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Statutory Rules 1993 No. L¹

327/

Admiralty Rules² (Amendment)

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

Dated L 1993.

2 December
L BILL HAYDEN
Governor-General

By His Excellency's Command,

L
Attorney-General

M. LAVARECH

1. Amendment

1.1 The Admiralty Rules are amended as set out in these Rules.

[NOTE: These Rules commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Rule 30 (Service of initiating process on ships and other property)

2.1 Add at the end:

“(4) In this rule, ‘sealed copy of the process’ includes a copy, transmitted by facsimile transmission, of a sealed copy of the process.”.

3. Rule 41 (Liability for Marshal’s fees and expenses)

3.1 Omit the rule, substitute:

“41. An application for an arrest warrant constitutes an undertaking:

- (a) if the application is made by the applicant personally—by the applicant; or
- (b) if the application is made by a solicitor on behalf of the applicant—by the solicitor;

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.”.

4. Rule 51 (Release by Registrar)

4.1 Insert after subrule (1):

“(1A) If a person pays money into court for the purposes of subrule (1), the person must:

- (a) file with the court a notice in accordance with Form 17A; and
- (b) serve a copy of the notice on each of the other parties to the proceeding.”.

4.2 Add at the end:

“(6) The Registrar must not hear an application for the release from arrest of a ship or any property under this rule unless:

- (a) the applicant for the release has given to the plaintiff notice, being notice that the Registrar is satisfied is reasonable in the circumstances, of the hearing of the application for the release; or
- (b) the Registrar is satisfied that there are exceptional circumstances that justify hearing the application without giving notice to the plaintiff.

“(7) If the Registrar orders under subrule (1), (3) or (4) that a ship or any property is to be released from arrest, the Registrar must give notice of the release to the Marshal in accordance with Form 19A.”.

5. Rule 52 (Release from arrest by the Court)

5.1 Add at the end:

“(4) The court must not hear an application for the release from arrest of a ship or any property under this rule unless:

- (a) the applicant for the release has given to the plaintiff notice, being notice that the court is satisfied is reasonable in the circumstances, of the hearing of the application for the release; or
- (b) the court is satisfied that there are exceptional circumstances that justify hearing the application without giving notice to the plaintiff.

“(5) If the court orders under subrule (1) that a ship or any property is to be released from arrest, the court must give notice of the release to the Marshal in accordance with Form 19A.”.

6. Rule 54 (Bail bonds)

6.1 Subrule 54 (2):

After “court”, insert “ or a Registrar”.

7. Rule 75 (Undertakings)

7.1 Omit “A solicitor”, substitute “Any person”.

8. Schedule (Forms)

8.1 Form 1:

Omit the Form, substitute:

“Form 1

Paragraph 5 (a)

TITLE OF DOCUMENTS FOR USE IN PROCEEDINGS UNDER
THE ACT

ADMIRALTY RULES

IN THE (*Court*¹)
IN ADMIRALTY

No. of 19

BETWEEN

Plaintiff²

AND

Defendant³*(or* THE SHIP⁴

)

(or THE SHIP(S)⁵AS SURROGATE(S) FOR THE
SHIP⁴)*(or* THE SHIP⁴

AND THE

SHIP(S)⁵AS SURROGATE(S) FOR THAT
SHIP)*(or* ⁶

)

(or THE SHIP⁴

and

⁶).

-
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. *if the claim is against a surrogate ship or surrogate ships, insert the name or names of the surrogate or surrogates*
 6. *if the claim is against property, insert a short description of the property”.*

8.2 Form 6:
Omit the Form, substitute:

“Form 6
(Title)

Rule 19

WRIT

BY THIS WRIT the plaintiff commences action against the ship/property specified below.

DATE OF ISSUE¹:

PARTICULARS OF SHIP/PROPERTY²:

3

AMOUNT CLAIMED OR OTHER RELIEF SOUGHT⁴:

PARTICULARS OF CLAIM⁵:

RELEVANT PERSON⁶:

TO THE DEFENDANT:

If you want to defend this claim, you must, within 21 days after this writ is served on you, file an appearance.
You may also pay an amount into court.

ADDRESS OF PLAINTIFF:

ADDRESS FOR SERVICE ON THE PLAINTIFF⁷:

-
1. *plaintiff to insert the date on which this writ is issued by the court*
 2. *strike out whichever is not applicable*
 3. *if the claim is against a ship, insert name of ship and port of registry; if the claim is against other property, insert description of property*
 4. *insert amount claimed or other order sought*
 5. *give enough short particulars of the claim to identify the cause of action*
 6. *refer to rule 15 and specify the relevant person in relation to the claim, if known to the plaintiff*
 7. *the address at which notices for the plaintiff may be served, if different from the plaintiff's actual address”.*

8.3 Form 12:

Omit the Form, substitute:

“Form 12
(Title)

Subrule 39 (1)

APPLICATION FOR ARREST WARRANT

Please issue a warrant for the arrest of
(for a ship, insert name of ship and port of registry; if other
property, describe property)

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

8.4 Form 16:

Omit the Form, substitute:

“Form 16
(Title)

Rule 45

AFFIDAVIT OF EXECUTION OF ARREST WARRANT

1. I am 1.
2. The arrest warrant a copy of which is annexed to this affidavit
and marked “A” was executed by me on 2
on 3 at 4.
3. The warrant was executed by 5.

-
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 execution of warrant, for example, ‘by affixing the
warrant to a conspicuous part of the ship, namely.....’.*

8.5 New form 17A:
After Form 17, insert:

“Form 17A
(Title)

Paragraph 51 (1A) (a)

NOTICE OF PAYMENT INTO COURT

Ship/Property ¹ :	2
Person making payment:	3
Relationship with ship/property: ¹	4
I have paid into Court \$	⁵ to secure the
release of	2.

-
1. *strike out whichever is not applicable*
 2. *for a ship, insert name of ship; for other property, insert description of property*
 3. *insert short name and short description of person making the payment*
 4. *insert short description of interest*
 5. *insert amount of payment”.*

