



## ANALYSIS

- | Title |   |
|-------|---|
| 1.    | Short Title   |
| 2.    | Interpretation  |
| 3.    | Application of Act  |
| 4.    | Appointment of Harbourmaster  |
| 5.    | Masters of vessels to carry out directions of Harbourmaster                 |
| 6.    | Harbourmaster may revoke directions and redirect vessel                     |
| 7.    | Harbourmaster may remove any vessel   |
| 8.    | Expenses incurred in removal recoverable from master of vessel              |
| 9.    | Moorings not to be placed in any harbour without authority of Harbourmaster |
| 10.   | Removal of sunk, stranded or abandoned ships                                |
| 11.   | Appeals and personnel of Appeal Committee                                   |
| 12.   | Harbourmaster not responsible for security or safety of any vessel          |
| 13.   | Power of Harbourmaster to delegate  |
| 14.   | Rubbish, etc., not to be deposited in harbour                               |
| 15.   | Penalties for interference with or obstruction of Harbourmaster             |
| 16.   | Fine for breach of Act where no specific penalty elsewhere provided         |
| 17.   | Revocation  |

---

1971-72, No. 4

An Act to make provision for the control of anchoring, mooring and berthing of vessels in harbours

(8 March 1972)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Harbour Control Act 1971-72.

Price

2. Interpretation - In this Act, unless the context otherwise requires -

"Harbour" means any harbour or area designated as a harbour pursuant to section 3 of this Act;

"Harbourmaster" means the person appointed to that office pursuant to section 4 of this Act and any person lawfully acting for such person;

"Master" includes any person in charge of a vessel;

"Minister" means the Minister charged with the responsibility of harbours;

"Mooring" means any weight or article placed in or on the bed of a harbour for the purpose of mooring or securing a ship or boat; but does not include an anchor or weight lifted by the ship or boat when departing from the site of anchorage or mooring;

"Vessel" means a ship, boat, lighter or any other description of vessel used or designed to be used in navigation.

3. Application of Act - (1) This Act shall apply to any harbour or area which the Minister shall from time to time by notice in the Gazette designate as a harbour for the purposes of this Act.

(2) Any such designation may be revoked or varied at any time by the Minister by notice in the Gazette.

4. Appointment of Harbourmaster - The Minister shall by notice in the Gazette appoint a Harbourmaster, who shall hold office at the pleasure of the Minister, and shall have such duties, functions and powers as are prescribed by this Act.

5. Masters of vessels to carry out directions of Harbourmaster - The master of every vessel entering, departing from or within a harbour shall observe and perform every direction given to him by the Harbourmaster as to the place and mode of anchoring, mooring or berthing his vessel in that harbour.

6. Harbourmaster may revoke directions and redirect vessel - The Harbourmaster may at any time change or revoke any direction given by him pursuant to the provisions of this Act and order any vessel to unmoor, weigh anchor or to depart from alongside the wharf to such other place as he may direct.

7. Harbourmaster may remove any vessel - The Harbourmaster may remove any vessel anchoring, mooring or berthing in contravention of the provisions of this Act.

8. Expenses incurred in removal recoverable from Master of vessel - All expenses incurred in connection with the removal of any vessel pursuant to the provisions of this Act may be recovered from the master of such vessel and notwithstanding any provision in the Customs Acts for the time being in force no vessel shall be cleared at the Customs unless and until such expenses are paid.

9. Moorings not to be placed in any harbour without authority of Harbourmaster - No person shall place any mooring in any harbour without the authority of the Harbourmaster.

10. Removal of sunk, stranded or abandoned ships -  
(1) If any ship is sunk, stranded or abandoned on or near or within a harbour the Harbourmaster may, and shall, if in his opinion the ship is, or is likely to become, an obstruction to navigation, give direction to cause that ship to be removed and the Harbourmaster may by notice in writing given to the owner or master of the ship or any agent of the owner, require the owner to remove that ship or any part thereof, in a manner satisfactory to, and within a time to be specified by, the Harbourmaster.

(2) If the owner fails to comply with the notice, or if neither the owner nor master of the ship, nor any agent of the owner can be found, the Harbourmaster may -

- (a) Take possession of and remove or destroy the whole or any part of the ship; and
- (b) Sell in such manner as he thinks fit the ship or any part thereof so removed, and also any property recovered therefrom in the exercise of his powers under this section; and out of the proceeds of any such sale, without any reference to the articles from the sale of which those proceeds arise, reimburse the Crown for the expenses of removal; and
- (c) If the proceeds of the sale are insufficient to pay the whole of the expenses of removal, recover the balance from the owner of the ship.

11. Appeals and personnel of Appeal Committee - (1)  
The master or owner of any vessel affected by any direction given by the Harbourmaster may appeal against such direction to an Appeal Committee consisting of three persons appointed by the Minister (of whom one shall be appointed by the Minister as Chairman).

(2) Any person lodging an appeal shall deposit forthwith the sum of twenty dollars with the Treasury and no appeal shall be heard until evidence of such deposit has been produced to the Chairman of the Appeal Committee.

(3) Every appeal shall be lodged with the Chairman who shall as soon as convenient call a sitting of the Appeal Committee to hear the matter of the appeal and the parties thereto.

(4) The decision of the Appeal Committee shall be in accordance with the opinion of the majority of the members.

(5) Upon hearing any appeal the Committee may dismiss the appeal, uphold the appeal, or annul the direction appealed from and issue a new direction.

(6) Upon the dismissal of any appeal the deposit of twenty dollars shall be credited to the Cook Islands Government Account and upon the upholding of any appeal the deposit of twenty dollars shall be refunded to the appellant.

12. Harbourmaster not responsible for security or safety of any vessel - The Harbourmaster shall exercise all his functions and powers under this Act with a view to the interests of shipping within the limits of the harbour as far as consistent with the safety of any vessel concerned, but no direction given by him to any master and no act performed by him in respect of any vessel shall place on him any responsibility for the security or safety of any such vessel.

13. Power of Harbourmaster to delegate - (1) The Harbourmaster may from time to time with the approval of the Minister, by writing under his hand, delegate to any person all or any of his duties, powers or functions under this Act and may, from time to time and in like manner revoke, vary or amend any such delegation.

(2) Any writing under the hand of the Harbourmaster referred to in subsection (1) of this section shall be sufficient evidence of the matters to which it relates.

14. Rubbish, etc., not to be deposited in harbour - No person shall cast or deposit any rubbish, dead animal or filth below the high water mark within any harbour nor on any land belonging to the Crown adjacent to any harbour.

15. Penalties for interference with or obstruction of Harbourmaster - Any person who interferes with or obstructs the Harbourmaster in the exercise of his functions and powers under this Act commits an offence and shall be liable on conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding one month.

16. Fine for breach of Act where no specific penalty elsewhere provided - Every person who, acts in contravention of this Act commits an offence and if no specific penalty is elsewhere provided in this Act for such offence shall be liable on conviction to a fine not exceeding one hundred dollars.

17. Revocation - The Rarotonga Harbour Control Ordinance 1958 is hereby revoked.

---

This Act is administered by the Harbourmaster.