of vessel, and may at any time during its currency, or on any occasion of the renewal thereof, remove, add to, or otherwise vary the same. Without prejudice to the generality of that power, such conditions may relate to—

- (a)* the maximum number of persons who may be carried on such vessel;
- (b)* the provision of life-belts or life-jackets, flares, radio, first aid, and safety equipment generally which must be carried;
- (c)* the lights which must be carried or shown on the vessel when it is navigated and moored during hours of darkness.

(7) The Board may require any applicant for a licence to—

- (a)* provide such further information or details as it may think fit in relation to the vessel specified in the application form;
- (b)* to permit any member of the Board, or any person authorised by it, to board and inspect such vessel for the purpose of examining the seaworthiness of it,

and shall refuse the application if the applicant for a licence fails to comply with any requirement so made.

(8) Any person who uses a vessel in harbour waters without having a current licence in respect of such vessel, or in breach of any condition attached to such licence, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £500.

Lights on vessels

11. (1) All ships moored in harbour waters shall exhibit between sunset and sunrise a riding light to be hoisted at a height not exceeding twenty feet above the hull.

(2) All vessels other than ships navigating in harbour waters between sunset and sunrise must exhibit a clearly visible and bright light at a height of not less than three feet from the deck thereof.

(3) Any owner or Master or coxswain of a vessel who causes or permits such vessel to be moored or navigated in harbour waters in breach of the provisions of this regulation shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £500.

Marking of certain vessels

12. (1) Every licensed vessel authorised for use for fishing, or for the conveyance of passengers or goods, shall have its name and licence number assigned to it conspicuously painted on both bows in letters of not less than nine inches in length and four inches in height.

(2) The provisions of subregulation (1) shall not apply to windsurfers.

Licensing of coxswains

13. (1) No person shall be the coxswain of any boat navigating in harbour waters, unless the Board has first granted to him a certificate of competency in respect of a particular boat, or of a class or description of boat.

(2) An application for a certificate of competency shall be made to the Harbour Master, in his capacity as Chairman of the Board, in the form contained in Part 2 of the First Schedule to these regulations, accompanied by payment of the annual fee of £5.50.

(3) The provisions of this regulation shall not apply to windsurfers.

(4) A certificate of competency shall be valid for a period of one year from the date of issue, unless earlier revoked by a Court, or suspended by the Board. Subject to the provisions of these regulations, a certificate of competency may be renewed from time to time for a further period or periods of one year.

(5) No certificate of competency shall be issued by the Board, unless it is satisfied that the applicant therefor is in good health, has sufficient knowledge or experience, and in all respects can safely be entrusted with the management or control of a boat of that class or description.

(6) In determining the fitness or otherwise of an applicant pursuant to the provisions of the previous subregulation of these regulations, the Board may, in its discretion, require the applicant to undergo or perform such oral or practical examinations as the Board deems appropriate.

(7) The Board may attach to the grant of a certificate of competency such conditions as it deems appropriate, and may at any time during its currency, or on any occasion of the renewal thereof, remove, add to or otherwise vary the same.

(8) The Board may require any applicant for a certificate of competency to—

(a) provide such further information or details as it may think fit in relation to himself, his experience, knowledge or skills in relation to the type of boat for which he requires such certificate;

(b) submit to such medical or other examination as is considered appropriate, and shall refuse the application if the applicant for a certificate fails to comply with any requirement so made.

(9) (a) For the purpose of enabling an applicant for the grant of a certificate of competency to learn to navigate a boat in harbour waters, the Board may if so requested by him and on payment of a fee of £5.00 grant him a provisional certificate of competency to be in force for a period of three months; such certificate shall be in the prescribed form and granted subject to such conditions as the Board may deem appropriate.

(b) If any person to whom such a provisional certificate of competency is granted, fails to comply with any of the conditions subject to which it is granted, he shall be guilty of an offence, and the court may order the withdrawal of the provisional certificate.

(c) A person to whom a provisional certificate of competency has been granted shall not use a boat in harbour waters unless when under the supervision of a person who is present in the boat with him and who has held for not less than one year a certificate of competency.

(10) Any person who acts as coxswain on or of a boat in harbour waters without having a current certificate of competency in relation to that boat, or in breach of any condition attached to such certificate, shall be guilty of an offence, and liable on summary conviction—

- (a) if no passengers were carried at the time of the offence, to a fine not exceeding £500; or
- (b) if one or more passengers were carried at the time of the offence, to a fine not exceeding £1,000.

(11) Any person who knowingly applies for a certificate of competency—

- (a) during the currency of an order made by a Court disqualifying him from holding or obtaining such certificate; or
 - (b) who fails to disclose to the Board that he has on any occasion been so disqualified,
- 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.

(12) For the purpose of subregulations (1), (9) and (10) the reference to “**certificate of competency**” shall be deemed to include a provisional certificate of competency.

(13) (a) For the purpose of subregulation (6), the Board may appoint suitably qualified or experienced persons to be Examiners of Coxswains to assess and grade any oral or practical examination required to be taken under the said subregulation .

(b)⁶ A fee of £5.00 shall be payable by an applicant in respect of any examination taken pursuant to subregulation (6).

Suspension or revocation of vessel licences

14. (1) The Board may suspend a licence granted in respect of a vessel, pursuant to regulation 10 of these regulations, for such period of time as it considers appropriate, not exceeding the remainder of its currency, if—

- (a) it is damaged in a manner which renders it for the time being not seaworthy, but in the opinion of the Board can be satisfactorily repaired expeditiously and within the currency of its licence; or
- (b) a condition attached to the licence has been breached, but it is of such a minor nature that it can be rectified easily, and the owner has, to the satisfaction of the Board, undertaken to do so.

(2) The Board may carry out such tests or examinations of a vessel as it deems appropriate before deciding whether or not to remove any balance remaining of a period of suspension imposed pursuant to the provisions of subregulation (1).

(3) The Board may revoke a licence issued in respect of a vessel if, in the opinion of the Board, there has been a breach of any condition attached to the licence in a manner which has or could have endangered the safety of persons carried on such vessel.

(4) The Board shall revoke a licence issued in respect of a vessel which has been damaged to such an extent that, in the opinion of the Board, it cannot be repaired in a manner which will render it seaworthy during the currency of such licence.

(5) Any person who knowingly uses or permits the use in harbour waters of any vessel whose licence has been revoked or for the time being is suspended, 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.

⁶ Regulation 13(13)(b) inserted by L.N. 17/2000

Suspension of certificates of competency

15. (1) Without prejudice to the powers of the Court under the Ordinance to order that a person should be disqualified from obtaining or holding a certificate of competency, the Board may suspend any such certificate currently in force for such period of time as it considers appropriate, not exceeding the remainder of its currency if, by reason of information supplied to it, the Board is of the opinion that the holder thereof—

- (a) is suffering from any disability or illness which, for the time being, renders him unfit to undertake the management and control of either vessels generally or, in particular, a vessel of the class or description to which the certificate relates; or
- (b) a condition attached to such certificate has been breached, but is capable of being rectified, and the holder of such certificate has, to the satisfaction of the Board, undertaken to do so.

(2) Before deciding whether to remove the balance remaining of any period of suspension imposed in respect of any certificate of competency, the Board may require the holder thereof to submit to such test or examination, and to provide such information as the Board considers appropriate.

(3) Any person who acts as coxswain on or of any vessel in harbour waters at any time when his certificate of competency is suspended shall be guilty of an offence, and liable on summary conviction—

- (a) if no passengers were carried at the time of the offence, to a fine not exceeding £500; or
- (b) if one or more passengers were carried at the time of the offence, to a fine not exceeding £1,000.

Payment of pratique

16.⁷ When boarding any ship which is moored in harbour waters for the purpose of granting pratique, pursuant to the provisions of section 5 of the Ordinance, the Harbour Master shall demand payment of a fee of £14.

Communication between coxswain and passengers

- 17.** A person who is a coxswain of a boat for hire shall ensure that—
- (a) all passengers on board such boat are informed of the location of life jackets or belts and safety equipment generally which is carried, and the use thereof;
 - (b) at all times when the passengers, or any of them, are deposited on or at any place other than Jamestown Wharf, the boat remains at such a distance that both visual and vocal contact or communication is possible between the coxswain and any such passenger or passengers on shore.

No person to remove sand etc. without permission

18.⁸ (1) Any person who takes or removes or causes to be taken or removed any sand, stone or gravel, from any beach or any part of the ocean floor, within any of the Harbours described in subregulation (2), without the permission in writing of the Chief Secretary first

⁷ Regulation 16 amended by L.N. 7/2001

⁸ Regulation 18 amended by L.N. 21/1998

had and obtained, shall be guilty of an offence and liable on conviction to a penalty not exceeding £100.

(2) The Harbours referred to in subregulation (1) are—

- (a) James Bay Harbour, being the area on the landward or South-Eastern side of a straight line drawn between Mundens Point (approximately one hundred metres due North of the Wharf Landing Steps) and the northernmost point on West Rocks.
- (b) Ruperts Bay Harbour, being the area lying on the landward or South-Eastern side of a straight line drawn between the most Westerly point on the headland to the North-East of Ruperts Bay and the most Northerly point of the headland to the South-West of Ruperts Bay.

(3) Any permission granted under subregulation (1) may be given subject to conditions affecting the quantity of and manner in which such materials may be taken or removed, and further subject to payment of such fee as the Chief Secretary may specify therein.

Materials deposited on landing places

19. Any person who, without the permission of the Harbour Master, deposits or permits to be deposited, any sand, shingle or gravel on any landing place within six feet from the sea edge thereof shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £100.

Employment of local labour

20. The owner, or Master, or agent thereof of any ship arriving at St. Helena shall, for the purpose of loading or unloading cargo or passengers employ, only authorised persons at such minimum rates as may be agreed between the Government and the owner, Master or agent of such ship from time to time.

Discharging missiles at birds or wild animals

21. Any person who discharges any firearm or throws any stone or other missile at any sea bird, dolphin or other wild animal within the limits of Jamestown Wharf shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £100:

Provided that nothing in this regulation shall prohibit such birds or animals from being killed for the protection of property, or obtained by or with the consent of the Government for scientific research.

Mooring of vessels

22. All vessels in harbour waters, except when being navigated, shall be securely moored or otherwise fastened. Absolute liability shall attach to the owner of a vessel not so moored or fastened which drifts and causes damage to any other vessel or goods.

Order of precedence in harbour waters

23. (1) The following provisions shall have effect and shall be observed by all vessels navigating in harbour waters—

- (a) ships shall have precedence over all other vessels;
- (b) all power operated vessels other than ships shall give way to sail boats;

- (c) when two ships or two other power operated vessels meet bow to bow on the same course, both shall give way to starboard;
 - (d) when the respective courses of two power operated vessels cut across each other, the vessel having the other to starboard shall give way;
 - (e) all power operated vessels other than ships shall give way to all vessels which have another vessel under tow;
 - (f) jet-skis shall give way to all other power operated vessels;
 - (g) windsurfers shall give way to all other sail boats, and shall also be subject to the provisions of paragraphs (c) and (d) of this regulation;
 - (h) rowing boats shall give way to all other vessels, and shall also be subject to the provisions of paragraphs (c) and (d) of this regulation;
 - (i) except with the permission of the Harbour Master, no jet-ski or windsurfer shall be navigated in harbour waters during the hours of darkness.
- (2) Any person who contravenes or fails to comply with any of the provisions of subregulation (1) shall be guilty of an offence, and liable on summary conviction to a period of imprisonment not exceeding 3 months and/or a fine not exceeding £500.

Landing of fish

24. Every person who is in possession of fish when arriving at the landing steps shall remove from the steps all offal, blood and other residue arising from such fish, and shall not cause or permit any offal to be left on any part of Jamestown Wharf.

Charges by and obligations of boats carrying passengers

25. (1) The following charges shall be the maximum rate permitted to be charged for the use of boats for hire licensed under these regulations to carry passengers—

- (a) journeys which commence and are completed between 6.00 a.m. and 6.00 p.m.—for each person carried from or to any ship at St. Helena: single journey—£1.00;
- (b) journeys which commence between 6.00 p.m. and 6.00 a.m.—for each person carried from or to any ship at St. Helena: single journey—£1.50.

(2) No person in charge of a boat for hire in harbour waters shall, unless already engaged, refuse at any time to carry a passenger from or to any ship at St. Helena when so required by the Master of such ship, the Harbour Master, a customs officer or a police officer.

General penalty, and aiders and abettors

26. (1) Any person who contravenes any of the provisions of these regulations in respect of which no specific penalty is prescribed shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £100.

(2) Any person who aids, abets, counsels or procures the commission of an offence under or of any provision of these regulations shall be liable to be punished as if such offence had been committed by him.

Appeal provisions

27. (1) Any person who is aggrieved by any determination of the Board under any of the provisions of these regulations may appeal to the Governor, whose decision shall be final.

(2) If it has not already done so, the Board shall give written reasons for its decision, if required to do so by any person intending to appeal pursuant to this regulation.

(3) Notice of appeal, in writing, addressed to the Governor, through the Chief Secretary, shall be given within seven days of the decision complained of, or where a request for written reasons is made pursuant to subregulation (2) of this regulation, within seven days of receipt thereof.

(4) A notice of appeal given pursuant to subregulation (3) shall state the grounds of the appeal, and may include any other information which the appellant wishes the Governor to take into account in determining the appeal.

(5) Within seven days of receipt of such notice of appeal, the Governor shall cause a copy thereof (and copies of any accompanying documents submitted) to be delivered to the Board, who may respond in writing to such notice of appeal within seven days of receipt.

(6) The Governor shall cause to be delivered to the appellant a copy of any response made to the notice of appeal pursuant to subregulation (5) (and copies of any accompanying documents submitted) within seven days of the receipt thereof.

(7) The appellant may reply, in writing, to any response made by the Board to his notice of appeal within seven days of the receipt thereof.

(8) The Governor may, in his discretion, extend any of the time limits prescribed by this regulation, in any case where he considers it is just to do so.

(9) After the expiry of the time prescribed for the Board's response, or of the appellant's reply, or on receipt of such reply, as the case may require, the Governor shall, as soon as practicable, determine the appeal and cause notice of his decision to be notified, in writing, to both the appellant and the Board.

(10) In the determination of any appeal under this regulation, the Governor may confirm, overrule, or in any manner he considers appropriate vary the decision of the Board, and where the appeal is allowed, may give such directions or instructions to the Board as he considers necessary for the purpose of fully implementing his determination. The Board shall comply with any such directions or instructions in such manner and within such period as the Governor may specify.

FIRST SCHEDULE

Part 1

**APPLICATION FOR A LICENCE
TO USE A VESSEL IN HARBOUR WATERS**

Name of applicant

Address

Date of birth

Name of vessel

Type of vessel

Length of vessel overall

Weight (if known)

Date of manufacture or apparent age of vessel

Intended use

Maximum number of persons to be carried

Part 2

**APPLICATION FOR A CERTIFICATE OF COMPETENCY
TO USE A VESSEL IN HARBOUR WATERS**

Name of applicant

Address

Occupation

Date of birth

Name and registered number of vessel (if appropriate)
.....

Type(s) of vessel for which certificate required

Are you at present suffering from any illness or disability, or receiving any form of medical treatment? If so, full details must be supplied (on a separate sheet or sheets of paper, if necessary)

Have you at any time been disqualified from holding or obtaining a certificate of competency or had a certificate of competency issued to you suspended for any reason? If so, full details must be supplied (on a separate sheet or sheets of paper, if necessary)

Do you own, or have you ever owned any vessel, whether of the type specified above or otherwise? If so, give full details, and state (with details, if appropriate) whether any licence issued in respect of such vessel has ever been suspended or revoked



SECOND SCHEDULE*(Legal Notice 4 of 2007)***“ANNUAL FEES TO BE PAID IN RESPECT OF A LICENCE FOR
A VESSEL TO BE USED IN HARBOUR WATERS**

For a licence for a vessel authorised to be used as a fishing boat:

(a)	overall length up to 20ft	£5.50
(b)	overall length exceeding 20ft; weight not exceeding 15 tonnes	£12.50
(c)	overall length exceeding 20ft; weight exceeding 15 tonnes	£60.50

For a licence for a vessel authorised to be used as a boat for hire:

(a)	carrying up to 20 passengers	£9.00
(b)	carrying more than 20 passengers	£18.50

For a licence for a lighter or any other vessel authorised to carry goods:

(a)	if exceeding a burden of 3 tons, per ton of carrying capacity	£18.50
(b)	for a jet-ski	£5.00

For a licence for any other type or class of boat, however propelled:

	other than a windsurfer.....	£4.00
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