



BRITISH INDIAN OCEAN TERRITORY

**THE VISITORS AND VISITING
VESSELS ORDINANCE 2018**

Ordinance No. 01 of 2018

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THE VISITORS AND VISITING VESSELS ORDINANCE 2018

Ordinance No.01 of 2018

ARRANGEMENT OF SECTIONS

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03 May 2018

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Ben Merrick

THE VISITORS AND VISITING VESSELS ORDINANCE 2018

An Ordinance to amend and consolidate the law relating to the mooring of vessels in the Territory and the imposition and collection of mooring-charges and to provide for matters connected with or incidental thereto.

PART I

GENERAL

Citation and commencement.

1. This Ordinance may be cited as the Visitors and Visiting Vessels Ordinance 2018 and shall come into force forthwith.

Definitions.

2. (1) In this Ordinance, unless the contrary intention appears –

master, in relation to a vessel, includes any person for the time being in charge of the vessel;

to moor means to anchor or to remain stationary by the use of engines or any line or device in the territorial sea or internal waters of the Territory or to be tied up or beached or hauled ashore at any place in the Territory;

mooring-charge has the meaning assigned by section 6;

the outer islands means all the islands forming part of the Territory except Diego Garcia;

vessel includes any sea-going craft but, except in subsection (3) and section 4(3), does not include any boat, dinghy or similar craft forming part of the equipment of another vessel if, on the occasion in question, a permit has been issued under this Ordinance in respect of the mooring of that other vessel;

Visiting Vessels Control Officer is to be interpreted in accordance with section 3; and

Visitor includes any person present in the Territory whether or not they are otherwise lawfully permitted to reside or stay in any part of the Territory.

(2) References in this Ordinance to mooring at any place in the Territory include references to mooring at any place in the territorial or internal waters of the Territory appurtenant to or forming part of the islands of the Territory.

(3) Sections 4, 6 and 7 of this Ordinance do not apply to the following vessels (in this Part referred to as **exempt vessels**) that is to say –

- (a) any vessel belonging to or under charter to the Government of the Territory;
- (b) any vessel of the Royal Navy or otherwise belonging to or under charter to the Government of the United Kingdom;
- (c) any vessel of the United States Navy or otherwise belonging to or under charter to the Government of the United States of America; and
- (d) any other vessel that is for the time being certified by the Commissioner's Representative, by instrument in writing under his hand, to be an exempt vessel.

Visiting Vessels Control Officers.

3. (1) The Commissioner or the Commissioner's Representative may appoint persons to be for the time being Visiting Vessels Control Officers.

(2) Every Police Officer, every Customs Officer appointed under the Imports and Exports Control Ordinance 2009 and every Fisheries Protection Officer within the meaning of the Fisheries (Conservation and Management) Ordinance 2007 shall also be a Visiting Vessels Control Officer.

(3) Every Visiting Vessels Control Officer shall exercise the powers and duties conferred or imposed on him by this Ordinance, such other duties as the Commissioner or the Commissioner's Representative may from time to time impose on him for the regulation and assistance of vessels visiting the Territory and such other powers or duties as may from time to time be conferred or imposed on him as such by any other law for the time being in force in the Territory.

(4) In exercising any powers or duties conferred or imposed on him by or under this Ordinance every Visiting Vessels Control Officer shall comply with such general or special directions as may be given to him by the Commissioner or the Commissioner's Representative.

No moorings in Territory without prepaid permit.

4. (1) No vessel may enter the territorial waters of the Territory to moor at any place therein unless a permit in respect of that mooring has been issued under the provisions of this Ordinance.

- (2) (a) Except in the case of an emergency or to prevent an accident no vessel shall moor at any place in the Territory which is not to the landward side of the lines

described in the table contained in Schedule 1, which lines are for identification purposes only shown in the maps contained in Schedule 1.

(b) Within the permitted mooring places described in Schedule 1 the sea bed rises very rapidly to shallows from depths of 15 metres or more and within all such mooring places there are shallow places not suitable for mooring. The designation of a mooring place does not imply that it is safe to moor, or safe in all conditions and the Commissioner shall not be liable for any damage or injury suffered as a result of any mooring within the permitted mooring places.

(3) (a) No vessel shall enter the territorial sea of Diego Garcia.

(b) This subsection shall not apply to any vessel authorised to deliver or collect supplies, goods, or material to or from Diego Garcia.

(4) A permit issued under this Ordinance shall only be valid for the period stated in the permit and for the vessel and persons named therein, but during that period the named vessel is permitted to moor at all or any of the locations set out in Schedule 1.

(5) Despite subsections (1) and (4), a Visiting Vessels Control Officer may withhold consent to the mooring of any vessel or may at any time revoke a permit which has been given to the mooring of a vessel and may in either case then direct the vessel to depart from the place in which it is moored or seeks to moor.

Conditions attaching to all moorings.

5. (1) No person having disembarked from a vessel whether or not it is lawfully moored in the territorial sea or inland waters may remain on land in the outer islands between the hours of sunset and sunrise.

(2) No encampment, structure or installation of a permanent or semi-permanent nature may be erected in the outer islands.

(3) No person shall without the written consent of the Commissioner in the outer islands engage in any of the following activities or undertakings, that is to say, any form of hunting; any collection or killing of any wildlife including molluscs and live or dead coral; any undertaking connected with forestry or agriculture; any cutting or other destruction or collection of any vegetation; any excavations, levelling of the ground or construction; any work involving the alteration of the configuration of the soil or the character of the vegetation; any act, of whatever kind, which pollutes any source of water or watercourse or sea area; or any act, of whatever kind, likely to harm or disturb the fauna or flora of the outer islands.

(4) No person shall without the written consent of the Commissioner introduce into, or allow to enter or land in the Territory or the territorial sea and internal waters adjacent thereto any non-indigenous fauna or flora.

(5) No person shall cause a vessel to be moored in the Territory by means of an anchor or any similar device on the vessel whenever there is available a device on the seabed to which the vessel can be securely attached by a line.

(6) No person shall deposit or leave in the Territory any waste material or litter.

(7) No person may light a fire except in accordance with regulations issued pursuant to section 3(1) of the Protection and Preservation of Wild Life Ordinance 1970.

Liability to pay mooring-charges.

6. (1) There shall be payable by the master or otherwise the owner in respect of the mooring of any vessel at any place in the Territory a charge (in this Ordinance referred to as a **mooring-charge**) of the amount specified by or under section 7.

(2) The mooring-charge in respect of the mooring of any vessel is payable in consideration of the grant by the Commissioner of his consent to that mooring, the provision of services and facilities relating to the control of imports and exports, the provision of immigration services and facilities, and is so payable irrespective of which services or facilities are provided on the occasion of that mooring, and no further charge shall be payable in respect of that mooring in consideration of those matters, but nothing in this subsection shall affect the liability of any person to pay any other charge that may be payable by him under the Charges for Services Ordinance 1992 for any other services or facilities provided to him by the Government of the Territory or by any authority of that Government or by any officer of that Government acting in his capacity as such.

Amount and payment of mooring-charges, and related procedures.

7. (1) The mooring-charge payable shall be such sum as is prescribed in regulations made under this Ordinance and shall be payable before a permit is issued and before the vessel enters the territorial sea of the Territory:

Provided that no alteration of the sum for the time being specified which is made while a duly issued permit is valid shall have effect in respect of a mooring included in and permitted by that permit.

(2) Application for a permit shall be made in the manner and form prescribed in regulations made under this Ordinance.

(3) Regulations under this section shall, as soon as practicable after being issued, be published in the *Gazette*, but the validity of any such regulation or of the charge which it determines shall not be affected by reason only of the regulation not having been so published.

Powers of Visiting Vessels Control Officers.

8. (1) For the purpose of enforcing this Ordinance a Visiting Vessels Control Officer may exercise the following powers with respect to any vessel within the waters of the Territory –

(a) he may stop the vessel;

(b) he may require the master to facilitate the boarding of the vessel by all appropriate means;

(c) he may go on board the vessel and take with him such other persons as he may require to assist him in the exercise of his powers;

(d) he may require the master or any other member of the crew or any passenger to produce forthwith, and he may examine and take copies of any permit issued under the provisions of this Ordinance, any certificate of registry, official logbook, official paper or any other document relating to the vessel or to any member of the crew or to any passenger, or to any activities that may have been conducted by or from the vessel, that is in the possession of the master or such other member of the crew or such passenger;

(e) he may muster the crew of the vessel and all passengers thereon;

(f) he may search and examine the vessel;

(g) he may require the master to appear and give any explanation concerning the vessel or any member of its crew any passenger thereon or any document mentioned in subsection (1)(d);

(h) he may cause the vessel to be taken to such place in the Territory as he may appoint for the purpose of carrying out any search, examination or enquiry;

(i) he may act in accordance with the provisions contained in Part II (issuance of fixed penalty notices); and

(j) if it appears to him that the master or any other person on board the vessel has committed an offence against this Ordinance and a fixed penalty notice is not to be issued in accordance with Part II –

(i) he may seize or take copies of any documents which he believes relevant to the offence;

(ii) he may arrest the suspected offender and shall then, as soon as practicable, bring him before a Magistrate in some convenient place in the Territory, there to be dealt with according to the law; and

(iii) he may, at the same time as he exercises his powers under sub-subsection (ii), seize the vessel, together with all equipment and other goods on board it, and cause it to be taken to some convenient place in the Territory and to be there detained until the conclusion of the proceedings against the suspected offender (or against all suspected offenders who have been brought before a Magistrate in pursuance of sub-subsection (ii)) or, if an order is made under section 9(7), until such time as is specified in that order or, in any case, until such earlier time as a Magistrate may order.

(2) In exercising the powers conferred by subsection (1), a Visiting Vessels Control Officer and any persons accompanying him under subsection (1)(c) of that subsection may use such force as is reasonably necessary.

(3) A Visiting Vessels Control Officer may give to the master of a vessel or to any other member of the crew or to any passenger such directions concerning the navigation, handling or management of the vessel, or of any equipment or other goods on board it, as he considers necessary for the effective discharge of the powers conferred on him by this section.

(4) When a permit given under section 7 in relation to a vessel has been revoked under section 4 or otherwise and that vessel is then within the waters of the Territory, a Visiting Vessels Control Officer may direct the vessel concerned to depart forthwith from those waters.

Enforcement and penalties.

9. (1) Without prejudice to the following provisions of this section, any sum which is payable under this Ordinance by way of a mooring-charge or penalty in respect of the mooring of any vessel may be recovered from the master or owner of that vessel as a debt due from him to the Government of the Territory.

(2) The master of any vessel which moors at any place in the Territory without a permit issued under this Ordinance in respect of that mooring in contravention of section 4(1) shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding three years or to a fine not exceeding £5,000 or to both such imprisonment and fine.

(3) The master of any vessel which moors at any place in the Territory which is not within the boundaries specified in section 4(2) and Schedule 1 of this Ordinance shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or to both such imprisonment and fine.

(4) Any person who refuses or fails on demand to produce forthwith any permit, passport or other document in accordance with section 8(1) shall be guilty of an offence, and shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or to both such imprisonment and fine.

(5) Any person who obstructs a Visiting Vessels Control Officer in the exercise of his powers under this Ordinance or who, without lawful cause (the onus of proof whereof lies on him) refuses or fails to comply with any direction reasonably given to him by such an officer or to answer any question reasonably put to him by such an officer or who gives an answer to such a question which he knows to be false or misleading in any material particular or who prevents or attempts to prevent another person from complying with such a direction or from answering such a question shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or to both such imprisonment and fine.

(6) Any person who fails to observe a condition attaching to a visitor or to any mooring by section 5 or otherwise shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding £5,000 or to both such imprisonment and fine.

(7) The master of any vessel which enters the territorial sea of Diego Garcia in contravention of section 4(3) shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding £5,000 or to both such imprisonment and fine.

(8) Where any person is convicted of an offence under subsection (2), the court may order him to pay the prescribed mooring-charge in addition to any fine or other sentence imposed on him, and that order shall have effect, for the purposes of this section and of any other law relating to the enforcement of penalties, as the imposition on him, for that offence, of a fine to the amount of that sum, in addition to any other penalty that may be imposed on him for that offence.

(9) Where any person is convicted of an offence under this Ordinance, the court by which he is convicted may order that any vessel, together with any equipment and goods on board it (or such of them as the order may specify) that is then being detained under section 8(1) in connection with the offence shall continue to be detained until any fine that has been imposed on that person under this section has been satisfied or until a court orders it to be earlier released.

(10) Where a fine that has been imposed on any person for an offence under this Ordinance has not been satisfied in full after the expiry of a period of 7 days after it was imposed or such longer period as may be allowed by the court to which an application is made under this subsection, any vessel, equipment or goods then being detained under subsection (9) shall, on such terms, if any, as the court may think just, be forfeited to the Crown by order of any court upon application made by or with the authority of the Principal Legal Adviser and shall then be disposed of in such manner as the Commissioner may direct.

(11) A forfeiture order made under subsection (10) does not extinguish the liability of any person to pay a charge that has become payable under this Ordinance, and the charge remains recoverable in accordance with Subsection (1).

(12) The power of a court, under subsection (10), to order the forfeiture of any vessel, equipment or goods is without prejudice to the power of that or any other court to make, instead or in addition, any other order consequent upon the non-payment of a fine that is authorised by any other law for the time being in force in the Territory.

PART II

Fixed Penalties

Definitions and interpretation.

10. In this Part –

(a) **fixed penalty offence** and **fixed penalty notice** have the meanings assigned to those terms by sections 11 and 12(1) respectively; and

(b) references to an offence include an alleged offence.

Fixed penalty offences.

11. Any offence under any provision of this Ordinance or any other Ordinance specified in column 1 of Schedule 2 (the general nature of that offence being indicated in column 2) is a fixed penalty offence.

Fixed penalty notices.

12. (1) In this Part **fixed penalty notice** means a notice offering the opportunity of the discharge of any liability to be convicted of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part.

(2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(3) A fixed penalty notice must –

(a) state that failure to pay the fixed penalty to the issuing Visiting Vessels Control Officer forthwith will result in the arrest and prosecution of the alleged offender under the provisions of this Ordinance and the detention and possible forfeiture of the vessel;

(b) state the amount of the fixed penalty;

(c) state that the fixed penalty may be paid to the Visiting Vessels Control Officer.

(4) A fixed penalty notice shall be substantially in the form shown in Schedule 3.

Amount of fixed penalty.

13. The fixed penalty for an offence is the sum specified in column 3 of Schedule 2.

Notices to be given on the spot.

14. Where, on any occasion, a Visiting Vessels Control Officer or a Police Officer on duty other than as a Visiting Vessels Control Officer finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may in his entire discretion give that person a fixed penalty notice in respect of that offence.

Effect of fixed penalty notice.

15. (1) Where a fixed penalty notice has been given to a person in this part referred to as **the recipient** under section 14, no proceedings may be brought against him for the offence to which it relates after he has paid the fixed penalty.

(2) The payment of the fixed penalty by or on behalf of the master or a passenger of a vessel does not permit that vessel to moor in the Territory, and despite the payment, a Visiting

Vessels Control Officer may direct the master of that vessel to proceed forthwith and remain with all passengers out of the territorial sea.

Payment of penalty.

16. (1) Payment of a fixed penalty must be made in cash (in accordance with section 5 of the Currency Ordinance 1981) forthwith upon issue of the notice to the Visiting Vessels Control Officer or Police Officer, or by electronic transfer of funds to a government bank account specified by the Visiting Vessels Control Officer or Police Officer.

(2) Every Visiting Vessels Control Officer or Police Officer shall issue a receipt for each fixed penalty received by him, and as soon as practicable, pay all sums received by him by way of fixed penalties to the Commissioner's Representative for the account of the general revenues of the Territory and furnish to the Commissioner's Representative copies, or (as the Commissioner's Representative may direct) a full record, of all the fixed penalty notices and receipts issued by him for such notices.

Proceedings.

17. If the fixed penalty is not paid forthwith upon issue of the notice in accordance with section 16 the recipient may be arrested, the vessel may be detained, and proceedings may be brought against any person for the offence to which the fixed penalty notice relates.

Certificates about payment.

18. In any proceedings a certificate signed by the Visiting Vessels Control Officer who issued the notice that the payment of a fixed penalty was or was not received forthwith upon issue of the notice shall be conclusive of that matter, and a certificate purporting to be so signed shall be received in evidence as such without proof of signature unless credible evidence to the contrary is adduced.

Repeal.

19. The Visitors and Visiting Vessels Ordinance 2006 and any regulations made thereunder are hereby repealed.

Savings.

20. Nothing in this Ordinance shall be construed as derogating from or as otherwise prejudicing the provisions of the British Indian Ocean Territory (Immigration) Order 2004 or the Fisheries (Conservation and Management) Ordinance 2007 in relation to any person on board or connected with a vessel whether or not it is lawfully moored under this Ordinance, and in particular, nothing in this section shall be construed as authorising any such person to land in the Territory, or in any other way to enter the Territory, unless he is in possession of a permit, or his name is endorsed on a permit, issued under the British Indian Ocean Territory (Immigration) Order 2004.

Consequential amendments.

21. Where the words "Visitors and Visiting Vessels Ordinance 2006" appear in –

(a) sections 2(1), 2(2)(c) and 6 of the British Indian Ocean Territory Waters (Regulation of Activities) Ordinance 1997;

(b) section 2(1) of the Protection and Preservation of Wild Life Ordinance 1970;
and

(c) regulation 4 of the Strict Nature Reserve Regulations 1998,

they are replaced with the words “Visitors and Visiting Vessels Ordinance 2018”.

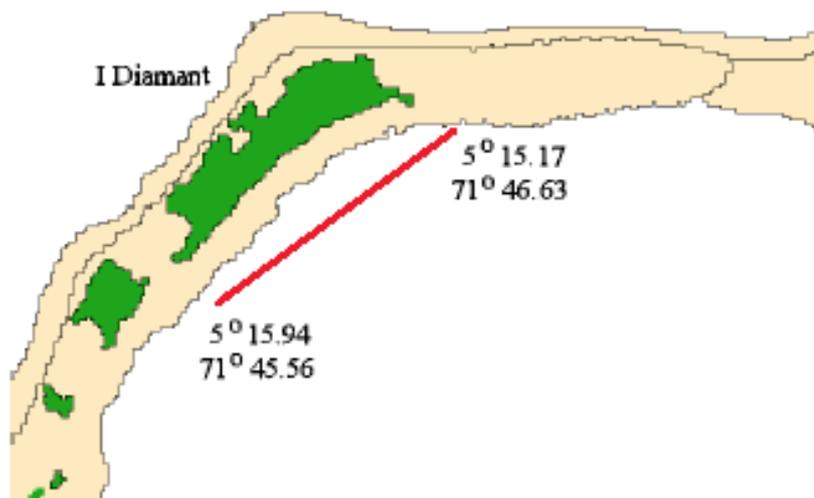
SCHEDULE 1 (Permitted mooring sites)

All coordinates are in **ddd mm.mm** and all are **deg S, deg E**. Coordinates mark the ends of lines drawn along or roughly parallel to islands, and the zones permitted for anchoring lie between each line and its adjacent island.

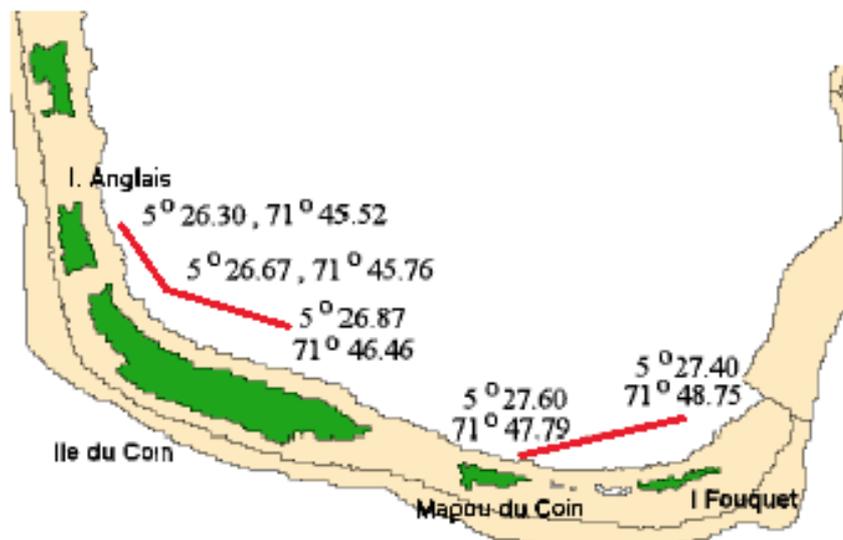
	Deg. S Min.		Deg. E Min.	
Salomon Atoll				
Ile Boddam				
<i>Southwest of a line between Iles Diable and Poule</i>				
W (Diable)	5	21.05	72	12.51
E (Poule)	5	21.45	72	13.17
Ile Fouquet/Takamaka				
<i>Southeast of a line from mid Takamaka to the SE tip of Fouquet</i>				
N (Takamaka)	5	19.73	72	15.94
S (Fouquet)	5	20.64	72	15.40
Peros Banhos Atoll				
Diamant				
<i>Northwest of a line stretching roughly the full length of Diamant</i>				
N (Diamant)	5	15.17	71	46.63
S (Diamant)	5	15.94	71	45.56
Ile de Coin				
<i>Southwest of a line from mid Anglais to two-thirds down Poule</i>				
N (Anglais)	5	26.30	71	45.52
Mid (Poule)	5	26.67	71	45.76
S (Poule)	5	26.87	71	46.46
Fouquet				
<i>South of a line from mid Mapou du Coin to east end of Fouquet</i>				
Outer W	5	27.60	71	47.79
Outer E	5	27.40	71	48.75

Italics give the approximate description of each anchoring location.

Salomon



Peros Banhos



SCHEDULE 2 (Fixed penalty offences)

Section of this Ordinance	Description of Offence	Fixed Penalty
9(2)	Mooring without a permit	£1000
9(3)	Mooring in an unauthorised location	£500
9(4)	Failing to produce documents	£200
9(5)	Obstructing a Visiting Vessels Control Officer	£200
9(5)	Refusing or failing to comply with a Visiting Vessels Control Officer's direction	£200
9(5)	Giving false or misleading answers to a Visiting Vessels Control Officer	£200
9(5)	Preventing or attempting to prevent another from complying with a direction or question of a Visiting Vessels Control Officer	£200
9(6)	Failing to observe a visitor or visiting vessel condition	£500
Sections of other Ordinances		
The Strict Nature Reserve Regulations 1998 s.3	(1)(a) Entering a strict nature reserve (1)(b) In a strict nature reserve hunting, fishing, forestry, agriculture, digging, damaging or collecting vegetation, polluting water, harming or disturbing fauna and flora (1)(c) Into a strict nature reserve introducing non-indigenous wildlife	£1000
The Penal Code 1981 s.266	Destroying or damaging property (including writing graffiti)	£200
The Waters (Regulation of Activities) Ordinance 1997 s.3	Undertaking a regulated activity without permission. (Prohibited activities include using diving equipment)	£200
The Misuse of Drugs Ordinance 1992 s.6	Unlawful possession of a Class C controlled drug (including cannabis)	£500
The Wild Life Protection (Lighting of Fires in the Outer Islands) Regulations 2018, r. 8	Lighting a fire in the Outer Islands except in accordance with the regulations	£1,000

SCHEDULE 3

Form of fixed penalty notices

FIXED PENALTY NOTICE

Part II of the Visitors and Visiting Vessels Ordinance 2018

1. To: *(name of recipient)*
2. Circumstances constituting offence.

It is alleged that you have committed an offence under section *(section number)* of the Visitors and Visiting Vessels Ordinance 2018. The circumstances alleged to constitute that offence are as follows:

(Set out sufficient particulars of the offence alleged, including date and approximate time, to give the recipient reasonable information about what he is alleged to have done)

3. Options open to recipient of notice.
 - (a) You have the opportunity to discharge any liability to be convicted of the above offence if you pay the fixed penalty which is specified in paragraph 4 below. If you wish to do that, you must forthwith pay the fixed penalty to the Visiting Vessels Control Officer who gave you this notice. If you have insufficient funds with you to pay the fixed penalty you may alternatively forthwith transfer sufficient funds to discharge the penalty by electronic transfer of funds to a government bank account which will be specified by the Visiting Vessels Control Officer.
 - (b) The Visiting Vessels Control Officer will give you a receipt for any payment received by him.
 - (c) If you do not pay the penalty forthwith you are liable to be arrested for the offence and the vessel on which you arrived in the Territory may be seized and detained until a court has dealt with the alleged offence.
 - (d) If you fail to pay a fine imposed by a court within 7 days the vessel detained may be ordered to be forfeited.
4. Fixed penalty. *(Enter amount)*

.....
(Date of issuance of Notice)

.....
(Signature of Visiting Vessels Control Officer issuing)