



# **Admiralty Rules 1988**

**Statutory Rules No. 269, 1988**

made under the

*Admiralty Act 1988*

## **Compilation No. 8**

**Compilation date:** 1 July 2016

**Includes amendments up to:** F2016L00726

**Registered:** 6 July 2016

Prepared by the Office of Parliamentary Counsel, Canberra

---

## About this compilation

### This compilation

This is a compilation of the *Admiralty Rules 1988* that shows the text of the law as amended and in force on 1 July 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

---

# Contents

<b>Part I—Preliminary</b>	1
1 Name of Rules .....	1
2 Commencement .....	1
3 Interpretation.....	1
4 Marshal and Registrar .....	3
5 Headings of documents.....	4
5A Service of certain documents and notices .....	4
6 Operation of these Rules .....	4
6A Relief from rules .....	4
<b>Part II—Caveats</b>	5
<b>Division 1—Caveats against arrest</b>	5
7 Caveats against arrest.....	5
8 Undertaking by caveator .....	5
9 Caveator to give bail .....	5
<b>Division 2—Caveats against release</b>	7
10 Caveats against release .....	7
11 Caveats may be set aside.....	7
<b>Division 3—General</b>	8
12 Caveats in force for 12 months .....	8
13 Withdrawal of caveats.....	8
14 Registers .....	8
<b>Part III—Parties</b>	9
15 Actions <i>in rem</i> : parties.....	9
16 Actions <i>in rem</i> : ship or property .....	9
17 Amendment of process .....	9
<b>Part IV—Process</b>	10
<b>Division 1—Initiating process</b>	10
18 Separate commencement of <i>in rem</i> and <i>in personam</i> actions.....	10
19 Initiating process.....	10
20 Validity of initiating process.....	10
21 Limitation proceedings .....	10
<b>Division 2—Statements of claim</b>	11
22 Statements of claim.....	11
<b>Division 3—Appearance</b>	12
23 Appearance .....	12
<b>Division 4—Preliminary acts</b>	13
24 Application .....	13
25 Preliminary acts .....	13
26 Preliminary acts to be marked “Confidential”, etc.....	13
27 Default in filing preliminary act.....	14
28 Opening of preliminary acts.....	14
<b>Division 5—Trial without pleadings</b>	15
29 Trial without pleadings .....	15

---

<b>Part V—Service of initiating process</b>	16
30 Service of initiating process on ships and other property.....	16
31 Service of initiating process on proceeds .....	16
32 Service upon caveator .....	16
33 Service by Marshal .....	17
34 Substituted service .....	17
35 Service on any day .....	17
36 Service of amended process .....	17
37 Acceptance of service .....	17
38 Substituted service of statement of claim .....	17
<b>Part VI—Arrest</b>	18
<b>Division 1—Arrest of ships and other property</b>	18
39 Application for warrant.....	18
39A Disclosure of matters affecting safety .....	18
40 Issue of warrant.....	19
41 Marshal’s costs and expenses.....	19
42 Period of validity .....	19
43 Execution of arrest warrants .....	19
44 Duration of arrest.....	20
45 Verification of service.....	20
46 Execution on any day.....	20
<b>Division 2—Custody of ships etc under arrest</b>	21
47 Custody of arrested ships and property .....	21
48 Applications concerning arrested property.....	21
48A Provision of information by Marshal .....	22
49 Discharge .....	22
50 Preservation, management and control powers .....	23
<b>Division 3—Release from arrest</b>	24
51 Release by Registrar .....	24
52 Release from arrest by the Court.....	25
53 Marshal’s costs and expenses.....	25
<b>Part VII—Bail</b>	26
54 Bail bonds .....	26
55 Notice of bail .....	26
56 Objection to bail.....	26
57 Filing bonds .....	28
58 Sureties bound.....	28
59 Court may vary bail .....	28
60 Costs of bail .....	28
<b>Part VIII—Limitation proceedings</b>	29
61 Service on at least 1 respondent.....	29
62 Advertisement of determination.....	29
63 Effect of determination .....	29
64 Proceedings to set aside determinations.....	29
<b>Part IX—Reference of damages and accounts to Registrar</b>	31
65 References to Registrar .....	31

---

---

66	Affidavits .....	31
67	Registrar to make determinations.....	31
68	Application to vary .....	31
<b>Part X—Valuation and sale</b>		<b>32</b>
69	Orders for valuation and sale .....	32
70	Sale .....	32
71	Returns of sale etc.....	32
<b>Part XI—Priorities</b>		<b>33</b>
73	Applications to determine priorities .....	33
74	Marshal’s costs and expenses.....	33
<b>Part XII—Miscellaneous</b>		<b>34</b>
74AA	Definitions for this Part.....	34
75	Undertakings.....	34
75A	Undertakings by a law practice .....	34
75B	Use of clean bonds .....	35
75C	Orders relating to undertakings and securities .....	35
76	Wages, collision: security for costs.....	36
77	Collision proceedings: stay pending security .....	36
78	Marshal may make interim demands for costs and expenses .....	36
78A	Marshal’s costs and expenses: aid to other courts .....	36
78B	Taxation of Marshal’s costs and expenses .....	37
79	Register of Admiralty proceedings .....	37
80	Court may give directions, vary Rules .....	37
81	Review of Registrar’s actions .....	37
82	Instruments to be signed by Registrar, sealed .....	37
83	Inspection of Registers.....	38
<b>Schedule 1—Forms</b>		<b>39</b>
<b>Form 1—Title of documents for use in proceedings under the Act</b>		<b>39</b>
<b>Form 2—Caveat against arrest of ship or other property</b>		<b>40</b>
<b>Form 3—Australian legal practitioner’s undertaking</b>		<b>41</b>
<b>Form 4—Caveat against release from arrest of ship or other property</b>		<b>42</b>
<b>Form 5—Withdrawal of caveat</b>		<b>43</b>
<b>Form 6—Writ</b>		<b>44</b>
<b>Form 7—Statement of claim: limitation proceeding</b>		<b>44</b>
<b>Form 8—Statement of claim: action in rem</b>		<b>46</b>
<b>Form 9—Appearance</b>		<b>47</b>
<b>Form 10—Preliminary act</b>		<b>48</b>
<b>Form 11—Preliminary act</b>		<b>50</b>

---

---

<b>Form 12—Application for arrest warrant</b>	52
<b>Form 13—Affidavit to support application for arrest warrant</b>	53
<b>Form 14—Arrest warrant</b>	54
<b>Form 15—Request not to execute arrest warrant</b>	55
<b>Form 16—Affidavit of execution of arrest warrant</b>	56
<b>Form 17—Application for discharge</b>	57
<b>Form 17A—Notice of payment into Court</b>	58
<b>Form 18—Application to registrar for release of ship or other property</b>	59
<b>Form 18A—Application to Registrar for release of ship or other property by arresting party</b>	60
<b>Form 19—Application to Court for release of ship or other property</b>	61
<b>Form 19A—Notice of release from arrest</b>	62
<b>Form 20—Bail bond</b>	63
<b>Form 21—Notice of bail</b>	64
<b>Form 22—Notice of objection to surety</b>	65
<b>Form 23—Notice of hearing of objection to bail</b>	66
<b>Form 24—Advertisement of application to limit liability limitation of shipowner’s liability</b>	67
<b>Form 25—Application to vary or set aside determination limiting liability</b>	68
<b>Form 26—Application for valuation or sale of ship or other property</b>	69
<b>Form 27—Order for valuation or sale of ship or other property</b>	70
<b>Form 28—Notice of application to determine priorities</b>	71
<b>Form 29—Register of admiralty proceedings</b>	72
<b>Endnotes</b>	74
<b>Endnote 1—About the endnotes</b>	74
<b>Endnote 2—Abbreviation key</b>	75
<b>Endnote 3—Legislation history</b>	76
<b>Endnote 4—Amendment history</b>	77

---

## Part I—Preliminary

### 1 Name of Rules

These Rules are the *Admiralty Rules 1988*.

### 2 Commencement

These Rules commence on 1 January 1989.

### 3 Interpretation

(1) In these Rules:

*Act* means the *Admiralty Act 1988*.

*amount claimed* includes an amount in respect of interest and costs.

*arrest warrant* means a warrant for the arrest of a ship or other property.

*Australian legal practitioner* means a person who is admitted to the legal profession in Australia and who holds a current practising certificate.

*authorised deposit-taking institution* has the meaning given by subsection 5(1) of the *Banking Act 1959*.

*caveator*, in relation to a caveat, means the person by whom, or on whose behalf, the caveat was filed.

*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.

*costs*, in relation to a proceeding, includes:

- (a) a party's reasonable costs of the proceeding; and
- (b) if relevant, any amount the party has paid, or is liable to pay, to the court or the Marshal in relation to the arrest, custody, preservation, discharge, release or sale of a ship or other property.

*electronic communication* means a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy.

*Federal Court Chief Executive Officer* means the Chief Executive Officer and Principal Registrar of the Federal Court of Australia.

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

Rule 3

---

**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.

**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.

**proceeding** means a proceeding commenced under the Act.

**Register** means a register maintained under subrule 14(1) or (2) or rule 79.

**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) In these Rules, 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.

#### **4 Marshal and Registrar**

- (1) If, 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 must 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) If, in relation to a proceeding in a court:
  - (a) a power, function or duty is conferred or imposed on the Registrar by these Rules; and
  - (b) the Rules of Court concerned authorise a Master or an Associate Judge of the court to exercise the power or function or perform the duty;the power or function may be exercised, and the duty must be performed, by a Master or an Associate Judge.
- (3) If, 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 must be performed:
  - (a) by a person (whether or not an officer of the court):
    - (i) appointed by the court to be a Marshal; or
    - (ii) authorised by the court, or by the Rules of Court, to exercise the power or function or perform the duty; or
  - (b) by an officer or employee of the Commonwealth, a State or a Territory, authorised in writing by a Marshal to exercise the power or function or perform the duty on his or her behalf.
- (4) Action may be authorised orally under paragraph (3)(b) if it is not practicable to authorise the action in writing before it is taken, but a written authorisation must be given as soon as practicable.

## Rule 5

---

### 5 Headings of documents

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

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

### 5A Service of certain documents and notices

- (1) Subject to subrule (2), this rule applies to the service of documents for the purposes of the Act or these Rules.
- (2) This rule does not apply to the service of:
  - (a) initiating process; or
  - (b) arrest warrants.
- (3) A document may be served on a person:
  - (a) by email:
    - (i) if an email address has been provided by the person for the purpose of service in the proceeding—to that email address; or
    - (ii) otherwise—to an email address of the person; or
  - (b) by fax sent to a fax number of the person; or
  - (c) if the court orders that the document may be served by means of a particular kind of electronic communication—by that means.

Note: Rules of Court of a court exercising jurisdiction under the Act may permit a document to be served otherwise than by electronic communication.

- (4) A reference to a document in subrule (3) includes a reference to a document that is to be given to a person to enable the person to exercise a power, or perform a function, for the purposes of the Act or these Rules.

### 6 Operation of these Rules

- (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.

Example: Rules of Court of a court exercising jurisdiction under the Act that require or permit a document to be filed by electronic communication will apply to a document required or permitted by these Rules to be filed in the court.

- (2) If 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.

### 6A Relief from rules

The court may dispense with compliance with any of the requirements of these Rules, either before or after the occasion for compliance arises.

## **Part II—Caveats**

### **Division 1—Caveats against arrest**

#### **7 Caveats against arrest**

- (1) A caveat against the arrest of a ship or other property must be in accordance with Form 2 and may be filed in a registry of the Federal Court.
- (2) The caveat must 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 must 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) an authorised deposit-taking institution.
- (5) The Federal Court may set aside a caveat against the arrest of a ship or other property.

#### **8 Undertaking by caveator**

- (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.

#### **9 Caveator to give bail**

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

**Part II** Caveats

**Division 1** Caveats against arrest

**Rule 9**

---

- (d) the caveat specifies an amount not less than the amount claimed.
- (2) Within 3 days after having been so served, the caveator must, 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) is 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**

### **10 Caveats against release**

If 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.

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

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

### **Division 3—General**

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

- (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.

#### **13 Withdrawal of caveats**

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

#### **14 Registers**

- (1) The Federal Court Chief Executive Officer must 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* must maintain a register to be known as the Register of Caveats Against Release.

## **Part III—Parties**

### **15 Actions *in rem*: parties**

- (1) Initiating process in a proceeding commenced as an action *in rem* must 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.

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

- (1) Initiating process in a proceeding commenced as an action *in rem* must 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 must also be identified in the initiating process.
- (3) Initiating process may identify more than 1 ship as a surrogate ship.

### **17 Amendment of process**

- (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) If process in a proceeding is amended by substituting for a ship another ship, the proceeding is 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

#### 18 Separate commencement of *in rem* and *in personam* actions

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

#### 19 Initiating process

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

#### 20 Validity of initiating process

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.

#### 21 Limitation proceedings

- (1) A limitation proceeding must be commenced as an action *in personam*.
- (2) A limitation proceeding must be commenced by a statement of claim in accordance with Form 7.
- (3) At least 1 of the respondents to the limitation proceeding must 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**

### **22 Statements of claim**

- (1) In a proceeding commenced as an action *in rem*, the plaintiff must, 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 must be in accordance with the Rules of Court concerned.
- (3) The time within which the statement of claim must 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

### 23 Appearance

- (1) In a proceeding commenced as an action *in rem*, the time within which an appearance by a party to the proceeding must be filed is 21 days after service of the initiating process on the party.
- (2) An appearance must be in accordance with Form 9.
- (3) A copy of the appearance must be served on the other parties to the proceeding of whose address for service the party has notice.

## **Division 4—Preliminary acts**

### **24 Application**

- (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 on its own initiative, order that this Division applies in respect of the proceeding.

### **25 Preliminary acts**

- (1) Unless the court otherwise orders, a party to a proceeding must file a preliminary act.
- (2) The preliminary act must 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 must 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 must comply with subrule (1) within 7 days after the commencement of the proceeding; and
  - (b) another party must comply with subrule (1) within 28 days after entering an appearance and before filing a pleading.

### **26 Preliminary acts to be marked “Confidential”, etc.**

- (1) If a preliminary act is to be filed (other than by electronic communication) with a court, the preliminary act must be filed in a closed envelope that:
  - (a) is marked “Confidential”; and
  - (b) is sealed with the seal of the court; and
  - (c) bears the date of filing.
- (2) If a preliminary act is to be sent by electronic communication to a court for filing, the preliminary act:
  - (a) must be marked “Confidential”; and
  - (b) must be accompanied by a statement that the preliminary act is a “confidential preliminary act which must only be opened in accordance with rule 28 of the *Admiralty Rules 1988*”.

**Rule 27**

---

- (3) For the purposes of this rule, *file* includes lodge for filing.

**27 Default in filing preliminary act**

- (1) If the plaintiff fails to comply with rule 25, the court may, on application, dismiss the proceeding.
- (2) If 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.

**28 Opening of preliminary acts**

- (1) If a preliminary act is filed in a court in accordance with subrule 26(1), the Registrar must open the envelope containing the preliminary act if:
- (a) the court so orders; or
  - (b) the pleadings in the proceeding are closed.
- (2) If a preliminary act is filed in a court in accordance with subrule 26(2), the Registrar must make the preliminary act available to the parties if:
- (a) the court so orders; or
  - (b) the pleadings in the proceeding are closed.
- (3) The court may make an order under paragraph (1)(a) or (2)(a):
- (a) on application or on its own initiative; and
  - (b) at any stage of the proceeding; and
  - (c) together with such other orders, including an order under Division 5, as are appropriate.

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

### **29 Trial without pleadings**

If 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

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

- (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; must 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 must 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.
- (4) In this rule, *sealed copy of the process* includes a copy, sent by electronic communication, of a sealed copy of the process.

### 31 Service of initiating process on proceeds

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 must be served by filing a sealed copy of the process in the court in which the proceeds are held.

### 32 Service upon caveator

If:

- (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 must 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.

**33 Service by Marshal**

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

**34 Substituted service**

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

**35 Service on any day**

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

**36 Service of amended process**

If initiating process in a proceeding commenced as an action *in rem* has been amended, the amended process must, 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.

**37 Acceptance of service**

- (1) This rule applies if, in a proceeding commenced as an action *in rem* against a ship or other property, an Australian legal practitioner acting for a defendant in the proceeding or for 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.
- (2) The process or instrument may be served on the Australian legal practitioner in any way in which other process of the court may be served on the Australian legal practitioner instead of being served in accordance with rule 30, 31, 32 or 36, as the case may be.

**38 Substituted service of statement of claim**

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

## Part VI—Arrest

### Division 1—Arrest of ships and other property

#### 39 Application for warrant

- (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 must be supported by an affidavit of the applicant or of an Australian legal practitioner or agent of the applicant.
- (3) The affidavit must be in accordance with Form 13 and must set out particulars of the claim and any necessary facts that would entitle an action *in rem* to be brought, in accordance with the Act, in respect of the claim.

Note: A caveator or interested person may apply for an order that an arrest warrant be discharged for failure to comply with this rule (see subrule 43(8)).

#### 39A Disclosure of matters affecting safety

- (1) This rule applies to the following persons in relation to a proceeding commenced as an action *in rem*:
  - (a) a party who has applied, under rule 39, for an arrest warrant in respect of the ship or other property against which the proceeding was commenced;
  - (b) a party appearing in the proceeding after the execution of the arrest warrant;
  - (c) the master of a ship against which the proceeding was commenced.
- (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).
- (3) The disclosure under subrule (2) must be made as soon as possible after the person becomes aware of the fact or matter and before the ship or property is released from arrest.

#### **40 Issue of warrant**

- (1) Subject to this rule, the Registrar may issue an arrest warrant.
- (2) The arrest warrant must be in accordance with Form 14.
- (3) Except by leave of the court, an arrest warrant must 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.

#### **41 Marshal's costs and expenses**

- (1) An application for an arrest warrant constitutes an undertaking to the court:
  - (a) if the application is made by the applicant personally—by the applicant; or
  - (b) if the application is made by an Australian legal practitioner on behalf of the applicant—by the Australian legal practitioner; or
  - (c) if the application is made by any other agent of the applicant—by the applicant;to pay to the Marshal, on demand, an amount equal to the amount of the costs and expenses of the Marshal in relation to the arrest, including costs and expenses in relation to the ship or other property while it is under arrest.
- (2) In addition to any undertaking, the Marshal may demand from the applicant payment of an amount of money that the Marshal considers necessary as a deposit to enable the Marshal to discharge his or her duties effectively in relation to the arrest, including duties while the ship or other property is under arrest.

#### **42 Period of validity**

- (1) An arrest warrant must not be executed more than 6 months after it was issued.
- (2) Subrule (1) does not prevent the issue of a further arrest warrant.

#### **43 Execution of arrest warrants**

- (1) The execution of an arrest warrant must be undertaken by the Marshal.
- (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).

**Part VI** Arrest

**Division 1** Arrest of ships and other property

**Rule 44**

---

- (2) The arrest warrant must be executed in the same way as initiating process is served.
- (3) An arrest warrant must 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 must not execute an arrest warrant if the applicant so requests or the court so orders.
- (6) A request must be in accordance with Form 15.
- (7) If 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.
- (8) A caveator or interested person may apply to the court for an order that the arrest warrant be discharged because of a failure to comply with rule 39 in relation to the application for the arrest warrant.

**44 Duration of arrest**

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.

**45 Verification of service**

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

**46 Execution on any day**

An arrest warrant may be executed on any day.

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

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

- (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 must, 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.
- (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.
- (3) Subject to an order under paragraph 30(2)(b) of the Act, if 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) If, 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.

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

- (1) If 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.

**Part VI Arrest**

**Division 2 Custody of ships etc under arrest**

**Rule 48A**

---

- (3) Notice of an application, not being an application for the release from arrest of property, made by a person other than the Marshal must be served on the Marshal.
- (4) The court may order the applicant:
  - (a) to serve notice of the application; and
  - (b) to serve notice of the directions;on such persons as are specified in the order.

**48A Provision of information by Marshal**

- (1) This rule applies if:
  - (a) an arrest warrant that specifies a ship or other property has been issued; and
  - (b) the Marshal receives a written request for information in relation to the arrest from:
    - (i) a party; or
    - (ii) if a caveat against release of the ship is, at the time of the request, in force—the caveator.
- (2) Unless the Marshal is satisfied that the request is unreasonable, the Marshal must, as far as reasonably practicable, inform the party or caveator about the following matters in relation to the arrest:
  - (a) the status of the arrest;
  - (b) the costs and expenses of the Marshal;
  - (c) other anticipated costs and expenses of the Marshal;
  - (d) any anticipated demands under rule 78 for a deposit towards, or interim payments on account of, costs and expenses.
- (3) If the Marshal does not respond to the request, the party or caveator may apply to the court for a direction that the Marshal must provide the information mentioned in subrule (2).
- (4) The costs and expenses of the Marshal in responding to the request:
  - (a) form part of the Marshal's costs and expenses in relation to the arrest of the ship or other property; and
  - (b) must, unless the Court orders otherwise, be met by the party or caveator who made the request.

**49 Discharge**

- (1) If:
    - (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) If:
-

- (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 costs and expenses of the Marshal in connection with the discharge; and
- (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) If:

- (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.

## **50 Preservation, management and control powers**

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

### 51 Release by Registrar

- (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.
- (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.
- (2) An order must 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) 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.
- (4) Subject to section 29 of the Act, if:
  - (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) If a caveat against the release from arrest of the ship or other property is in force, an order must not be made under subrule (1), (3) or (4) in relation to the ship or property unless the court so orders.
- (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.

## **52 Release from arrest by the Court**

- (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) If a caveat against release of the ship or property is in force, a copy of the application must 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.
- (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.

## **53 Marshal's costs and expenses**

- (1) An application under rule 51 or 52 for the release from arrest of a ship or other property constitutes an undertaking to the court:
  - (a) if the application is made by the applicant personally—by the applicant; or
  - (b) if the application is made by an Australian legal practitioner on behalf of the applicant—by the Australian legal practitioner; or
  - (c) if the application is made by any other agent of the applicant—by the applicant;to pay to the Marshal, on demand, an amount equal to the amount of the Marshal's costs and expenses in connection with the custody of the ship or property while it was under arrest, including the costs and expenses associated with the release from arrest of the ship or property.
- (2) The Marshal may refuse to release a ship or other property from arrest unless arrangements satisfactory to the Marshal have been made for the payment of the costs and expenses mentioned in subrule (1).

## Part VII—Bail

### 54 Bail bonds

- (1) Bail on behalf of a party must be given by filing a bail bond.
- (2) The bail bond must be in accordance with Form 20, and, unless the court or a Registrar otherwise orders, must be signed by 2 sureties.
- (3) The sureties must sign the bond before:
  - (a) a Registrar of any court that has jurisdiction under the Act in a proceeding commenced as an action *in rem*; or
  - (b) a person before whom affidavits for use in such a court may be sworn, other than:
    - (i) a person who is acting as an Australian legal practitioner for the party on whose behalf bail is to be given in the proceeding; or
    - (ii) a person whose partner, employer or employee, is acting as an Australian legal practitioner for the party on whose behalf bail is to be given in the proceeding.
- (4) A partnership or corporation carrying on business in the jurisdiction in which the proceeding is commenced may act as a surety.
- (5) If both sureties signing the bond under subrule (3) are corporations, the corporations must not be related bodies corporate within the meaning of section 9 of the *Corporations Act 2001*.

### 55 Notice of bail

- (1) A party on whose behalf bail is to be given must serve a notice of bail and a copy of the bond on each other party to the proceeding.
- (2) Notice of bail must be in accordance with Form 21.

### 56 Objection to bail

- (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 must, 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, must be served:
  - (a) on each other party to the proceeding; and
  - (b) personally upon the proposed surety.

- 
- (3A) Before the date appointed by the Registrar under subrule (2), the proposed surety must file and serve on each other party to the proceeding an affidavit regarding its financial circumstances.
- (3B) The affidavit must set out at least the following matters:
- (a) the proposed surety's current and non-current assets and liabilities (including contingent liabilities);
  - (b) current proceedings in which the proposed surety is a party;
  - (c) whether, in the 5 years before the date of the affidavit, the proposed surety has been the subject of any demand under a law relating to bankruptcy or insolvency;
  - (d) whether, in the 5 years before the date of the affidavit, the proposed surety has been made bankrupt, placed in administration or receivership or has been the subject of bankruptcy or winding up proceedings or of a garnishee order.
- (3C) The Registrar may direct the proposed surety to file and serve a supplementary affidavit setting out additional information regarding:
- (a) the proposed surety's financial circumstances; or
  - (b) other circumstances relating to the proposed surety's sufficiency;
- as the Registrar considers appropriate.
- (4) A proposed surety who has been served with a notice of the hearing of the objection under subrule (3) must 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: 10 penalty units.
- (4A) The Registrar may:
- (a) adjourn from time to time the hearing appointed under subrule (2); and
  - (b) allow the proposed surety or a party to the proceeding to file and serve additional affidavit material regarding the sufficiency of the proposed surety; and
  - (c) give directions regarding such matters as the Registrar considers appropriate.
- (4B) If a material adverse change occurs in relation to a matter or circumstance mentioned in an affidavit filed under this rule, the proposed surety must, within 7 days after that change occurs, file and serve on each other party to the proceeding another affidavit setting out the changed details in relation to the matter.
- (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 must be paid by the party objecting.

Rule 57

---

**57 Filing bonds**

- (1) Subject to subrule (2), a bail bond must 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 must not be filed until the Registrar has determined that the proposed surety is sufficient.

**58 Sureties bound**

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

**59 Court may vary bail**

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

**60 Costs of bail**

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

## **Part VIII—Limitation proceedings**

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

- (1) The applicant in a limitation proceeding must 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) must 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.

### **62 Advertisement of determination**

- (1) In a limitation proceeding, if persons are identified as respondents in the initiating process by reference to their being members of a specified class of persons, the court must, 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 must 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.

### **63 Effect of determination**

If 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.

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

- (1) If, 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

Rule 64

---

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 must 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**

### **65 References to Registrar**

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

### **66 Affidavits**

- (1) If 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;must file and serve on each other party an affidavit specifying the amount claimed and how it was ascertained.
- (2) The affidavit must 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.

### **67 Registrar to make determinations**

- (1) On a reference under this Part, the Registrar must determine the amount payable.
- (2) The determination may include orders as to the costs of and incidental to the reference.
- (3) The Registrar must 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.

### **68 Application to vary**

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

### 69 Orders for valuation and sale

- (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 must be in accordance with Form 26.
- (3) An order for valuation or sale of a ship or other property must 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 costs 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.

### 70 Sale

- (1) The sale of a ship or other property ordered to be sold under rule 69 must be conducted by the Marshal.
- (2) The court may direct that the sale be by auction, public tender or any other method.

### 71 Returns of sale etc

The Marshal must, 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.

## **Part XI—Priorities**

### **73 Applications to determine priorities**

- (1) If 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 must not be made until after the end of the period specified in the notice.
- (4) The Marshal must file a copy of the relevant part of each publication in which the notice appeared.

### **74 Marshal's costs and expenses**

The costs 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

### 74AA Definitions for this Part

In this Part:

***incorporated legal practice*** means a corporation that engages in legal practice in Australia, whether or not it also provides services that are not legal services.

***law firm*** means a partnership consisting only of:

- (a) Australian legal practitioners; or
- (b) one or more Australian legal practitioners and one or more Australian-registered foreign lawyers.

***law practice*** means:

- (a) a law firm; or
- (b) a multi-disciplinary partnership; or
- (c) an incorporated legal practice.

***legal practitioner director*** means a director of an incorporated legal practice who is an Australian legal practitioner holding an unrestricted practising certificate.

***legal practitioner partner*** means a partner of a multi-disciplinary partnership who is an Australian legal practitioner holding an unrestricted practising certificate.

***multi-disciplinary partnership*** means a partnership between one or more Australian legal practitioners and one or more persons who are not Australian legal practitioners, where the business of the partnership includes the provision of legal services in Australia as well as other services.

***principal***, of a law practice, means an Australian legal practitioner who is:

- (a) in the case of a law firm—a partner; or
- (b) in the case of a multi-disciplinary partnership—a legal practitioner partner; or
- (c) in the case of a incorporated legal practice—a legal practitioner director.

### 75 Undertakings

Any person who fails to comply with an undertaking given to a court under these Rules is liable for committal.

### 75A Undertakings by a law practice

- (1) If a provision of these Rules requires or provides for an Australian legal practitioner to give an undertaking, the court or the Registrar may instead accept an undertaking given by a law practice if the undertaking is signed by a principal authorised by the law practice to give such an undertaking.

- 
- (2) If, under a provision of these Rules, the making of an application by an Australian legal practitioner on behalf of an applicant constitutes an undertaking given by the Australian legal practitioner, the undertaking is taken to be given by the law practice for which the Australian legal practitioner works if a principal authorised by the law practice to give such an undertaking gives to the court a written undertaking to that effect.
  - (3) If an undertaking is given, or taken to be given, by a law practice in accordance with subrule (1) or (2), any personal undertaking to the court (in accordance with these Rules or otherwise) by a principal is taken to be an undertaking by the principals of the law practice at the time the undertaking is given or taken to be given.
  - (4) On application by one or more principals or former principals of the law practice referred to in subrule (1) or (2), the court may add the name of a principal to, or delete the name of a principal or former principal from, the list of principals of the law practice that is subject to the undertaking.
  - (5) The court may add or delete the name of a principal or former principal on such terms, and with effect from a date, that the court considers appropriate.

### **75B Use of clean bonds**

- (1) Subrule (2) applies if, in an application under these Rules:
  - (a) an undertaking is required to be given, or is constituted, to pay the costs and expenses of the Marshal; and
  - (b) the person required to give, or who is taken to have given, the undertaking, or the law practice that may give the undertaking, offers an irrevocable, unconditional bank bond or guarantee that is:
    - (i) issued by an authorised deposit-taking institution; and
    - (ii) payable, on demand and either generally or specifically, in favour of the Marshal.
- (2) If the court is satisfied in relation to the bond or guarantee and its amount, and any other matter relevant to the undertaking, the court may, either generally or on terms, make an order:
  - (a) varying or dispensing with any rule or other requirement providing for a personal undertaking; or
  - (b) releasing the person required to give, or who is taken to have given, the undertaking, or the law practice that may give the undertaking, from the undertaking, with or without conditions.

### **75C Orders relating to undertakings and securities**

- (1) This rule applies if the court accepts more than one undertaking or security in relation to the Marshal's costs and expenses.
- (2) The court may make directions and orders in relation to:

## Rule 76

---

- (a) the just and fair allocation of responsibilities between those undertakings or securities; and
- (b) if appropriate, the release of a person from an undertaking, with or without conditions.

### **76 Wages, collision: security for costs**

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;

must not be required to give security for costs.

### **77 Collision proceedings: stay pending security**

If, 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.

### **78 Marshal may make interim demands for costs and expenses**

If a person is liable to pay the costs and expenses of a Marshal under these Rules, the Marshal:

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

### **78A Marshal's costs and expenses: aid to other courts**

- (1) If a Marshal of a court having jurisdiction under the Act acts in aid of another court having jurisdiction under the Act (the *second court*), the costs and expenses incurred by the Marshal in doing so form part of the costs and expenses of the Marshal of the second court.
- (2) The Marshal may:
  - (a) take any step the Marshal would otherwise have been able to take under these Rules in aid of the second court; and

- (b) request and obtain from the Marshal of the second court reimbursement of all the costs and expenses incurred in aiding the second court.

Note: Under rule 78B, the costs and expenses incurred by the Marshal in acting in aid of the second court are fully recoverable without taxation.

### **78B Taxation of Marshal's costs and expenses**

- (1) Unless the court orders otherwise, the Marshal's costs and expenses are not subject to taxation.
- (2) If the Marshal's costs and expenses are taxed under an order, the taxing officer must allow all the Marshal's costs and expenses other than those costs and expenses that the taxing officer considers have been incurred unreasonably or otherwise than in good faith.

### **79 Register of Admiralty proceedings**

Each court that has, under the Act, jurisdiction in proceedings commenced as actions *in rem* must 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.

### **80 Court may give directions, vary Rules**

- (1) The court may, on application or on its own initiative 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.

### **81 Review of Registrar's actions**

- (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.

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

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

- (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.

Rule 83

---

**83 Inspection of Registers**

Any person may inspect a Register without charge.



## Form 2—Caveat against arrest of ship or other property

(subrule 7(1))

(Title)

### CAVEAT AGAINST ARREST OF SHIP OR OTHER PROPERTY

Ship/property<sup>1</sup>:                   <sup>2</sup>  
Caveat by:                       <sup>3</sup>  
Relationship with ship/property<sup>1</sup>:                   <sup>4</sup>  
Caveat expires:                       <sup>5</sup>  
Amount for which caveat entered: \$                   <sup>6</sup>  
Kind of proceeding to which caveat applies:                   <sup>7</sup>  
Address for service of caveator:                       <sup>8</sup>

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—Australian legal practitioner's undertaking**

(subrule 7(3))

*(Title)*

### **AUSTRALIAN LEGAL PRACTITIONER'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 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 1988*;

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

---

1. *strike out whichever is not applicable*

## Form 4—Caveat against release from arrest of ship or other property

(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—Withdrawal of caveat

(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*

## Form 6—Writ

(rule 19)

(Title)

WRIT

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

DATE OF ISSUE<sup>1</sup>:

PARTICULARS OF SHIP/PROPERTY<sup>2</sup>:

3

AMOUNT CLAIMED OR OTHER RELIEF SOUGHT<sup>4</sup>:

PARTICULARS OF CLAIM<sup>5</sup>:

RELEVANT PERSON<sup>6</sup>:

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 PLAINTIFF<sup>7</sup>:

---

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*

## Form 7—Statement of claim: limitation proceeding

(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*

## Form 8—Statement of claim: action in rem

(subrule 22(2))

(Title)

### STATEMENT OF CLAIM: ACTION *IN REM*

1. \_\_\_\_\_<sup>1</sup>

2. I claim the following relief: \_\_\_\_\_<sup>2</sup>

PARTICULARS \_\_\_\_\_<sup>3</sup>:

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—Appearance

(subrule 23(2))

(Title)

### APPEARANCE

1. <sup>1</sup>appears.

2. My relationship with the ship/property<sup>2</sup> against which this proceeding has been commenced is as follows: <sup>3</sup>

3. My address for service is: <sup>4</sup>

---

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

## Form 10—Preliminary act

(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 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:
  - (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—Preliminary act

(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):
  - (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—Application for arrest warrant

(subrule 39(1))

(Title)

### 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 the court to pay the costs and expenses of the Marshal in complying with this application, including costs and expenses in relation to *(if ship, insert name of ship and port of registry; if other property, describe property)* while it is under arrest.<sup>1</sup>

Note: Paragraph 41(1)(b) of the *Admiralty Rules 1988* provides that if the application is made by an Australian legal practitioner on behalf of the applicant, the application constitutes an undertaking to the court by the Australian legal practitioner.

---

1. *delete sentence if undertaking is to be given by a law practice under subrule 75A(2) of the Admiralty Rules 1988*

## **Form 13—Affidavit to support application for arrest warrant**

(subrule 39(3))

(*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 and any necessary facts that would entitle an action in rem to be brought, in accordance with the Admiralty Act 1988, in respect 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—Arrest warrant

(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, 'Australian legal practitioner for the plaintiff'*

## **Form 15—Request not to execute arrest warrant**

(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—Affidavit of execution of arrest warrant

(rule 45)

(Title)

### AFFIDAVIT OF EXECUTION 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 executed by me on <sup>2</sup>  
on <sup>3</sup> at <sup>4</sup>.
  3. The warrant was executed by <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 execution of warrant, for example, “by affixing the warrant to a conspicuous part of the ship, namely.....”*

## **Form 17—Application for discharge**

(subrule 49(1))

*(Title)*

### APPLICATION FOR DISCHARGE

Ship/property<sup>1</sup> to be discharged: 2

Applicant: 3

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

Address for service of applicant: 5

I undertake to pay the costs 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*
3. *insert name and short description of applicant*
4. *insert short description of interest*
5. *insert address for service*

## Form 17A—Notice of payment into Court

(paragraph 51(1A)(a))

(Title)

### NOTICE OF PAYMENT INTO COURT

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

Person making payment: 3

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

I have paid into Court \$ <sup>5</sup> to secure the  
release of <sup>2</sup>.

---

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*

## **Form 18—Application to registrar for release of ship or other property**

(subrule 51(1))

(Title)

### APPLICATION TO REGISTRAR FOR RELEASE OF SHIP OR OTHER PROPERTY

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

Applicant: <sup>3</sup>

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

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

Grounds on which release is sought: <sup>7</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>8</sup>

I undertake 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>. <sup>9</sup>

---

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*
9. *delete sentence if undertaking is to be given by a law practice under subrule 75A(2) of the Admiralty Rules 1988*



## Form 19—Application to Court for release of ship or other property

(subrule 52(1))

(Title)

### APPLICATION TO COURT FOR RELEASE OF SHIP OR OTHER PROPERTY

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

Applicant: <sup>3</sup>

Grounds on which release sought: <sup>4</sup>

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: <sup>5</sup>

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

I undertake 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>. <sup>8</sup>

---

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 'Australian legal practitioner 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*
8. *delete sentence if undertaking is to be given by a law practice under subrule 75A(2) of the Admiralty Rules 1988*

## Form 19A—Notice of release from arrest

(subrules 51(7) and 52(5))

*(Title)*

### NOTICE OF RELEASE FROM ARREST

To the Marshal:

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

Date and time of arrest: 3

Place of arrest: 4

Release on <sup>2</sup> from the arrest executed under the arrest warrant issued  
on <sup>5</sup>.

---

1. *strike out whichever is not applicable*
2. *for a ship, insert name of ship; for other property, insert description of property*
3. *insert date and time of arrest of ship or property*
4. *insert place of arrest*
5. *insert the date of issue of the relevant arrest warrant*

## Form 20—Bail bond

(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—Notice of bail

(subrule 55(2))

(Title)

### NOTICE OF BAIL

Party on whose behalf bail given: 1  
Amount of bail: \$ 2  
Names and addresses of sureties: 3  
Bail bond signed before: 4

---

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*

## **Form 22—Notice of objection to surety**

(subrule 56(1))

*(Title)*

### NOTICE OF OBJECTION TO SURETY

I object to the sufficiency of the following proposed surety:

1

Dated:

---

1. *insert name of surety*

## Form 23—Notice of hearing of objection to bail

(subrule 56(3))

(Title)

### NOTICE OF HEARING OF OBJECTION TO BAIL

TO <sup>1</sup>

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—Advertisement of application to limit liability limitation of shipowner's liability**

(subrule 62(2))

### ADMIRALTY RULES

#### ADVERTISEMENT OF APPLICATION TO LIMIT LIABILITY LIMITATION OF SHIPOWNER'S LIABILITY

1

#### 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>.
- 

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—Application to vary or set aside determination limiting liability

(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—Application for valuation or sale of ship or other property**

(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 costs and expenses involved.

---

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—Order for valuation or sale of ship or other property

(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:

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

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

## **Form 28—Notice of application to determine priorities**

(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*

## Form 29—Register of admiralty proceedings

(rule 79)

### REGISTER OF ADMIRALTY PROCEEDINGS

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

---

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*

## Endnotes

Endnote 1—About the endnotes

---

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

---

### Endnote 3—Legislation history

<b>Number and year</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
1988 No. 269	4 Nov 1988	1 Jan 1989	
1990 No. 392	6 Dec 1990	6 Dec 1990	—
1993 No. 327	10 Dec 1993	10 Dec 1993	—
1996 No. 215	2 Oct 1996	2 Oct 1996	—
2002 No. 109	5 June 2002	5 June 2002 (s 2)	—
2006 No. 287	17 Nov 2006 (F2006L03716)	18 Nov 2006 (s 2)	—
206, 2013	6 Aug 2013 (F2013L01524)	7 Aug 2013 (s 2)	—
204, 2015	30 Nov 2015 (F2015L01883)	1 Dec 2015 (s 2(1) item 1)	—

  

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Admiralty Amendment Rules 2016 (No. 1)	9 May 2016 (F2016L00726)	1 July 2016 (s 2(1) item 1)	—

---

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
r. 1 .....	rs. 2002 No. 109
r. 3 .....	am. 2006 No. 287; No 206, 2013; No 204, 2015; F2016L00726
r. 4 .....	am. 1990 No. 392; 2006 No. 287; No 206, 2013
r. 5 .....	am. 2006 No. 287
r. 5A .....	ad. 1996 No. 215 am No 204, 2015
r. 6 .....	am. 2006 No. 287; No 204, 2015
r. 6A .....	ad. 2006 No. 287
<b>Part II</b>	
<b>Division 1</b>	
r. 7 .....	am. 2006 No. 287
r. 9 .....	am. 2006 No. 287
<b>Division 2</b>	
r. 10 .....	am. 2006 No. 287
<b>Division 3</b>	
r. 14 .....	am. 2006 No. 287; F2016L00726
<b>Part III</b>	
r. 15 .....	am. 2006 No. 287
r. 16 .....	am. 2006 No. 287
r. 17 .....	am. 2006 No. 287
<b>Part IV</b>	
<b>Division 1</b>	
r. 18 .....	am. 2006 No. 287
r. 19 .....	am. 2006 No. 287
r. 21 .....	am. 2006 No. 287
<b>Division 2</b>	
r. 22 .....	am. 1990 No. 392; 2006 No. 287
<b>Division 3</b>	
r. 23 .....	am. 2006 No. 287
<b>Division 4</b>	
r. 24 .....	am No 204, 2015
r. 25 .....	am. 2006 No. 287
r. 26 .....	am. 2006 No. 287 rs No 204, 2015
r. 27 .....	am. 2006 No. 287
r. 28 .....	am. 2006 No. 287 rs No 204, 2015

---

## Endnotes

### Endnote 4—Amendment history

---

<b>Provision affected</b>	<b>How affected</b>
<b>Division 5</b>	
r. 29 .....	am. 2006 No. 287
<b>Part V</b>	
r. 30 .....	am. 1993 No. 327; 2006 No. 287; No 204, 2015
r. 31 .....	am. 2006 No. 287
r. 32 .....	am. 2006 No. 287
r. 34 .....	am. 2006 No. 287
r. 35 .....	am. 2006 No. 287
r. 36 .....	am. 2006 No. 287
r. 37 .....	rs. 2006 No. 287
<b>Part VI</b>	
<b>Division 1</b>	
r. 39 .....	am. 2006 No. 287
r. 39A .....	ad. 2006 No. 287 am. No. 206, 2013; No 204, 2015
r. 40 .....	am. 2006 No. 287
r. 41 .....	rs. 1993 No. 327 am. 1996 No. 215 rs. 2006 No. 287
r. 42 .....	am. 2006 No. 287
r. 43 .....	am. 1990 No. 392; 2002 No. 109; 2006 No. 287; No 206, 2013
r. 45 .....	am. 2006 No. 287
<b>Division 2</b>	
r. 47 .....	am. 2006 No. 287; No. 206, 2013
r. 48 .....	am. 1996 No. 215; 2006 No. 287
r. 48A .....	ad. 2006 No. 287
r. 49 .....	am. 2006 No. 287
<b>Division 3</b>	
r. 51 .....	am. 1993 No. 327; 2006 No. 287; No 206, 2013
r. 52 .....	am. 1993 No. 327; 2006 No. 287
r. 53 .....	rs. 2006 No. 287
<b>Part VII</b>	
r. 54 .....	am. 1993 No. 327; 2006 No. 287
r. 55 .....	am. 2006 No. 287
r. 56 .....	am. 2006 No. 287
r. 57 .....	am. 2006 No. 287
r. 59 .....	am. 2006 No. 287
r. 60 .....	am. 2006 No. 287
<b>Part VIII</b>	
r. 61 .....	am. 2006 No. 287

---

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
r. 62 .....	am. 2006 No. 287
r. 63 .....	am. 2006 No. 287
r. 64 .....	am. 2006 No. 287
<b>Part IX</b>	
r 65 .....	am No 204, 2015
r. 66 .....	am. 2006 No. 287
r. 67 .....	am. 2006 No. 287
<b>Part X</b>	
r. 69 .....	am. 2006 No. 287
r. 70 .....	am. 2006 No. 287
r. 71 .....	am. 2006 No. 287
r. 72 .....	rep. 2006 No. 287
<b>Part XI</b>	
r. 73 .....	am. 2006 No. 287
Heading to r. 74.....	rs. 2006 No. 287
r. 74 .....	am. 2006 No. 287
<b>Part XII</b>	
r. 74AA.....	ad. 2006 No. 287
r. 75 .....	am. 1993 No. 327
r. 75A .....	ad. 2006 No. 287
r. 75B.....	ad. 2006 No. 287
r. 75C.....	ad. 2006 No. 287
r. 76 .....	am. 2006 No. 287
r. 77 .....	am. 2006 No. 287
r. 78 .....	rs. 2006 No. 287
r. 78A .....	ad. 2006 No. 287
r. 78B.....	ad. 2006 No. 287
r. 79 .....	am. 2006 No. 287
r 80 .....	am No 204, 2015
r. 82 .....	am. 2006 No. 287
<b>Sch 1</b>	
hdg to Sch.....	rep No 206, 2013
hdg to Sch 1.....	ad No 206, 2013
Sch.....	am 1990 No 392; 1993 No 327; 2006 No 287
renum Sch 1.....	am No 206, 2013
hdg to Form 1 .....	rs No 206, 2013
Form 1 .....	am 1990 No 392
	rs 1993 No 327
	am No 206, 2013
Form 3 .....	rs 2006 No 287

## Endnotes

### Endnote 4—Amendment history

---

<b>Provision affected</b>	<b>How affected</b>
Form 6 .....	am 1990 No 392 rs 1993 No 327
Form 8 .....	rep 1990 No 392
Form 12 .....	rs 1993 No 327 am 2002 No 109 rs 2006 No 287
hdg to Form 13 .....	rs 2006 No 287
Form 13 .....	am 2006 No 287
Form 14 .....	am 2006 No 287
Form 16 .....	rs 1993 No 327
Form 17 .....	am 2006 No 287
Form 17A .....	ad 1993 No 327
Form 18 .....	am 2006 No 287
Form 18A .....	ad No 206, 2013
Form 19 .....	rs 2006 No 287
Form 19A .....	ad 1993 No 327
Form 26 .....	am 2006 No 287

---