



# Admiralty Amendment Rules 2013

## Select Legislative Instrument No. 206, 2013

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I, Quentin Bryce AC CVO, 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 05 August 2013

Quentin Bryce  
Governor-General

By Her Excellency's Command

Mark Dreyfus QC  
Attorney-General

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OPC50469 - A



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*No. 206, 2013*

*Admiralty Amendment Rules 2013*

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*OPC50469 - A*



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## **1 Name of Rules**

These Rules are the *Admiralty Amendment Rules 2013*.

## **2 Commencement**

These Rules commence on the day after they are registered.

## **3 Authority**

These Rules are made under the *Admiralty Act 1988*.

## **4 Schedule(s)**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Admiralty Rules 1988*

#### 1 Subrule 3(1)

Insert:

***classification certificate (hull and machinery)*** means a certificate of class issued by a Classification Society within the meaning of regulation II-1/3-1 of the Annex to the Safety Convention.

***foreign registration certificate*** means a document issued under the law of a foreign country that is equivalent to a registration certificate.

***international load line certificate*** means a certificate in the form of the International Load Line Certificate set out in Annex III to the International Convention on Load Lines.

***international ship security certificate*** has the same meaning as ***ISSC*** in section 10 of the *Maritime Transport and Offshore Facilities Security Act 2003*.

***international tonnage certificate*** means a certificate in the form of the International Tonnage Certificate (1969) set out in Annex II to the Tonnage Convention.

***Load Lines Convention*** has the same meaning as in subsection 14(1) of the *Navigation Act 2012*.

***original certification document*** means any of the following certificates:

- (a) a classification certificate (hull and machinery);
- (b) a foreign registration certificate;
- (c) an international load line certificate;
- (d) an international ship security certificate;
- (e) an international tonnage certificate;
- (f) a registration certificate;
- (g) a safety construction certificate;
- (h) a safety equipment certificate;

- (i) a safety management certificate;
- (j) a safety radio certificate;
- (k) a survey certificate.

**registration certificate** has the same meaning as in subsection 3(1) of the *Shipping Registration Act 1981*.

**safety construction certificate** means a certificate issued in accordance with regulation 12(a)(ii) of Chapter I of the Safety Convention.

**Safety Convention** means the International Convention for the Safety of Life at Sea, done at London on 1 November 1974, as amended and in force for Australia from time to time.

**safety equipment certificate** means a certificate issued in accordance with regulation 12(a)(iii) of Chapter I of the Safety Convention.

**safety management certificate** means a certificate issued in accordance with regulation 4.3 of Chapter IX of the Safety Convention.

**safety radio certificate** means a certificate issued in accordance with regulation 12(a)(iv) of Chapter I of the Safety Convention.

**survey certificate** means a safety certificate that:

- (a) relates to the survey of a ship; and
- (b) is issued in accordance with section 100 of the *Navigation Act 2012* and *Marine Order 31, issue 6*.

**Tonnage Convention** has the same meaning as in subsection 14(1) of the *Navigation Act 2012*.

## 2 Subrule 4(2)

After “Master” (wherever occurring), insert “or an Associate Judge”.

## 3 Subrule 39A(1)

Omit “the following parties to a proceeding commenced as an action”, substitute “the following persons in relation to a proceeding commenced as an action”.

**4 At the end of subrule 39A(1)**

Add:

- ; (c) the master of a ship against which the proceeding was commenced.

**5 Subrule 39A(2)**

Repeal the subrule, substitute:

- (2) Each person referred to in subrule (1) must disclose to the Marshal any fact or matter that the person is aware of that:
  - (a) could affect the safety of:
    - (i) the Marshal, master, crew or any other person; or
    - (ii) the ship or any other property (including, for example, cargo on the ship);in, or in relation to, the arrest or custody of the ship or property; or
  - (b) relates to:
    - (i) the risk or occurrence of pollution; or
    - (ii) damage to a person, property or the marine environment;by or from the ship or property (including, for example, cargo on the ship).

**6 Subrule 43(1A)**

Repeal the subrule, substitute:

- (1A) At the same time that the arrest warrant is executed, the following documents must be served at or near the place where service of initiating process occurred in accordance with rule 30:
  - (a) the affidavit in support of the application for the arrest warrant;
  - (b) a copy of the writ and all annexures and exhibits to the affidavit (unless it is not reasonable in the circumstances to do so).

**7 Subrule 43(2)**

Omit “, and the affidavit served,”



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**8 After subrule 47(2)**

Insert:

- (2A) The Marshal may, when considering moving a ship under arrest, take into consideration the operational requirements of the port authority where the ship is to be held in custody.
- (2B) The Marshal may, at any time after a ship has been arrested, demand and take possession of the original certification documents of the ship.
- (2C) The Marshal must return any documents taken under subrule (2B) as soon as practicable after the ship is released from arrest.

**9 Subrule 51(1)**

Repeal the subrule, substitute:

- (1) On receiving an application in accordance with Form 18, the Registrar may order the release from arrest of a ship or other property under arrest in a proceeding if 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 less, has been paid into court in the proceeding; 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 less, has been filed in the proceeding; or
  - (c) the party who made the application for the ship or other property to be arrested has made arrangements satisfactory to that party for the release of the ship or other property.

**10 Subrule 51(3)**

Repeal the subrule, substitute:

- (3) The Registrar may order the release of a ship or other property that has been arrested if, in a proceeding, the party who made the application for the ship or other property to be arrested has:

- (a) consented in writing to the release from arrest of the ship or property; and
- (b) made an application to the Registrar in accordance with Form 18A.

**11 Schedule (heading)**

Repeal the heading, substitute:

**Schedule 1—Forms**

**12 Form 1 of the Schedule (heading)**

Repeal the heading, substitute:

**Form 1—Title of documents for use in proceedings under the Act**

(paragraph 5(a))

**13 Form 1 of the Schedule**

Omit “19”, substitute “20”.

**14 After Form 18 of the Schedule**

Insert:

**Form 18A—Application to Registrar for release of ship or other property by arresting party**

(subrule 51(3))

*(Title)*

APPLICATION TO REGISTRAR FOR RELEASE OF SHIP OR OTHER PROPERTY BY ARRESTING PARTY

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

Applicant: 3

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

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I consent to the release from arrest of the ship/property<sup>1</sup>, <sup>2</sup>.

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: <sup>5</sup>

I undertake / I, <sup>6</sup>, of <sup>7</sup>, undertake<sup>1</sup> to the court to pay the costs and expenses of the Marshal in relation to the custody of the ship/property<sup>1</sup>, <sup>2</sup>, while under arrest, including the costs and expenses associated with the release of that ship/property<sup>1</sup>.

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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. *insert address for service*
  6. *insert name of principal authorised by a law practice to give an undertaking under rule 75A*
  7. *insert name of law practice*