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Department.

Statutory Rules 1988 No. 269

# Admiralty Rules

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Statutory Rules 1988 No. 1

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## Admiralty Rules

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Rules under the *Admiralty Act 1988*.

Dated 27 October 1988.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

*Michael Toke*  
Minister of State for Justice  
for and on behalf of the  
Attorney-General

### PART I—PRELIMINARY

#### Citation

1. These Rules may be cited as the Admiralty Rules.

#### Commencement

2. These Rules commence on 1 January 1989.

#### Interpretation

3. (1) In these Rules, unless the contrary intention appears:  
“amount claimed” includes an amount in respect of interest or costs;  
“arrest warrant” means a warrant for the arrest of a ship or other property;  
“caveator”, in relation to a caveat, means the person by whom, or on whose behalf, the caveat was filed;  
“interested person”, in relation to a ship or other property that is under arrest, includes an underwriter or insurer of the ship or property or of a liability in relation to the ship or property;

“proceeding” means a proceeding commenced under the Act;

“Register” means a register maintained under subrule 14 (1) or (2) or rule 79;

“the Act” means the *Admiralty Act 1988*.

(2) In these Rules, unless the contrary intention appears, a reference to a ship or other property includes a reference to the proceeds of the sale under the Act of the ship or property that have been paid into court under rule 71.

### **Marshal and Registrar**

4. (1) Where, in relation to a proceeding in a court, a power, function or duty is conferred or imposed on the Registrar by these Rules, the power or function may be exercised, and the duty shall be performed, by an officer of the court:

- (a) appointed by the court to be a Registrar; or
- (b) authorised by the court, or by the Rules of Court, to exercise the power or function or perform the duty.

(2) Where, in relation to a proceeding in a court, a power, function or duty is conferred or imposed on the Marshal by these Rules, the power or function may be exercised, and the duty shall be performed, by a person (whether or not an officer of the court):

- (a) appointed by the court to be a Marshal; or
- (b) authorised by the court, or by the Rules of Court, to exercise the power or function or perform the duty.

### **Headings of documents**

5. A document to be filed in, or issued out of, a court in a proceeding:

- (a) shall include in the heading of the document a title in accordance with Form 1; and
- (b) shall identify the proceeding in accordance with the Rules of Court concerned.

### **Operation of these Rules**

6. (1) These Rules are not intended to exclude or limit the operation of Rules of Court of a court exercising jurisdiction under the Act to the extent that those Rules are not inconsistent with these Rules.

(2) Where an act or omission of a person is an offence against rule 56 and a contempt under Rules of Court or at common law and the person is found guilty of the contempt, the person is not liable to be convicted of the offence.

**PART II—CAVEATS****Division 1—Caveats against arrest****Caveats against arrest**

7. (1) A caveat against the arrest of a ship or other property shall be in accordance with Form 2 and may be filed in a registry of the Federal Court.

(2) The caveat shall not be filed unless the Registrar is satisfied (whether because of an undertaking endorsed on the caveat or for other sufficient reason) that the caveator will, in any proceeding of a kind specified in the caveat that is commenced as an action *in rem* against the ship or property:

- (a) enter an appearance; and
- (b) comply with rule 9.

(3) The undertaking shall be in accordance with Form 3.

(4) Without limiting the power of the Registrar under subrule (2), the Registrar may be satisfied for the purposes of that subrule if there is produced to the Registrar an undertaking in writing to satisfy any judgment for the amount specified in the caveat, being an undertaking given by:

- (a) a protection and indemnity association that is a member of the International Group of Protection and Indemnity Associations; or
- (b) a bank within the meaning of the *Banking Act 1959* or a State bank.

(5) The Federal Court may set aside a caveat against the arrest of a ship or other property.

**Undertaking by caveator**

8. (1) The filing of a caveat under rule 7 constitutes an undertaking by the caveator:

- (a) to enter an appearance in a proceeding of a kind specified in the caveat that is commenced as an action *in rem* against the ship or other property specified in the caveat; and
- (b) to comply with rule 9.

(2) The undertaking is enforceable by the court in which the proceeding is commenced.

**Caveator to give bail**

9. (1) This rule applies where:

- (a) a caveat against the arrest of a ship or other property is in force;
- (b) under these Rules, initiating process in a proceeding has been served on the caveator;
- (c) the proceeding is a proceeding of the kind specified in the caveat; and

- (d) the caveat specifies an amount not less than the amount claimed.
- (2) Within 3 days after having been so served, the caveator shall, unless otherwise agreed in writing between the caveator and the plaintiff:
- (a) pay into court an amount equal to:
- (i) the amount claimed; or
  - (ii) the amount specified in the caveat;
- whichever is the less; or
- (b) cause a bail bond to be entered into in that amount, and give notice, in accordance with Part VII.
- (3) A caveator who fails to comply with subrule (2):
- (a) shall be taken to have failed to appear in the proceeding within the time specified for appearing; and
- (b) is liable for committal.

### ***Division 2—Caveats against release***

#### **Caveats against release**

10. Where a ship or other property is under arrest in a proceeding, a person may file in the court by which the arrest warrant was issued a caveat in accordance with Form 4 against the release from arrest of the ship or property.

#### **Caveats may be set aside**

11. The court may set aside, wholly or in part, the caveat.

### ***Division 3—General***

#### **Caveats in force for 12 months**

12. (1) Unless sooner withdrawn or set aside, a caveat remains in force for a period of 12 months or such shorter period, not being less than 7 days, as is specified in the caveat.

(2) Subrule (1) does not prevent the filing of a further caveat.

#### **Withdrawal of caveats**

13. A caveator may withdraw a caveat by filing an instrument of withdrawal of the caveat in accordance with Form 5.

#### **Registers**

14. (1) The Registrar of the Federal Court shall maintain a register to be known as the Register of Caveats Against Arrest.

(2) The Registrar of a court in which a proceeding under the Act may be commenced as an action *in rem* shall maintain a register to be known as the Register of Caveats Against Release.

**PART III—PARTIES****Actions *in rem*: parties**

15. (1) Initiating process in a proceeding commenced as an action *in rem* shall specify a relevant person in relation to the maritime claim concerned as a defendant.

(2) A relevant person may be specified by reference to ownership of, or other relevant relationship with, the ship or other property concerned.

**Actions *in rem*: ship or property**

16. (1) Initiating process in a proceeding commenced as an action *in rem* shall identify the ship or other property concerned in relation to the maritime claim.

(2) If the proceeding is commenced against a surrogate ship, the ship in relation to which it is a surrogate ship shall also be identified in the initiating process.

(3) Initiating process may identify more than 1 ship as a surrogate ship.

**Amendment of process**

17. (1) The powers of a court in relation to amendment of process and joinder of parties extend to making an order, on such terms as are just:

- (a) substituting for a defendant identified in accordance with subrule 15 (2) another person; and
- (b) substituting for a ship another ship.

(2) Where process in a proceeding is amended by substituting for a ship another ship, the proceeding shall be taken to have been commenced against the other ship at the time specified in the order or, if no time is so specified, at the time when the order was made.

**PART IV—PROCESS*****Division 1—Initiating process*****Separate commencement of *in rem* and *in personam* actions**

18. A proceeding commenced as an action *in personam* shall not be commenced by the same initiating process as the process by which a proceeding is commenced as an action *in rem*.

**Initiating process**

19. A proceeding commenced as an action *in rem* shall be commenced by writ in accordance with Form 6.



**Validity of initiating process**

20. Initiating process in a proceeding commenced as an action *in rem* is effective for service for a period of 12 months after it is issued and may not be served after that time without the leave of the court.

**Limitation proceedings**

21. (1) A limitation proceeding shall be commenced as an action *in personam*.

(2) A limitation proceeding shall be commenced by a statement of claim in accordance with Form 7.

(3) At least 1 of the respondents to the limitation proceeding shall be named as respondent in the initiating process.

(4) Other respondents need not be so named but may be identified as respondents in the initiating process by reference to their being members of a specified class of persons.

(5) Initiating process need not be served on respondents so identified.

**Division 2—Statements of claim****Statements of claim**

22. (1) In a proceeding commenced as an action *in rem*, the plaintiff shall, unless the court otherwise orders, file and serve a statement of claim:

- (a) on each party who has entered an appearance; and
- (b) if a caveat against arrest is in force—on the caveator.

(2) The statement of claim shall be in accordance with Form 8.

(3) The time within which the statement of claim shall be served:

- (a) on a party—is 14 days after the party has entered an appearance;  
or
- (b) on a caveator—is 14 days after the time when the initiating process in the proceeding was served on the caveator.

**Division 3—Appearance****Appearance**

23. (1) In a proceeding commenced as an action *in rem*, the time within which an appearance by a party to the proceeding shall be filed is 21 days after service of the initiating process on the party.

(2) An appearance shall be in accordance with Form 9.

(3) A copy of the appearance shall be served on the other parties to the proceeding of whose address for service the party has notice.

**Division 4—Preliminary acts**

**Application**

**24. (1)** This Division applies to a proceeding arising out of a collision between 2 or more ships.

(2) In a proceeding on a maritime claim:

(a) arising out of the loss of a ship; or

(b) for damage done to or by a ship;

the court may, before the pleadings are closed, on application or of its own motion, order that this Division applies in respect of the proceeding.

**Preliminary acts**

**25. (1)** Unless the court otherwise orders, a party to a proceeding shall file a preliminary act.

(2) The preliminary act shall be:

(a) in the case of a collision between 2 or more ships—in accordance with Form 10; and

(b) in any other case—in accordance with Form 11.

(3) In a proceeding to which this Division applies by virtue of an order under subrule 24 (2), the parties shall comply with subrule (1) within such time, or such respective times, as is or are specified by the court.

(4) In any other proceeding to which this Division applies:

(a) the plaintiff shall comply with subrule (1) within 7 days after the commencement of the proceeding; and

(b) another party shall comply with subrule (1) within 28 days after entering an appearance and before filing a pleading.

**Preliminary acts to be sealed**

**26.** A preliminary act shall be filed in a closed envelope that has been sealed with the seal of the court and bears the date of filing.

**Default in filing preliminary act**

**27. (1)** Where the plaintiff fails to comply with rule 25, the court may, on application, dismiss the proceeding.

(2) Where a defendant fails to comply with rule 25, the plaintiff may take the same steps in the proceeding as may be taken in relation to a defendant who has failed to file a defence.

**Opening of preliminary acts**

**28. (1)** Subject to subrule (2), the Registrar shall open an envelope containing a preliminary act in a proceeding if the pleadings in the proceeding have been closed.

(2) The court may, at any stage of the proceeding, on application or of its own motion, order that the Registrar open the envelopes containing the preliminary acts and may make such further orders, including an order under Division 5, as are appropriate.

#### ***Division 5—Trial without pleadings***

##### **Trial without pleadings**

29. Where a defendant in a proceeding has entered an appearance, the court may, on application, if it is satisfied that the proceeding can conveniently be tried without pleadings or without further pleadings, as the case may be:

- (a) order that the proceeding be tried without pleadings or without further pleadings, as the case may be;
- (b) order that the pleadings be limited as specified in the order; and
- (c) give directions as to the further conduct of the proceeding.

#### **PART V—SERVICE OF INITIATING PROCESS**

##### **Service of initiating process on ships and other property**

30. (1) Initiating process in a proceeding commenced as an action *in rem*:

- (a) against a ship; or
- (b) against other property that is, at the time of service, on board a ship;

shall be served by securely affixing a sealed copy of the process to a mast, or some other conspicuous part, of the ship.

(2) Initiating process in a proceeding commenced as an action *in rem* against property that is not, at the time of service, on board a ship shall be served by securely affixing a sealed copy of the process to the property or to a package or container containing the property.

(3) If access to a ship or property cannot reasonably be obtained, process may be served on the ship or property by:

- (a) handing a sealed copy of the process to a person apparently in charge of the ship or property; or
- (b) if the person refuses to accept service—putting a sealed copy of the process down in the presence of the person and telling the person what the document is.

##### **Service of initiating process on proceeds**

31. Initiating process in a proceeding commenced as an action *in rem* against the proceeds of sale of a ship or other property that has been paid into court shall be served by filing a sealed copy of the process in the court in which the proceeds are held.

**Service upon caveator****32. Where:**

- (a) a proceeding is commenced as an action *in rem* against a ship or other property; and
- (b) a caveat against the arrest of the ship or property is in force or, after the proceeding is commenced, is filed;

a sealed copy of the initiating process shall be served on the caveator as soon as practicable after the person on whose behalf it was issued becomes aware of the existence of the caveat.

**Service by Marshal**

**33.** A Marshal may serve initiating process in a proceeding commenced as an action *in rem* against a ship or other property.

**Substituted service**

**34.** In a proceeding commenced as an action *in rem*, a court shall not order substituted service of initiating process that is to be served on a ship or other property.

**Service on any day**

**35.** Initiating process in a proceeding commenced as an action *in rem* may be served on any day.

**Service of amended process**

**36.** Where initiating process in a proceeding commenced as an action *in rem* has been amended, the amended process shall, unless the court otherwise orders, be served on each person on whom, and on each ship or on the property on which, the initiating process was served.

**Acceptance of service**

**37.** Where, in a proceeding commenced as an action *in rem* against a ship or other property, a solicitor acting for a defendant in the proceeding or the owner of the ship or property undertakes in writing to accept service of initiating process, or any other instrument, in relation to the proceeding, the process or instrument may be served on the solicitor in any way in which other process of the court may be served on the solicitor instead of being served as mentioned in rule 30, 31, 32 or 36, as the case may be.

**Substituted service of statement of claim**

**38.** A court may order substituted service of a statement of claim.

**PART VI—ARREST****Division 1—Arrest of ships and other property****Application for warrant**

**39. (1)** A party to a proceeding commenced as an action *in rem* may apply in accordance with Form 12 for an arrest warrant in respect of the ship or other property against which the proceeding was commenced.

**(2)** The application shall be supported by an affidavit of the applicant or of a solicitor or agent of the applicant in accordance with Form 13.

**Issue of warrant**

**40. (1)** Subject to this rule, the Registrar may issue an arrest warrant.

**(2)** The arrest warrant shall be in accordance with Form 14.

**(3)** Except by leave of the court, an arrest warrant shall not be issued if the Registrar is made aware that:

- (a)** a caveat against the arrest of the ship or other property is in force and:
  - (i)** the proceeding is a proceeding of the kind specified in the caveat;
  - (ii)** the caveat specifies an amount that is not less than the amount claimed by the applicant; and
  - (iii)** the period prescribed by subrule 9 (2) has not expired;
- (b)** the proceeding is stayed because payment has been made into court; or
- (c)** a bail bond in not less than the amount claimed by the party has been filed.

**Liability for Marshal's fees and expenses**

**41.** An application for an arrest warrant constitutes an undertaking to the court to pay to the Marshal, on demand, an amount equal to the amount of the fees and expenses of the Marshal in relation to the arrest.

**Period of validity**

**42. (1)** An arrest warrant shall not be executed more than 6 months after it was issued.

**(2)** Subrule (1) does not prevent the issue of a further arrest warrant.

**Execution of arrest warrants**

**43. (1)** An arrest warrant shall be executed only by the Marshal.

**(2)** An arrest warrant shall be executed in the same way as initiating process may be served.

(3) An arrest warrant shall not be executed on a ship or other property unless initiating process in the proceeding concerned has previously been served, or is to be served concurrently with the execution of the warrant, on the ship or property.

(4) A ship or other property may be arrested in a proceeding after judgment has been given in the proceeding.

(5) The Marshal shall not execute an arrest warrant if the applicant so requests or the court so orders.

(6) A request shall be in accordance with Form 15.

(7) Where an arrest warrant that specifies a ship or other property has been issued, the court may, on the application of:

- (a) if a caveat against the arrest of the ship or property is, at the time of the application, in force—the caveator; or
- (b) in any case—an interested person in relation to the ship or property; and on such terms as are just, order that the arrest warrant:
  - (c) be discharged; or
  - (d) be not executed or be not executed within a specified time.

#### **Duration of arrest**

44. A ship or other property specified in an arrest warrant is under arrest from the time when the warrant is executed until it is lawfully released from arrest or is sold by order of the court.

#### **Verification of service**

45. Execution of an arrest warrant shall be verified by affidavit in accordance with Form 16.

#### **Execution on any day**

46. An arrest warrant may be executed on any day.

### ***Division 2—Custody of ships etc. under arrest***

#### **Custody of arrested ships and property**

47. (1) Subject to these Rules, a Marshal who arrests a ship or other property has the custody of the ship or property.

(2) The Marshal shall, unless the court otherwise orders, take all appropriate steps to retain safe custody of, and to preserve, the ship or property, including:

- (a) removing from the ship, or storing, cargo that is under arrest;
- (b) removing cargo from a ship that is under arrest and storing it;
- (c) removing, storing or disposing of perishable goods that are under arrest or are in a ship that is under arrest; and
- (d) moving the ship that is under arrest.

(3) Subject to an order under paragraph 30 (2) (b) of the Act, where a ship or other property that is under arrest in a proceeding in a court is arrested in a proceeding in another court, subrule (1) only applies in relation to the later arrest after the ship or property has been lawfully released from the earlier arrest.

(4) Where, in relation to a proceeding commenced as an action *in rem* that is pending in a court (in this subrule called the first court):

- (a) a Marshal of another court has the custody of the ship or other property; or
- (b) the proceeds of the sale under the Act of the ship or property are held by another court;

the other court may make such orders as are necessary or convenient to transfer the custody of the ship or property to the Marshal of the first court or to transfer the proceeds to the first court.

#### **Applications concerning arrested property**

48. (1) Where a Marshal has custody of a ship or other property, the Marshal or a party may at any time apply to the court for directions with respect to the ship or property.

(2) If the Marshal who has the custody is a Marshal of a court other than the court in which the proceeding is pending, the application may be made to either court.

(3) Notice of an application, not being an application for the release from arrest of property, made by a person other than the Marshal shall be served on the Marshal.

(4) The court may order the applicant:

- (a) to give notice of the application; and
- (b) to give notice of the directions;

to such persons as are specified in the order.

#### **Discharge**

49. (1) Where:

- (a) cargo on board a ship is under arrest but the ship is not; or
- (b) a ship is under arrest but its cargo is not;

a person who is entitled to immediate possession of the ship or the cargo, respectively, may apply, in accordance with Form 17, to the Marshal to discharge the cargo from the ship.

(2) Where:

- (a) the Marshal is satisfied that the applicant is entitled to immediate possession of the ship or cargo;
- (b) the applicant gives an undertaking in writing that is satisfactory to the Marshal to pay on demand to the Marshal the fees and expenses of the Marshal in connection with the discharge; and

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(c) if the Marshal so requires, the applicant indemnifies the Marshal, in a form satisfactory to the Marshal, in respect of any claim against the Marshal arising from the discharge;  
the Marshal may comply with the application.

(3) Where:

- (a) cargo on a ship is under arrest but the ship is not; or
- (b) a ship is under arrest but its cargo is not;

the court may, on application and subject to such terms and conditions as are just, order the cargo to be discharged from the ship.

**Preservation, management and control powers**

50. The court may, at any stage of a proceeding, make appropriate orders with respect to the preservation, management or control of a ship or other property that is under arrest in the proceeding.

**Division 3—Release from arrest**

**Release by Registrar**

51. (1) Where a ship or other property is under arrest in a proceeding and the Registrar is satisfied that:

- (a) an amount equal to:
  - (i) the amount claimed; or
  - (ii) the value of the ship or property;whichever is the less, has been paid into court; or
- (b) a bail bond for an amount equal to:
  - (i) the amount claimed; or
  - (ii) the value of the ship or property;whichever is the less, has been filed;

in the proceeding the Registrar may, on application in accordance with Form 18, order the release from arrest of the ship or property.

(2) An order shall not be made under subrule (1) in relation to a ship or other property that has been arrested in a proceeding concerning a claim for salvage unless the value of the ship or property that is under arrest:

- (a) has been agreed between the parties; or
- (b) has been determined by the court.

(3) Where, in a proceeding, the party on whose application a ship or other property was arrested consents in writing to the release from arrest of the ship or property, the Registrar may order the release from arrest of the ship or property.

(4) Subject to section 29 of the Act, where:

- (a) a ship or other property has been arrested in a proceeding; and
  - (b) the proceeding has been discontinued or dismissed,
- the Registrar may order the release from arrest of the ship or property.



(5) Where a caveat against the release from arrest of the ship or other property is in force, an order shall not be made under subrule (1), (3) or (4) in relation to the ship or property unless the court so orders.

#### **Release from arrest by court**

**52.** (1) A party to a proceeding may apply to the court in accordance with Form 19 for the release of a ship or other property that is under arrest in the proceeding.

(2) Where a caveat against release of the ship or property is in force, a copy of the application shall be served on the caveator.

(3) On an application under subrule (1), the court may order the release from arrest of the ship or property on such terms as are just.

#### **Payment of Marshal's fees and expenses**

**53.** The Marshal may refuse to release a ship or other property from arrest in accordance with an order under this Part unless arrangements satisfactory to the Marshal have been made for the payment of the fees and expenses of the Marshal in connection with the custody of the ship or property while it was under arrest.

### **PART VII—BAIL**

#### **Bail bonds**

**54.** (1) Bail on behalf of a party shall be given by filing a bail bond.

(2) The bail bond shall be in accordance with Form 20, and, unless the court otherwise orders, shall be signed by 2 sureties.

(3) The sureties shall sign the bond before a Registrar of any court that has jurisdiction under the Act in a proceeding commenced as an action *in rem* or before a person before whom affidavits for use in such a court may be sworn, not being a person who, or whose partner, employer or employee, is acting as a barrister or solicitor for the party on whose behalf bail is to be given in the proceeding.

#### **Notice of bail**

**55.** (1) A party on whose behalf bail is to be given shall serve a notice of bail and a copy of the bond on each other party to the proceeding.

(2) Notice of bail shall be in accordance with Form 21.

#### **Objection to bail**

**56.** (1) A party who has been served with a notice of bail may, within 24 hours after service of the notice, file a notice of objection in accordance with Form 22 against the sufficiency of the proposed surety.

(2) The Registrar shall, on a date and at a time and place appointed by the Registrar, determine whether the proposed surety is sufficient.

(3) Not less than 24 hours before the time so appointed, notice of the hearing of the objection in accordance with Form 23, shall be served:

- (a) on each other party to the proceeding; and
- (b) personally upon the proposed surety.

(4) A proposed surety who has been served with a notice of the hearing of the objection under subrule (3) shall not fail to attend on the date and at the time and place so appointed, and from day to day thereafter at that time and place, unless excused by the Registrar.

Penalty:

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a body corporate—\$5,000.

(5) If the Registrar determines that the proposed surety is sufficient, then, unless the court otherwise orders, the costs of or incidental to the objection shall be paid by the party objecting.

#### **Filing bonds**

57. (1) Subject to subrule (2), a bail bond shall not be filed before the end of 24 hours after notice of the bail has been served under rule 55.

(2) If a party has objected to the sufficiency of a proposed surety, the bail bond shall not be filed until the Registrar has determined that the proposed surety is sufficient.

#### **Sureties bound**

58. A surety is bound by a bail bond from the time when the bond is filed.

#### **Court may vary bail**

59. (1) The court may, by order, reduce the amount of bail in respect of which a bail bond has been filed.

(2) Where the court makes an order under subrule (1), it may also make such orders as are necessary to give effect to the order.

(3) Subrules (1) and (2) do not affect any other power of the court.

#### **Costs of bail**

60. Subject to subrule 56 (5), the costs of and incidental to obtaining bail shall be taken to be costs in the proceeding.

### **PART VIII—LIMITATION PROCEEDINGS**

#### **Service on at least 1 respondent**

61. (1) The applicant in a limitation proceeding shall not apply:

- (a) to have the proceeding set down for hearing; or
- (b) for judgment in default of appearance;

unless at least 1 of the persons named as respondents in the initiating process has been served with initiating process.

(2) An application referred to in paragraph (1) (a) or (b) shall be supported by an affidavit setting out the name and, if known to the applicant, the address, of each other person who, to the knowledge of the applicant, has, or may have, a maritime claim against the applicant arising out of or connected with the matter in respect of which liability is to be limited.

#### **Advertisement of determination**

62. (1) In a limitation proceeding, where persons are identified as respondents in the initiating process by reference to their being members of a specified class of persons, the court shall, after determining whether the liability of the applicant may be limited and the extent of that liability, make orders:

- (a) specifying how the determination is to be advertised; and
- (b) fixing a period, ending not less than 2 months after the latest day allowed for the advertisement of the determination, as the period within which a person who claims to have a maritime claim against the applicant in respect of which the applicant's liability has been determined:
  - (i) may prosecute that claim; or
  - (ii) may apply under rule 64.

(2) The advertisement of a determination shall be in accordance with Form 24.

(3) The court need not make an order under subrule (1) if the court is satisfied that all members of the class of persons concerned have been served with initiating process.

#### **Effect of determination**

63. Where a determination in a limitation proceeding has not been advertised under rule 62, the determination binds only persons identified as respondents in the initiating process who have been served with the initiating process.

#### **Proceedings to set aside determinations**

64. (1) Where, in a limitation proceeding, the determination of the limit of the applicant's liability has been advertised in accordance with rule 62, the court may, on application in accordance with Form 25 by a person who has not been served with initiating process, and on such terms and conditions as are just, vary or set aside the determination.

(2) The application may not be made after the end of the period fixed under paragraph 62 (1) (b).

- (3) The application and the affidavits in support shall be served:
- (a) on the applicant in the limitation proceeding; and
  - (b) on each respondent to that proceeding who entered an appearance in the proceeding;
- not less than 7 days before the application is to be determined.

## PART IX—REFERENCE OF DAMAGES AND ACCOUNTS TO REGISTRAR

### References to Registrar

65. In a proceeding, the court may, on application or of its own motion, make an order referring the assessment of damages, or the taking of an account, to the Registrar.

### Affidavits

66. (1) Where an order referred to in rule 65 is made:
- (a) the party on whose application the order was made; or
  - (b) if there is no such party—a party specified by the court;
- shall file and serve on each other party an affidavit specifying the amount claimed and how it was ascertained.
- (2) The affidavit shall be served:
- (a) in a limitation proceeding—within the period fixed in the order; or
  - (b) in any other case—within 14 days after the day on which the order was made.
- (3) A party who has been served with an affidavit under subrule (1) may, within 14 days after being so served, file and serve an affidavit in reply.
- (4) The Registrar may then, on application:
- (a) set the reference down for hearing; and
  - (b) give directions in relation to the hearing.

### Registrar to make determinations

67. (1) On a reference under this Part, the Registrar shall determine the amount payable.
- (2) The determination may include orders as to the costs of and incidental to the reference.
- (3) The Registrar shall cause a copy of the determination to be given to each of the parties.
- (4) A determination under this rule has effect as if it were a judgment of the court in the proceeding.

**Application to vary**

**68.** The Court may, on application by a party made within 14 days after the day on which the copy of the determination was given to the party, confirm, vary or rescind the determination or remit the matter to the Registrar for a further determination.

**PART X—VALUATION AND SALE****Orders for valuation and sale**

**69. (1)** The court may, on application by a party to a proceeding and either before or after final judgment in the proceeding, order that a ship or other property that is under arrest in the proceeding:

- (a) be valued;
- (b) be valued and sold; or
- (c) be sold without valuation.

**(2)** An application for valuation or sale of a ship or other property shall be in accordance with Form 26.

**(3)** An order for valuation or sale of a ship or other property shall be in accordance with Form 27.

**(4)** An application under subrule (1) constitutes an undertaking by the party who made it to pay, on demand, to the Marshal an amount equal to the amount of the fees and expenses of the Marshal in complying with the order.

**(5)** If the ship or property is deteriorating in value, the court may, at any stage of the proceeding, either with or without application, order it to be sold.

**Sale**

**70. (1)** The sale of a ship or other property ordered to be sold under rule 69 shall be conducted by the Marshal.

**(2)** The sale shall be by public auction unless the court otherwise directs.

**Returns of sale etc.**

**71.** The Marshal shall, as soon as practicable after the sale of the ship or property:

- (a) file a return of sale;
- (b) pay into court the proceeds of sale; and
- (c) file an account of sale and documents in support of the account for taxation.

**Taxation of Marshal's fees and expenses**

72. (1) The Registrar shall tax the fees and expenses of the Marshal in connection with the valuation and sale of a ship or other property ordered to be sold.

(2) A person who is an interested person in relation to the proceeds of the sale may appear before the Registrar on the taxation.

**PART XI—PRIORITIES**

**Applications to determine priorities**

73. (1) Where a ship or other property has been arrested in a proceeding, a person who has obtained a judgment in a court (including a judgment in a court of a foreign country) against the ship or property, being a judgment that is enforceable in a court of Australia, may apply to the court for determination of the order of priority of claims against the ship or property.

(2) The court may, on the application, order that notice of the application in accordance with Form 28, specifying the period within which claims may be notified, be given or published as the court directs.

(3) The determination shall not be made until after the end of the period specified in the notice.

(4) The Marshal shall file a copy of the relevant part of each publication in which the notice appeared.

**Marshal's fees and expenses**

74. The fees and expenses of the Marshal in complying with an order of a court under this Part are part of the expenses of the sale of the ship or other property.

**PART XII—MISCELLANEOUS**

**Solicitor's undertakings**

75. A solicitor who fails to comply with an undertaking given to a court under these Rules is liable for committal.

**Wages, collision: security for costs**

76. The master, or a member of the crew, of a ship who is a plaintiff in a proceeding:

- (a) of the kind mentioned in paragraph 4 (3) (t) of the Act; or
- (b) for loss of goods in a collision between 2 or more ships;

shall not be required to give security for costs.

**Collision proceedings: stay pending security**

77. Where, in relation to maritime claims arising out of a collision between 2 or more ships:

- (a) a proceeding has been commenced as an action *in rem* and:
  - (i) a counter-claim has been made; or
  - (ii) a cross-action has been commenced, whether as an action *in personam* or an action *in rem*;
- (b) a ship has been arrested, or security has been given to avoid arrest, by a party; and
- (c) the other party has not arrested a ship or given such security;

the court may, on application, order that the proceeding be stayed until appropriate security has been given to satisfy a judgment given in favour of the other party on the cross-action or counter-claim.

**Marshal may make interim demands for fees and expenses**

78. Where a person is liable to pay fees and expenses of a Marshal under these Rules, the Marshal:

- (a) may accept an amount of money as a deposit towards discharging the liability; and
- (b) may make 1 or more demands for interim payments on account of those fees or expenses.

**Register of Admiralty proceedings**

79. Each court that has, under the Act, jurisdiction in proceedings commenced as actions *in rem* shall maintain a register in accordance with Form 29 of all proceedings in the court commenced under the Act to be known as the Register of Admiralty Proceedings.

**Court may give directions, vary Rules**

80. (1) The court may, on application or of its own motion and on such terms as are just:

- (a) give any appropriate direction with respect to a proceeding; and
- (b) by order, extend or abridge any time prescribed by these Rules or by rules of court applicable to a proceeding, whether or not the time has ended.

(2) The court may, on such terms as are just, dispense with compliance with any of these Rules, either before or after the time for compliance.

**Review of Registrar's actions**

81. (1) A party to a proceeding may apply to the court for review of a decision or other act of a Registrar in the proceeding.

- (2) The court may make such an order on the application as is just.

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**Instruments to be signed by Registrar, sealed**

82. Each document (including a warrant) issued by or by authority of a court in a proceeding shall:

- (a) be signed by the Registrar;
- (b) be sealed with the seal of the court; and
- (c) show the date on which it was sealed.

**Inspection of Registers**

83. Any person may inspect a Register without charge.



**SCHEDULE**

**FORMS**

Form 1

Paragraph 5 (a)

**TITLE OF DOCUMENTS FOR USE IN PROCEEDINGS UNDER THE ACT**

**ADMIRALTY RULES**

IN THE (Court<sup>1</sup>) No. of 19  
IN ADMIRALTY

BETWEEN

Plaintiff<sup>2</sup>

AND

Defendant<sup>3</sup>

(or THE OWNERS OF THE SHIP<sup>4</sup>)

(or THE SHIP<sup>5</sup> AS THE SURROGATE FOR THE SHIP<sup>6</sup>)

L

move/

1. insert name of court exercising admiralty jurisdiction
2. insert name of plaintiff
3. insert name of defendant
4. only 1 ship may be named
5. where claim is against a surrogate ship, insert name of surrogate
6. more than 1 ship may be named





## SCHEDULE—continued

Form 2

Subrule 7 (1)

(Title)

## CAVEAT AGAINST ARREST OF SHIP OR OTHER PROPERTY

Ship/property! 2

Caveat by: 3

Relationship with ship/property! 4

Caveat expires: 5

Amount for which caveat entered: \$ 6

Kind of proceeding to which caveat applies: 7

Address for service of caveator: 8

If a proceeding to which this caveat applies is commenced against the ship/property<sup>1</sup> in any Australian court, I undertake to:

- (a) enter an appearance in the proceeding; and
- (b) comply with any obligations as to bail or payment into court under rule 9 of the Admiralty Rules;

within 3 days after being served with initiating process in the proceeding.

- 
1. *strike out whichever is not applicable*
  2. *if ship, insert name of ship and port of registry; if other property, insert description of property*
  3. *insert name of applicant*
  4. *insert short particulars of relationship*
  5. *if caveat to be in force for less than 12 months, specify time, but not less than 7 days*
  6. *insert amount*
  7. *list kinds of proceedings to which caveat applies, for example, "All proceedings", "Any proceeding on a claim referred to in subsection 4 (2) or paragraph 4 (3) (a) to (g) (inclusive) of the Admiralty Act 1988" or as appropriate*
  8. *insert address for service*

Form 3

Subrule 7 (3)

(Title)

## SOLICITOR'S UNDERTAKING

(To be endorsed on the caveat)

If a proceeding to which this caveat applies is commenced against the ship/property<sup>1</sup> in any Australian court, I undertake that the caveator on whose behalf the caveat is filed<sup>1</sup> will:

- (a) enter an appearance in the proceeding; and
- (b) comply with the obligations as to bail or payment into court under rule 9 of the Admiralty Rules;

within 3 days after being served with initiating process in the proceeding.

- 
1. *strike out whichever is not applicable*

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**SCHEDULE**—continued

Form 4

Rule 10

(Title)

**CAVEAT AGAINST RELEASE FROM ARREST OF SHIP OR OTHER PROPERTY**

Ship/property<sup>1, 2</sup>

Caveat by: <sup>3</sup>

<sup>4</sup>Relationship with ship/property<sup>1</sup>: <sup>5</sup>

Address for service of caveator: <sup>6</sup>

1. *strike out whichever is not applicable*
2. *if ship, insert name of ship and port of registry; if other property, describe property; if the ship/property has not been sold but may be sold by order of the Court, add "or the proceeds of sale of that ship/property (as appropriate)"*
3. *insert name*
4. *complete only if caveator not a party to the proceeding in which the ship or property was arrested*
5. *insert short particulars of relationship*
6. *insert address for service*

Form 5

Rule 13

(Title)

**WITHDRAWAL OF CAVEAT**

Ship/property<sup>1, 2</sup>

Date caveat filed: <sup>3</sup>

I, <sup>4</sup>, withdraw the caveat against the arrest/release<sup>1</sup> of the ship/property<sup>1</sup>.

1. *strike out whichever is not applicable*
2. *insert name of ship or description of property*
3. *insert date of filing caveat*
4. *insert name*

## SCHEDULE—continued

Form 6

Rule 19

(Title)

WRIT

BY THIS WRIT the plaintiff commences action against the ship/property<sup>1</sup> specified above.

PARTICULARS OF SHIP/PROPERTY<sup>1</sup>: <sup>2</sup>AMOUNT CLAIMED OR OTHER RELIEF SOUGHT: <sup>3</sup>PARTICULARS OF CLAIM: <sup>4</sup>

- 
1. *Strike out whichever is not applicable*
  2. *if ship, insert name of ship and port of registry; if other property, insert description of property*
  3. *insert amount claimed or other orders sought*
  4. *give enough short particulars of the claim to identify the cause of action*

Form 7

Subrule 21 (2)

(Title)

## STATEMENT OF CLAIM: LIMITATION PROCEEDING

1. I, <sup>1</sup>, am the <sup>2</sup>.
2. The respondent, <sup>3</sup>, is <sup>4, 5</sup>.
3. On <sup>6, 7</sup>.
4. I claim to be entitled to limit my liability arising out of these circumstances on the following grounds: <sup>8</sup>
5. I therefore seek the following orders: <sup>9</sup>

- 
1. *insert name and address of applicant*
  2. *insert relationship of applicant with ship and specify name and port of registry of ship*
  3. *insert name and address of respondent*
  4. *set out the relationship of the defendant with the circumstances out of which the liability in respect of which the applicant claims to be entitled to limit liability arose*
  5. *repeat paragraph 2 for each defendant named as defendant, numbering the paragraphs 2A, 2B, etc.*
  6. *insert date of circumstances out of which the liability in respect of which the applicant claims to be entitled to limit liability arose*
  7. *give short, factual description of circumstances out of which the liability in respect of which the applicant claims to be entitled to limit liability arose*
  8. *set out short statement of grounds for limiting liability*
  9. *set out precise orders sought*
-

SCHEDULE—continued

Form 8

Subrule 22 (2)

(Title)

STATEMENT OF CLAIM: ACTION *IN REM*

1. \_\_\_\_\_
2. I claim the following relief: \_\_\_\_\_
- PARTICULARS \_\_\_\_\_

TO THE DEFENDANT:

If you want to defend this claim, you must, within 21 days after this statement of claim is served on you, file an appearance.

You may also pay an amount into court.

- 
1. *set out the facts giving rise to the claim; do not refer to evidence; the matter should be put into paragraphs, numbered consecutively and set out as briefly as convenient; unduly long pleadings may be penalised by costs*
  2. *set out precisely the relief or orders sought*
  3. *set out particulars of any injuries suffered*

Form 9

Subrule 23 (2)

(Title)

APPEARANCE

- i. \_\_\_\_\_ appears.
2. My relationship with the ship/property<sup>2</sup> against which this proceeding has been commenced is as follows: \_\_\_\_\_
3. My address for service is: \_\_\_\_\_

- 
1. *insert name*
  2. *strike out whichever is not applicable*
  3. *insert short particulars of relationship*
  4. *insert address for service*
-

## SCHEDULE—continued

Form 10

Paragraph 25 (2) (a)

(Title)

## PRELIMINARY ACT

(Collision between 2 or more ships)

Preliminary act of plaintiff/defendant<sup>1</sup>

1. Date of collision:
2. Time of collision:
3. Place of collision:
4. Names of ships that came into collision:
5. In relationship to ship of the party filing this preliminary act:
  - (a) name of ship:
  - (b) port of registry:
  - (c) the name of master at time of collision:
  - (d) name and address of person in command at the time of the collision and in the period immediately before the collision:
  - (e) name and address of persons on the bridge at the time of the collision and in the period immediately before the collision.
  - (f) name and address of persons keeping a lookout at the time of the collision and in the period immediately before the collision:
  - (g) course, or, if the ship was stationary, heading (specify which) at the time when the other ship was first seen or immediately before any measures were taken with reference to its presence (whichever was the earlier):
  - (h) speed at the time when the other ship was first seen or immediately before any measures were taken with reference to its presence (whichever was the earlier):
  - (j) alterations made to course after the earlier of the times referred to in paragraph (g) and before the time of the collision, and when made:
  - (k) alterations made to speed after the earlier of the times referred to in paragraph (h) and before the time of the collision, and when made:
  - (m) other measures taken to avoid the collision, and when taken:
  - (n) sounds or other signals given, and when given:
  - (o) lights carried:
6. In relation to each other ship involved in the collision<sup>2</sup>:
  - (a) name of ship:
  - (b) its distance and bearing at the time when its echo was first observed by radar by a person on the ship of the party filing the preliminary act:
  - (c) its distance, bearing and approximate heading when first seen by a person on the ship of the party filing the preliminary act:
  - (d) the lights it was showing when first seen by a person on the ship of the party filing the preliminary act:
  - (e) the lights it was showing after that time but before the collision:
  - (f) the alterations made to its course after it was first seen by a person on the ship of the party filing the preliminary act, and when they were made:

## SCHEDULE—continued

- (g) the alterations made to its speed after it was first seen by a person on the ship of the party filing the preliminary act, and when they were made:
  - (h) the other measures that it took to avoid the collision, and when they were taken:
  - (j) the sounds or other signals that it gave, and when they were given:
7. The state of the weather at the time of the collision and in the period immediately before the collision:
8. The extent of visibility at the time of the collision and in the period immediately before the collision:
9. The state, direction and force of the tidal or other current at the time of the collision and in the period immediately before the collision:
10. The direction and force of the wind at the time of the collision and in the period immediately before the collision:
11. The parts of each ship which first came into contact:
12. The approximate angle between the ships at the moment of contact:

- 
1. *complete all questions fully; if any are not applicable, say so, or as appropriate*
  2. *for each other ship involved in the collision, repeat this question as question 6A, 6B, etc.*

Form 11

Paragraph 25 (2) (a)

*(Title)*

## PRELIMINARY ACT

*(To be used where loss of, or damage to or by, a single ship)*Preliminary act of plaintiff/defendant<sup>1</sup>

1. Date of loss or damage:
2. Time of loss or damage:
3. Place of loss or damage:
4. Name of ship involved:
5. Description of anything else involved<sup>2</sup>:
6. If the ship involved belonged to the party filing this preliminary act:
  - (a) port of registry:
  - (b) the name of master at relevant time:
  - (c) name and address of person in command at and immediately before the time of the loss or damage:
  - (d) name and address of persons on the bridge at and immediately before the time of the loss or damage:
  - (e) name and address of persons keeping a lookout at and immediately before the time of the loss or damage:
  - (f) course, or, if the ship was stationary, heading (specify which) at the time when it first became known that there was a likelihood of the loss or damage or immediately before any measures were taken to avoid that loss or damage (whichever was the earlier):

## SCHEDULE—continued

- (g) speed at the earlier of the times referred to in paragraph (f);
  - (h) alterations made to course after the earlier of the times referred to in paragraph (f) and before the time of the loss or damage, and when made;
  - (j) alterations made to speed after the earlier of the times referred to in paragraph (f) and before the time of the loss or damage, and when made;
  - (k) other measures taken to avoid the loss or damage, and when taken;
  - (m) sounds or other signals given, and when given;
  - (n) lights carried:
7. If the ship involved did not belong to the party filing this preliminary act and the loss or damage occurred in a collision with something else:
- (a) distance and bearing of ship at the time when its echo was first observed by radar by a person on the other thing involved in the collision;
  - (b) distance, bearing and approximate heading of ship when first seen by a person on the other thing involved in the collision;
  - (c) the lights that were being shown by ship when first seen by a person on the other thing involved in the collision;
  - (d) the lights that were being shown by ship after that time but before the collision;
  - (e) the alterations made by ship to its course after it was first seen by a person on the other thing involved in the collision, and when they were made;
  - (f) the alterations made by ship to its speed after it was first seen by a person on the other thing involved in the collision, and when they were made;
  - (g) the other measures taken by ship to avoid the collision, and when they were taken;
  - (h) the sounds or other signals given by ship and when they were given:
8. The state of the weather at and immediately before the time of the loss or damage:
9. The extent of visibility at and immediately before the time of the loss or damage:
10. The state, direction and force of the tidal or other current at and immediately before the time of the loss or damage:
11. The direction and force of the wind at and immediately before the time of the loss or damage:
12. The parts of the ship and the other thing which first came into contact:
13. The approximate angle between the ship and the other thing at the moment of contact:

---

1. *Complete all questions fully. If any are not applicable, say so and why.*

---

Form 12

Subrule 39 (1)

(Title)

APPLICATION FOR ARREST WARRANT

Please issue a warrant for the arrest of \_\_\_\_\_.

---

1. *if ship, insert name of ship and port of registry; if other property, describe property*

---

## SCHEDULE—continued

Form 13

Subrule 39 (2)

(Title)

## AFFIDAVIT TO SUPPORT APPLICATION FOR ARREST WARRANT

1. I am <sup>1.</sup>
2. I ask for a warrant for the arrest of <sup>2.</sup>
3. The claim in respect of which the arrest is sought concerns <sup>3.</sup>
4. I have caused a search to be made of the Register of Caveats Against Arrest and no such caveat is in force/the following caveat/s is/are<sup>4</sup> in force: <sup>4,5.</sup>
5. The following documents have been served on the caveators<sup>6</sup> on the following respective dates: <sup>7.</sup>
6. The claim has not been satisfied/has been partly satisfied<sup>4</sup> as follows:
  - (a) an amount of \$ <sup>8</sup> has been paid into court in the <sup>9.</sup>;
  - (b) security to the value \$ <sup>8</sup> for payment of claim has been given <sup>10.</sup>
- 7.<sup>11</sup> The amount of salvage money awarded or agreed to be accepted is \$ <sup>8</sup> and is being held by <sup>12.</sup>
8. The aid of the court is necessary to enable the claim to be satisfied.

- 
1. *insert full name and description of deponent*
  2. *if ship, insert name of ship and port of registry; if other property, describe property*
  3. *set out short particulars of the claim*
  4. *strike out whichever is not applicable*
  5. *set out short particulars of caveats in force*
  6. *set out clearly which documents have been served on each of the caveators*
  7. *set out when each document was served*
  8. *insert amount*
  9. *insert name of court*
  10. *set out where security held*
  11. *complete paragraph 7 only if claim is a salvage claim*
  12. *insert name and address of person holding salvage money*

Form 14

Subrule 40 (2)

(Title)

## ARREST WARRANT

To the Marshal:

Arrest <sup>1.</sup>Warrant taken out by <sup>2.</sup>

- 
1. *if ship, insert name of ship and port of registry; if other property, describe property*
  2. *insert name of applicant and description, for example, "solicitor for the plaintiff"*
-



## SCHEDULE—continued

Form 15

Subrule 43 (6)

(Title)

## REQUEST NOT TO EXECUTE ARREST WARRANT

1. On <sup>1</sup> an arrest warrant was issued at my application against <sup>2</sup>.
2. Please do not execute the warrant.

1. *insert date*
2. *if ship, insert name of one ship and port of registry; if other property, insert description of property*

Form 16

Rule 45

(Title)

## AFFIDAVIT OF SERVICE OF ARREST WARRANT

1. I am <sup>1</sup>.
2. The arrest warrant a copy of which is annexed to this affidavit and marked "A" was served by me on <sup>2</sup> on <sup>3</sup> at <sup>4</sup>.
3. The warrant was served <sup>5</sup>.

1. *insert description of deponent*
2. *insert name of ship or description of property arrested*
3. *insert date and time of arrest*
4. *insert place of arrest*
5. *describe method of service of warrant, for example, "by affixing the warrant to a conspicuous part of the ship, namely, the . . ."*

Form 17

Subrule 49 (1)

(Title)

## APPLICATION FOR DISCHARGE

Ship/property<sup>1</sup> to be discharged: <sup>2</sup>Applicant: <sup>3</sup>Relationship with ship/property<sup>1</sup>: <sup>4</sup>Address for service of applicant: <sup>5</sup>

I undertake to pay the fees and expenses of the Marshal in complying with this application.

1. *strike out whichever is not applicable*
2. *if ship, insert name of one ship and port of registry; if other property, insert description of property*

## SCHEDULE—continued

3. *insert name and short description of applicant*
4. *insert short description of interest*
5. *insert address for service*

Form 18

Subrule 51 (1)

(Title)

APPLICATION TO REGISTRAR FOR RELEASE OF SHIP OR OTHER  
PROPERTYShip/property<sup>1</sup>: 2

Applicant: 3

Relationship with ship/property<sup>1</sup>: 4

<sup>5</sup>Value of ship/property<sup>1</sup>, as agreed between the parties/determined by the court<sup>1</sup>:  
\$ 6

Grounds on which release is sought: 7

I have caused a search to be made in the Register of Caveats Against Release and no such caveat is in force.

Address for service of applicant: 8

I undertake to pay the fees and expenses of the Marshal in complying with this application.

- 
1. *strike out whichever is not applicable*
  2. *if ship insert name of ship; if other property, insert description of property*
  3. *insert name and short description of applicant*
  4. *insert short description of interest*
  5. *complete this only if claim is a claim for salvage*
  6. *insert value; if by agreement between parties, insert names of parties; if by determination of the court, insert details of court order*
  7. *set out particulars of grounds*
  8. *insert address for service*

Form 19

Subrule 52 (1)

(Title)

APPLICATION TO COURT FOR RELEASE OF SHIP OR OTHER  
PROPERTYShip/property<sup>1</sup>: 2

Applicant: 3

Grounds on which release sought: 4

I have caused a search to be made of the Register of Caveats Against Release and:

<sup>1</sup> (a) no such caveat is in force;

<sup>1</sup> (b) the following caveat/s<sup>1</sup> is/are<sup>1</sup> in force: 5

and a copy of this application was served on the following caveator/s: 1, 6, 7

I undertake to pay the fees and expenses of the Marshal in connection with the custody of the ship/property<sup>1</sup> while under arrest.

---

## SCHEDULE—continued

1. *strike out whichever is not applicable*
2. *insert name of ship; if other property, insert description of property*
3. *insert name of applicant and description, for example, "plaintiff" or "solicitor for the plaintiff"*
4. *set out particulars of grounds*
5. *set out short particulars of caveats in force*
6. *set out clearly which caveators have been served with the application*
7. *insert date of service*

---

Form 20

Subrule 54 (2)

(Title)

## BAIL BOND

1. I/We<sup>6</sup>, <sup>1</sup>, submit to the jurisdiction of the court.
2. I/We<sup>6</sup> consent that if <sup>2,3</sup>, does not/do not<sup>6</sup> satisfy any judgment in this proceeding<sup>4</sup>, then execution may issue against me/us<sup>6</sup> for a sum not exceeding \$ <sup>5</sup>.

- 
1. *insert name, address and occupation of surety*
  2. *insert names of all parties for whom bail is to be given*
  3. *insert plaintiff/s or defendant/s*
  4. *delete if bail is for costs or expenses only*
  5. *insert amount*
  6. *strike out whichever is not applicable*
- In relation to witnesses, see Admiralty Rules, subrule 54 (3)*

---

Form 21

Subrule 55 (2)

(Title)

## NOTICE OF BAIL

Party on whose behalf bail given: <sup>1</sup>

Amount of bail: \$ <sup>2</sup>

Names and addresses of sureties: <sup>3</sup>

Bail bond signed before: <sup>4</sup>

- 
1. *insert name of party and "(defendant)" or as appropriate*
  2. *insert the amount*
  3. *insert name, address and occupation of each surety*
  4. *insert name, address and occupation of person before whom bond was taken*

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SCHEDULE—continued

Form 22

Subrule 56 (1)

(Title)

NOTICE OF OBJECTION TO SURETY

I object to the sufficiency of the following proposed surety:

Dated:

1. *insert name of surety*

Form 23

Subrule 56 (3)

(Title)

NOTICE OF HEARING OF OBJECTION TO BAIL

TO

1. You must attend to be examined whether your surety in this matter is sufficient.

Place where you must attend: <sup>2</sup>

Date and time when you must attend: <sup>3</sup>

2. Failure to comply with this notice is an offence.

1. *insert name and address of surety*

2. *insert place of hearing*

3. *insert date and time of hearing*

Form 24

Subrule 62 (2)

ADMIRALTY RULES

ADVERTISEMENT OF APPLICATION TO LIMIT LIABILITY

LIMITATION OF SHIPOWNER'S LIABILITY

NOTICE TO CLAIMANTS

1. On <sup>2, 3</sup>

2. The <sup>4</sup> has now determined that the liability of <sup>5</sup> should be limited, under the <sup>6</sup> to a total of \$ <sup>7</sup> (action no. <sup>8</sup>).

3. Anyone who has a claim against <sup>5</sup> arising out of these events and who wishes to enforce that claim against the limitation fund should enter an appearance in the Court before <sup>9</sup>, otherwise an order distributing the limitation fund may be made without notice to them.

4. Anyone wishing to have the determination of the Court varied or set aside must apply to do so before <sup>9</sup>.

## SCHEDULE—continued

1. *insert name of ship*
2. *insert date of event giving rise to the application to limit liability*
3. *insert brief particulars of event giving rise to the application to limit liability*
4. *insert name of court*
5. *insert name of applicant*
6. *insert "Navigation Act 1912 (Cth)" or as appropriate*
7. *insert amount determined by the court*
8. *insert number and year of proceedings*
9. *insert last day for entry of appearance or application to vary or set aside*

Form 25

Subrule 64 (1)

(Title)

## APPLICATION TO VARY OR SET ASIDE DETERMINATION LIMITING LIABILITY

1. Applicant: <sup>1</sup>
2. Determination sought to be set aside or varied: <sup>2</sup>
3. Nature of claim against applicant for determination to limit liability: <sup>3</sup>
4. I apply to have the determination set aside/varied<sup>4</sup> as follows: <sup>5</sup>
5. I have not been served with initiating process in that proceeding.

1. *insert name, address and occupation of applicant*
2. *insert particulars of determination to be set aside or varied*
3. *set out short particulars of the claim*
4. *strike out whichever is not applicable*
5. *insert details of variation sought*

Form 26

Subrule 69 (2)

(Title)

## APPLICATION FOR VALUATION OR SALE OF SHIP OR OTHER PROPERTY

1. Ship/property<sup>1</sup>: <sup>2</sup>
2. Applicant: <sup>3</sup>
3. I apply for the ship/property<sup>1</sup>:
  - <sup>1</sup>to be valued
  - <sup>1</sup>to be valued and sold under the *Admiralty Act 1988*
  - <sup>1</sup>to be sold under the *Admiralty Act 1988* without valuation.
4. I undertake to pay on demand to the Marshal an amount equal to the fees and expenses involved.

## SCHEDULE—continued

1. *strike out if not applicable*
2. *insert name of ship; if other property, insert description of property*
3. *insert names of applicant and description, for example, "plaintiff"*

---

 Form 27

Subrule 69 (3)

(Title)

## ORDER FOR VALUATION OR SALE OF SHIP OR OTHER PROPERTY

Ship/property<sup>1</sup>: <sup>2</sup>

To the Marshal:

1. <sup>1</sup>Have the above ship/property<sup>1</sup> valued in writing.
2. <sup>1</sup>Sell the above ship/property<sup>1</sup> under the admiralty Rules.
3. <sup>1</sup>The sale need not be by public auction.

- 
1. *strike out if not applicable*
  2. *insert name of ship; if other property, insert description of property*

---

 Form 28

Subrule 73 (2)

(Title)

## NOTICE OF APPLICATION TO DETERMINE PRIORITIES

1

1. The <sup>1</sup> has been/is about to be<sup>2</sup> sold and the proceeds of sale, \$ <sup>3</sup>, have been/will be<sup>2</sup> paid into Court at <sup>4</sup>.
2. Application has been made to determine the priority of claims against the ship/proceeds of sale<sup>2</sup>.
3. The application will not be determined until after <sup>5</sup>.
4. Anyone who has a claim against the ship/proceeds of sale should commence proceedings to enforce that claim before <sup>5</sup>, and if necessary apply to the Court to extend the period within which the order of priorities will not be determined, otherwise an order determining the priority of claims against the ship or proceeds of sale may be made without notice.

- 
1. *insert name of ship*
  2. *strike out whichever is not applicable*
  3. *insert amount*
  4. *insert registry, if applicable*
  5. *insert date specified by the court on the application to determine priorities*
-

## SCHEDULE—continued

Form 29

Rule 79

## REGISTER OF ADMIRALTY PROCEEDINGS

<sup>1</sup>Ship/property<sup>1</sup>: <sup>2</sup>  
 Year and number:  
 Amount claimed/other relief sought<sup>1</sup>: <sup>5</sup>  
 Parties: <sup>3</sup>  
     Plaintiff:  
     Defendant(s)<sup>1</sup>:  
 Nature of claim: <sup>4</sup>  
<sup>1</sup>Arrest made:  
     Ship/property<sup>1</sup> arrested: <sup>5</sup>  
     Was it a surrogate ship: Yes/no<sup>1</sup>  
<sup>1</sup>Caveat against release:  
     Filed by: <sup>7</sup>  
     Withdrawn: <sup>6</sup>  
     Set aside: <sup>6</sup>  
<sup>2</sup>Transferred/remitted<sup>1</sup>  
     To: <sup>8</sup>  
     Date: <sup>6</sup>  
 Date fixed for hearing: <sup>6</sup>  
 Judgment:  
     For plaintiff/defendant<sup>1</sup>  
     Date: <sup>6</sup>  
     <sup>1</sup>Amount: \$ <sup>9</sup>  
     <sup>1</sup>Other relief given: <sup>10</sup>  
<sup>1</sup>Ship/property<sup>1</sup> sold:  
     Purchaser: <sup>11</sup>  
     Date: <sup>6</sup>  
     Price: \$ <sup>9</sup>

- 
1. *strike out whichever is not applicable*
  2. *if ship, insert name of one ship and port of registry; if other property, insert description of property*
  3. *insert names of parties, as indicated*
  4. *insert nature of claim; if proprietary or general maritime claim, refer to relevant provision of the Admiralty Act 1988*
  5. *complete this question*
  6. *insert date*
  7. *name of caveator*
  8. *court of transfer or remittal as appropriate*
  9. *insert amount*
  10. *insert other orders made*
  11. *insert name and address*
- 

## NOTE

1. Notified in the *Commonwealth of Australia Gazette* on *4*

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