

ADMIRALTY JURISDICTION ACT

SUBSIDIARY LEGISLATION

ADMIRALTY JURISDICTION PROCEDURE RULES

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ADMIRALTY JURISDICTION PROCEDURE RULES

[S.I. 21 of 1993.]

under section 21 of the Act

[Commencement: 2nd August, 1993]

ORDER I

Citation, Application, etc.

1. Citation

These Rules may be cited as the Admiralty Jurisdiction Procedure Rules.

2. Application of Rules

These Rules shall apply to every admiralty cause or matter brought in the Court.

3. Interpretation

In these Rules, unless the context otherwise requires—

“**admiralty**” shall bear the same meaning as in the Admiralty Jurisdiction Act 1991;

“**amount claimed**” includes an amount in respect of interest or cost;

“**arrest warrant**” means a warrant for the arrest of a ship or other property;

“**caveat**” means an undertaking filed in the Registry by the owner of, or person interested in, a ship or property, to appear to any action *in rem* filed against that ship or property and provide bail even though the ship or property is not arrested;

“**caveator**” means the person by whom or on whose behalf the caveat was filed;

“**Court**” means the Federal High Court;

“**interested person**” in relation to a proceeding or 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 or intervener;

“**Marshal**” means the Admiralty Marshal;

“**Registrar**” means an officer of the Court authorised by the Rules of Court to exercise the power or function or to perform the duty of Registrar;

“**ship**” includes any description of vessel used in navigation.

ORDER II

Form and Commencement of Suits

1. Commencement of suits

(1) Every admiralty action filed in the Court shall be commenced by a writ of summons signed by a judge or other officer empowered to sign summonses.

(2) The writ shall be issued by the Registrar or other officer of the Court empowered to issue summons upon receipt of written Particulars of Claim filed by a plaintiff.

2. Particulars of Claim

(1) Every writ of summons in an action *in rem* shall be accompanied by a Statement of Claim.

(2) In an action *in personam*, it shall be sufficient for the Plaintiff to state his claim in his application in writing for the writ of summons briefly in a general form, or he may deliver to the Registrar at the time of making the application for the writ of summons, particulars of his claim in any form which shall give the Defendant reasonably sufficient

information as to the details thereof and such statement shall be affixed to Form "A" specified in the Schedule to these Rules.

3. Headings

(1) A document filed in or issued out of the Court in an admiralty proceeding shall include as part of the heading of the document, the words "IN ADMIRALTY".

(2) Where the action is an action *in rem*, a document filed shall contain the heading "ADMIRALTY ACTION *IN REM*".

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

4. Validity of writ

A writ shall be effective for service for a period of 12 months after it is issued and may not be served after that time without leave of the Court.

5. Limitation proceedings

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

(2) At least one of the Respondents shall be named as respondent in the writ.

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

(4) The writ need not be served on respondents so identified.

6. Appearance

(1) No formal appearance need be filed but a return date shall be fixed by the Court not more than 21 days after the issue of a writ, on which date any party served with the writ shall appear in court or be represented by Counsel.

(2) Where the writ is served simultaneously with an order for the arrest of any ship or property, an interested person may apply for the release of the arrested ship or property and the Court shall, within 3 days of the filing and serving of the application for release of the ship or property, entertain the said application.

(3) An application for the release of the arrested ship or property shall be heard by the judge who ordered the arrest or, in his absence, by another judge.

ORDER III

Preliminary acts

1. Filing of preliminary acts

In an action to enforce a claim for damages arising from loss of a ship or damage done to or by a ship following a collision between two or more ships, each party shall file a preliminary act, unless the Court otherwise orders.

2. Contents of preliminary acts

The preliminary act shall contain the following particulars—

- (a) the names of the ships which came into collision and their ports of registry;
- (b) the date and time of the collision;
- (c) the place of the collision;
- (d) the direction and force of the wind;
- (e) the state of the weather;
- (f) the state, direction and force of the tidal or other current;
- (g) the course steered and speed through the water of the ship when the other ship was first seen or immediately before any measure was taken with reference to her presence whichever was the earlier;
- (h) what light or combination of lights (if any) of the other ship was first seen;
- (i) the distance and bearing of the other ship if and when her echo was first observed by radar;
- (j) the distance, bearing and approximate heading of the other ship when first seen;
- (k) what other lights or combination of lights (if any) of the other ship were subsequently seen before the collision and when;
- (l) what alternations (if any) were made to the course and speed of the ship after the earlier of the two times referred to in paragraph (k) of this rule up to the time of the collision any other than alteration, and when, and what measures (if any) other than alternation of course or speed, were taken to avoid the collision, and when;
- (m) the heading of the ship, the parts of each ship which first came into contact and the approximate angle between the two ship at the moment of contact;
- (n) what sound signals (if any) were given, and when;
- (o) what sound signals (if any) were heard from the other ship, and when.

3. Time for filing of preliminary acts

The Plaintiff shall file his preliminary act within 7 days after the commencement of the proceeding and the other parties shall file their preliminary acts before filing any pleading.

4. Preliminary acts to be sealed

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

5. Default in filing

(1) Where the Plaintiff fails to file a preliminary act, the Court may, on an application, dismiss the proceeding or make such order on such terms as it thinks just.

(2) Where a defendant fails to file a preliminary act, 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.

(3) In proving his case in pursuance to subrule (2) of this rule, the Plaintiff's evidence may, unless the Court otherwise orders, be given by affidavit.

6. Opening of preliminary acts

The Court may at the stage of the proceeding after pleadings have been closed, on application or of its own motion, order that the Registrar open the envelopes containing the preliminary acts and may make such further order or orders as are appropriate.

ORDER IV

Parties

1. Actions *in rem*

The writ in a proceeding commenced as an action *in rem* shall specify a relevant person in relation to the maritime claim concerned as a defendant and shall be in Form B in the Schedule to these Rules.

2. Action against a ship or other property

The writ in a proceeding commenced as an action *in rem* against a ship or other property shall identify the ship or property.

3. Sister ships

(1) Where the action is commenced against a sister ship, the ship in relation to which it is a sister ship shall also be identified in the initiating process.

(2) A writ may identify more than one ship as a sister ship.

4. Amendment

(1) The powers of the Court in relation to amendment of process and joinder of parties shall extend to—

- (a) making an order, on such terms as are just;
- (b) substituting for a defendant identified in rule 2 of this Order some other person; and
- (c) substituting for a ship some other ship.

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

ORDER V

Service of Process

1. Service on ships or other property on a ship

The writ in a proceeding commenced as an action *in rem* against a ship or other property that is at the time of service on board a ship, shall be served by securely affixing a sealed copy of the process to a mast or some other conspicuous part of the ship, or delivering the same to the master of the ship.

2. Service on property not on ship

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

3. Service where access impossible

If access to the ship or property cannot reasonably be obtained, the 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 that person refuses to accept service, placing a sealed copy of the process down in the person's presence and telling the person what the document is.

4. Nigeria Ports Authority to be notified

In the case of every arrest of a ship or other property, the appropriate officer of the Nigerian Ports Authority shall be served with a copy of the court order.

5. Service of writ on proceeds

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

6. Service upon caveator

Where—

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

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

7. Service by Admiralty Marshal

The Admiralty Marshal shall effect the service of a writ in a proceeding commenced as an action *in rem* against a ship or other property.

8. Substituted service

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

9. Service on any day

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

10. Service of amended process

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

11. Acceptance of service by solicitor

Where, in a proceeding commenced as an action *in rem* against a ship or other property, a solicitor acting for a defendant in the proceeding or the owner of the ship or property undertakes in writing to accept service of the writ, or any other instrument, in relation to the proceeding, the process or instrument may be served on the Solicitor in any way in which other process of the Court may be served on the Solicitor or instead of being served as elsewhere provided in these Rules or as the case may be.

12. Service by courier

Where—

- (a) an action *in rem* is commenced against a ship or other property which has been abandoned in Nigeria; or
- (b) an action *in personam* is filed against a defendant who does not reside in or carry on business in Nigeria through an agent,

the Court may order service on such defendant or the owner of such ship or property at the address of his last known place of business by a reputable courier company operating a courier service between Nigeria and the country of the place of business.

ORDER VI

Caveats

1. Caveats

A caveat against the arrest of a ship or other property may be filed in the Registry in Form C in the Schedule to these Rules.

2. Caveats against arrest

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

- (a) appear to the suit; and
- (b) provide bail.

3. Registrar to be satisfied by an undertaking

Without limiting the power of the Registrar under rule 2 of this Order, the Registrar may be satisfied as mentioned in that rule if there is produced to the Registrar an undertaking in writing to satisfy any judgment for the amount specified in a caveat, being an undertaking given by—

- (a) a protection and indemnity association that is a member of the International Group of Protection and Indemnity Association; or
- (b) a bank within the meaning of the Banks and Other Financial Institutions Act carrying on banking business in Nigeria; or
[I.F.N. 2004 Cap. B3.]
- (c) an insurance company of repute carrying on business in Nigeria.

4. Undertaking by caveators, etc.

(1) The filing of a caveat shall constitute an undertaking by the caveator—

- (a) to appear in any 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 provide bail.

(2) The undertaking shall be enforceable by the Court in which the proceeding is commenced.

5. Caveator to give bail

(1) This rule shall apply where—

- (a) a caveat against the arrest of a ship or other property is in force;
- (b) under these Rules, a writ has been served on the caveator;
- (c) the proceeding is a proceeding of a kind specified in the caveat; and
- (d) the caveat specifies an amount not less than the amount claimed.

(2) Within 3 days after having been so served, the caveator shall, unless otherwise agreed in writing between the caveator and the plaintiff—

- (a) pay into court an amount equal to—
 - (i) the amount claimed; or
 - (ii) the amount specified in the caveat, whichever is less; or
- (b) cause a bail bond to be entered into as in Form D in the Schedule to these Rules.

[Form D.]

(3) A caveator who fails to comply with subrule (2) of this rule shall be taken to have failed to appear in the proceeding within the time limited for appearing.

6. Caveats may not prevent arrest

The fact that there is a caveat against arrest in force shall not prevent the arrest of the ship or property to which the caveat relates.

7. Caveats against release

Where a ship or other property is under arrest in a proceeding, a person may file in the Court a caveat against the release from arrest of the ship or property in lieu of obtaining a further arrest of that ship or property.

8. Payment of damages for insufficient reason

Where any property with respect to which a caveat against arrest is in force is arrested in pursuance of a warrant of arrest, the party at whose instance the caveat was entered may apply to the Court by motion for an order under this rule, and on the hearing of the application, the Court unless it is satisfied that the party procuring the arrest of the party had a good and sufficient reason for so doing, may by order discharge the warrant and may also order the party at whose instance the property was arrested to pay to the applicant damages in respect of the loss suffered by the applicant as a result of the arrest.

9. 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) of this rule shall not prevent the filing of a further caveat.

10. Withdrawal of caveats

A caveator may withdraw a caveat by filing an instrument of withdrawal of the caveat.

11. Registers

(1) The Registrar shall establish and maintain a register, to be known as the Register of Caveats Against Arrest.

(2) The Registrar shall establish and maintain a register to be known as the Register of Caveats Against Release.

(3) Any register established under subrules (1) and (2) of this rule may be inspected by any person, without charge.

ORDER VII

Arrest of Ships and Other Property

1. Application

(1) A party to a proceeding commenced as an action *in rem* may by motion *ex parte* apply for an arrest warrant in respect of the ship or other property against which the proceeding was commenced.

(2) The application shall be supported by an affidavit of the applicant or of a solicitor or agent of the applicant which shall disclose a strong *prima facie* case.

2. Issue of warrant

(1) Subject to this rule, the Court may issue an arrest warrant.

(2) Except by leave of the Court, an arrest warrant shall not be issued if the Court 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 a kind specified in the caveat;
 - (ii) the caveat specifies an amount not less than the amount claimed by the applicant; and
 - (iii) the caveat has not expired;
- (b) the proceeding is stayed because payment has been made into court; or
- (c) a bail bond of not less than the amount claimed by the party has been filed.

3. Period of validity

(1) An arrest warrant shall not be executed for more than six months after it was issued.

(2) Subrule (1) of this rule shall not prevent the issue of a further arrest warrant.

4. Execution of arrest warrant

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

(2) An arrest warrant shall not be executed on a ship or other property unless the writ 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.

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

(4) The Admiralty Marshal shall not execute an arrest warrant if the applicant so requires in writing or the Court so orders.

(5) Where an arrest warrant that specifies a ship or other property has been issued, the Court may, on the application of—

- (a) the caveator if a caveat against the arrest of the ship or property is, at the time of the application, in force; 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 be discharged, or be not executed, or be not executed within a specified time.

5. Duration of arrest

A ship or other property specified in an arrest warrant as in Form E in the Schedule to these Rules shall be under arrest from the time when the warrant is executed until it is lawfully released from arrest or is sold by the order of the Court.

[Form E.]

6. Verification of service

Execution of an arrest warrant shall be verified by affidavit.

7. Execution on any day

An arrest warrant may be executed on any day.

ORDER VIII

Custody of Ships and Property under Arrest

1. Liability for Admiralty Marshal's expenses

An application for an arrest warrant shall constitute an undertaking to the Court to pay to the Admiralty Marshal on demand, an amount equal to the fees and expenses of the Admiralty Marshal in relation to the arrest.

2. Expenses of arrested ship

(1) Whilst a ship is under arrest pursuant to these Rules, no port or other dues shall be payable by an interested person to any person and no application for the same shall be entertained by the Court.

(2) The Admiralty Marshal shall pay for all services supplied at his request to the arrested ship by the Nigerian Ports PLC or any other person necessitated by the arrest.

3. Funds to be deposited with Admiralty Marshal

(1) The fees and expenses of the Admiralty Marshal shall be paid by the arresting party.

(2) Where a person is liable to pay fees or expenses, the Admiralty Marshal may—

- (a) accept an amount of money not exceeding ₦5,000 towards discharging the liability;
- (b) make one or more demands for interim payments on account of those fees and expenses.

(3) Where another party arrests the arrested ship or files a caveat against arrest, he shall be jointly and severally liable with the first arrester to pay the Admiralty Marshal's expenses.

4. Custody of arrested ships and property

(1) The Admiralty Marshal shall, unless the Court otherwise orders, take all appropriate steps to retain 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.

5. Applications concerning arrested property

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

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

(3) The Court may order the applicant to give notice of the application and of the directions, to such persons as are specified in the order.

6. Discharge of ship or cargo not under arrest

(1) Where—

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

(b) a ship is under arrest but its cargo is not,

a person who is entitled to immediate possession of the ship or the cargo, respectively, may apply to the Court to discharge the cargo from the ship.

(2) Where—

(a) the Court is satisfied that the applicant is entitled to immediate possession of the ship or the cargo, as the case may be;

(b) the applicant gives an undertaking in writing satisfactory to the Admiralty Marshal to pay on demand to the Marshal any fees and expenses of the Marshal in connection with the discharge; and

(c) if the Court 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 Court may order the discharge.

(3) Where—

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

(b) a ship is under arrest but its cargo is not,

the Court may, on application of the Plaintiff and subject to such terms and conditions as are just, order the discharge.

7. 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.

ORDER IX

Release from Arrest

1. Release by Registrar on exercise of his discretion

(1) Where a ship or other property is under arrest in a proceeding and the Court is satisfied that—

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

the Registrar may, on written application by the relevant person, release from arrest the ship or property.

(2) Release shall not be made under subrule (1) of this rule 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 has been—

- (a) agreed between the parties; or
- (b) determined by the Court.

(3) Where, in a proceeding, the party on whose application a ship or other property was arrested consents in writing to the release from arrest, the ship or property shall be released from arrest.

(4) Where—

- (a) a ship or other property has been arrested in a proceeding; and
- (b) the proceeding has been discontinued or dismissed,

the Court may release from arrest the ship or property.

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

2. Release from arrest by Court

(1) A party to a proceeding may apply to the Court for the release of a ship or other property that is under arrest in the proceeding.

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

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

3. Payment of fees

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

4. Order of release

The order of release from arrest shall be as in Form F in the Schedule to these Rules.

ORDER X

Security for Costs

1. Court may order security for costs

(1) In every action *in rem* the Court may on the application of an interested person, if it sees fit, require the Plaintiff at whose instigation a ship or other property has been arrested, either at the commencement of the suit or at any time during the progress thereof, to give security for costs.

(2) Where the Plaintiff's claim is in excess of one million naira or its foreign currency equivalent or where the Plaintiff has no assets in Nigeria, and the Court is so satisfied, security for costs shall be ordered by the Court: provided that, in assessing the quantum of such security, the Court shall have regard to the interest rate, if any, payable by the Defendant to a bank or other institution providing the security.

2. Form of security

The security shall take the form of—

- (a) a deposit of the sum specified by the Court; or
- (b) a guarantee supplied by a protection and indemnity club, an insurance company of repute or a bank.

3. Quantum of security

In determining the quantum of security to be provided, the Court shall have regard to all the circumstances of the case and shall not restrict itself to the costs of the legal proceedings.

4. Time within which security to be furnished

The Court shall specify the time within which the Plaintiff shall furnish security and upon the expiry of the time specified, the arrested ship or property shall be released from arrest.

5. Security to be withdrawn upon conclusion of action

(1) A plaintiff shall be at liberty to withdraw any security provided to the Registrar upon obtaining judgment against the Defendant or Defendants in the action or upon discontinuance of the suit.

(2) In the event of the Plaintiff failing in the action, the Defendant or Defendants shall be entitled to the costs of the proceedings out of the security provided by the plaintiff and the balance of the security shall be returned to the plaintiff.

6. Security for costs in wages and collision matters

The master, or a member of the crew, of a ship who is a plaintiff in a proceeding for his wages or for loss of goods or clothes in a collision between two or more ships, shall not be required to give security for costs.

7. Stay pending security in collision proceeding

Where, in relation to maritime claims arising out of a collision of two or more ships—

- (a) a proceeding has been commenced as an action *in rem* and—
 - (i) a counterclaim 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 one of the parties; 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 counterclaim.

ORDER XI

Reparation for Needless Arrests

1. Court may require security or impose other terms on making orders

The Court may, upon making any order to hold on bail, or of sale, injunction, or attachment, or any warrant to stop the clearance of, or to arrest any ship as aforesaid, impose such terms and conditions as the Court may deem just.

2. Cases in which compensation may be awarded

In any case in which an arrest order as aforesaid has been made—

- (a) if it afterwards appears to the Court that the arrest of any defendant, or any order of attachment, sale, or injunction, or any warrant to stop the clearance of, or to arrest any ship, was applied for insufficient grounds; or
- (b) if the suit in which any such application was made is dismissed, or judgment is given against the Plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting such suit,

the Court may (on the application of the Defendant made at any time before the expiration of three months from the termination of the suit) award against the Plaintiff such amount not exceeding the sum of twenty thousand naira, as it may deem a reasonable compensation to the Defendant for any loss, injury, or expenses which he may have sustained by reason of such arrest, attachment, order of sale or injunction, as aforesaid:

Provided that, the Court shall not award a larger amount of compensation under this rule than the Court is competent to award in an action for damages.

3. No action of damages where compensation awarded

(1) The provisions of this Order shall not take away the right of action or other right which would otherwise have existed but no action shall be commenced or continued in respect of the same grounds on which the Court may have made an award of compensation.

(2) Further to subrule (1) of this rule, the Defendant shall be at liberty to institute an action for wrongful arrest against a plaintiff and the Court shall award costs, damages, demurrage and expenses against the Plaintiff where it is satisfied that the arrest was occasioned unreasonably and without good cause.

4. Application for damages for wrongful arrest may be taken summarily

Where an oral application is made immediately after the judgment of the Court is read, the Court shall, where possible, proceed to hear arguments on the issue of wrongful arrest and shall make an order granting or refusing damages.

ORDER XII

Payment of Bail

1. Payment into court

Where a sum is paid into court by way of bail or other security, the sum shall be paid by the Registrar into a short call fixed deposit account with a prime bank, and payments out of the said deposit together with any accrued interest shall be paid forthwith by the Registrar not later than seven days after a proper request for the same shall have been made.

2. Deposit to be acknowledged by the bank

Every payment into a fixed deposit account as provided in rule 1 of this Order shall be acknowledged by the manager of the bank in a letter specifying that the payment was received from the Registrar on behalf of the party who effected payment.

3. Court may vary bail

(1) The Court may by order reduce or increase the amount of bail in respect of which bail has been provided to ensure fairness between the parties.

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

(3) Subrules (1) and (2) of this rule shall not affect any other power of the Court.

ORDER XIII

Limitation Proceedings

1. Service on at least one respondent

(1) The applicant in a limitation proceeding shall not apply—

(a) to have the proceeding set down for hearing; or

(b) for judgment in default of appearance,

unless at least one of the persons named as respondents in the writ has been served with the writ.

(2) Such an applicant shall support this application with 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.

2. Advertisement of determination

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

- (a) specifying how the determination is to be advertised; and
- (b) fixing a period, being not less than one month after the latest day allowed for the advertisement of the determination, as the period within which a maritime claim against the applicant in respect of which the applicant's liability is determined may—
 - (i) prosecute the claim; or
 - (ii) apply under rule 4 of this order.

(2) The Court need not make an order under subrule (1) of this rule if, the Court is satisfied that all the persons included within the class of persons concerned have been served with the writ.

3. Effect of determination

Where a determination in a limitation proceeding has not been advertised under rule 2 of this Order, the determination shall bind only persons identified as respondents in the initiating process who have been served with the writ.

4. Proceedings to set aside determination

(1) Where, in a limitation proceeding, the determination of the limit of the applicant's liability has been advertised as required under rule 2 of this Order, the Court may on application by a person who has not been served with the writ, and on such terms and conditions as are just, vary or set aside the determination.

(2) The application shall not be made after the end of the period fixed under rule 2 (1) (b) of this Order.

(3) The application, and the affidavits in support, shall be served on—

- (a) the applicant in the limitation proceeding; and
- (b) each respondent to that proceeding who has appeared in the proceeding,

not less than seven days before the application is to be determined.

ORDER XIV

Valuation and Sale

1. Orders for valuation and sale

(1) The Court may, in application by a party and either before or after final judgment in a 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 under paragraph (1) of this rule shall constitute an undertaking by the party who made it to pay, on demand, to the Admiralty Marshal an amount equal to the fees and expenses of the Admiralty Marshal in complying with the order.

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

2. Sale

(1) The sale of any ship or other property ordered to be sold, under rule 1 of this Order, shall be conducted by the Admiralty Marshal.

(2) The sale shall be by public auction 21 days after an advertisement shall have been placed in two national daily papers by the Admiralty Marshal.

3. Return of sale

The Admiralty Marshal shall, as soon as practicable after the sale of the ship or property—

- (a) file a return of sale;
- (b) pay into court the proceeds of sale; and
- (c) file an account of sale and the vouchers of the account.

4. Admiralty Marshal's expenses

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

(2) A person who is an interested person in relation to the proceeds of the sale may apply to the Court for taxation of the fees and expenses of the Admiralty Marshal.

ORDER XV

Priorities

1. Application to determine priorities

(1) Where a ship or other property has been arrested in a proceeding, a person who has obtained a judgment in any court (including a judgment in a court of a foreign country) against the ship or property, being a judgment that is enforceable in the Court, 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, specifying the period within which claims may be notified, be given or published as the Court directs.

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

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

2. Marshal's expenses

The expenses of the Admiralty Marshal in complying with an order of the Court under this Order shall be part of the expense of the sale of the ship or other property.

ORDER XVI

General Powers of the Court

1. Court may give directions, abridge or extend time

The Court may, on application or of its own motion and on such terms as are just—

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

2. 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) On the application, the Court may make such order as is just.

3. Instruments to be signed by Registrar, sealed

Each document (including each warrant) issued by authority of a court in a proceeding shall—

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

ORDER XVII

Effect of Non-compliance

1. Non-compliance with Rules

(1) Where in beginning or purporting to begin any proceeding or at any stage in the course of or in connection with any proceeding, there has by reason of anything done or left undone, been a failure to comply with the requirements of these Rules whether in

respect of time, place, manner, form or content or in any other respect, the failure shall be treated as an irregularity and shall not nullify the proceeding, step taken in the proceedings, or any document, judgment or order therein.

(2) Subject to subrule (3) of rule 1 of this Order, the Court may, on the ground that there has been such a failure as is mentioned in subrule (1) of rule 1 of this Order and on such terms as to costs or otherwise as it thinks, set aside either wholly or in part the proceeding in which failure occurred, any step in those proceedings or any documents, judgment or order therein or exercise its powers under these Rules to allow such amendments (if any) to be made and to make such order (if any) dealing with the proceedings generally as it thinks fit.

(3) The Court shall not wholly set aside any proceedings or the writ or other originating process by which they were begun on the ground that the proceedings were required by any of these Rules to be begun by an originating process other than the one employed.

2. Application to set aside for irregularity

(1) An application to set aside, for irregularity, any proceedings, any step taken in any proceedings or any document, judgment or order therein shall not be allowed unless it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.

(2) An application under this rule may be made by summons or motion and the grounds of objection shall be stated in the summons or notice of motion.

SCHEDULE

Forms

FORM A

[Order II Rule (2).]

Writ of summons in action in personam in the Federal High Court in the Admiralty Judicial Division

Between Plaintiff

and

..... Defendant

To the defendant

(name) of

(address)

This writ of summons has been issued against you by the above-named plaintiff in respect of the claim set out on the back.

Unless you admit the claim you must within (14 days) after service of this writ on you, counting the day of service, return to the registry of this Court mentioned below the accompanying acknowledgement of service.

FORM A—continued

If you fail to return the acknowledgement within the time stated, the plaintiff may proceed with the action without further notice to you.

Issued from the Admiralty Registry of the Federal High Court this day of 20

(Statement of Claim to be affixed to the back.)

FORM B

[Order IV Rule 1.]

Writ of summons in action in rem in the Federal High Court in the Admiralty Judicial Division

Suit No. Admiralty Action in rem against: (The Ship "X" or as may be describing the property against which the action is brought).

Between the owners of the Ship "A" or as may be describing the plaintiff (or name) – plaintiffs and the owners of the Ship "X" or as may be describing the property against which the action is brought defendants.

To the defendants and other persons interested in the Ship "X" (detailing registration of shipping if known).

This writ of summons has been issued by the plaintiffs against the property described above in respect of the claim set out on the back.

Within (14) days after the service of this writ counting the day of service, you must either satisfy the claim or lodge in the registry of this Court mentioned below an acknowledgement of service.

If you fail to satisfy the claim or to lodge an acknowledgement within the time stated, the plaintiffs may proceed with the action and judgment may be given without further notice to you and if the property described in this writ is under arrest of the Court it may be sold by order of the Court.

Issued from the Admiralty Registry of the Federal High Court this day of 20

This writ was issued by: (Statement of Claim to be affixed to the back).

FORM C

[Order VI Rule 1.]

Praecipe for Caveat against arrest

(Description of property, of giving name, if a ship)

We of (solicitors for) request a caveat against the arrest of (description of property giving name, if a ship) and hereby undertake to acknowledge issue or service of the writ in any action that may be begun in the Federal High Court against the said and within 14 days after receiving notice that such an action begun, to give bail in the action in the sum not exceeding

FORM C—continued

₺ more or to pay that sum into Court. We consent that the writ of summons and any other document in the action may be left for us at

DATED the day of 20

Signed

FORM D

[Order VI Rule 2.]

Bail bond

(Heading as in action)

Whereas this admiralty action in rem against the above-mentioned property is pending in the Federal High Court and the parties to the said action are the above-mentioned plaintiffs and defendants;

Now, therefore, We "A.B." of "CD" of hereby jointly and severally submit ourselves to the jurisdiction of the said Court and consent that if they, the above-mentioned defendants (or plaintiffs in the case of a counterclaim) do not pay what may be adjudged against them in this action, with costs, or do not pay any sum due to be paid by them in consequence of any admission of liability therein or under any agreement by which this action in the said Court, execution may issue against us, our executors or administrators, goods, chattels, for the amount unpaid, or an amount of naira, whichever is the less.

Signed

This bail was signed by the said A.B. and C.D., the sureties,

THIS day of 20

Commissioner of Oaths

FORM E

[Order VII Rule 5.]

Warrant of Arrest

(Heading as in action)

(Head of State)

To the Admiralty Marshal of our Federal High Court and to all singular, his substitutes, Greeting.

We hereby command you to arrest the ship berthed at Port or in our territorial waters, (together with the cargo laden therein) and to keep the same under safe arrest until you shall receive further orders from us.

Witnessed by the Presiding Judge.

FORM F
[Order IX Rule 4.]

Release

To the Admiralty Marshal of our Federal High Court and to all and singular his substitutes.
Greetings.

Whereas in this action we did command you to arrest the and
to keep the same under safe arrest until you should receive further Orders from us.

Now we do hereby command you to release the said from
the arrest effected by virtue of our warrant in this action.

Witness (as in Form "E").
