

Made by the Rules Committee of the Grand Court this 11th day of January, 1977.

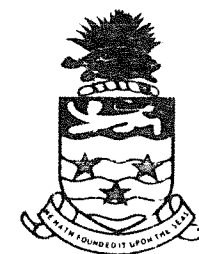
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CAYMAN ISLANDS



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THE GRAND COURT (ADMIRALTY) RULES

CAYMAN ISLANDS

ADMIRALTY RULES

Arrangement of Rules

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FIRST SCHEDULE

SECOND SCHEDULE

Form Ad. 7

Cause No.

REQUEST FOR WITHDRAWAL OF CAVEAT
(Rule 18)

(Heading as in Form Ad. 1)

(Description of property giving name, if a ship)

We of Attorneys
for of
request that the caveat (state nature of caveat) entered on the day
of 19 on behalf of be withdrawn.

Dated the day of 19.....

(Signed)

SECOND SCHEDULE

FEES

ADMIRALTY REGISTRY

- 1. On filing a document initiating an action, defence or counter-claim,
a fee based on the value of the claim
equivalent to item 3 Part I "A" of
the Schedule to the Judicature Law
(R).
- 2. Any other document in the First Schedule \$6
- 3. Other documents where form is not prescribed \$6
- 4. Hearing fee of any cause or matter in chambers \$20
- 5. On issue of any judgment or order \$6
Copies thereof (to parties) \$3
- 6. Fees of assessors as ordered
by the Court.
- 7. Fees of appraisers as ordered
by the Court.
- 8. Lodgment of any instrument with the Bailiff \$6
- 9. Bailiff's fees for effecting sale of property as ordered
by the Court.

that may be begun in the Grand Court against the said and within three days of receiving notice that such an action has been begun, to give bail in the action not exceeding dollars or to pay that sum into court. We consent that the writ of summons and any other document in such action may be left for us at

Dated the day of 19.....
(Signed)

Form Ad. 5

Cause No.

RELEASE
(Rule 16)

(Heading as in Form Ad. 1)

To the Bailiff of the Grand Court

You are hereby commanded to release the said
from the arrest effected by virtue of the warrant in this action dated

.....
Clerk of the Grand Court

Taken out by (Attorneys)

Bailiff's endorsement

On the day of 19 the
was released from arrest pursuant to this instrument.

.....
Bailiff.

Form Ad. 6

Cause No.

REQUEST TO PREVENT RELEASE
(Rule 17)

(Heading as in Form Ad. 1)

(Description of property giving name, if a ship)

We of Attorneys-at-Law for
..... of request a caveat against
the issue of a release with respect to (description of property giving name, if a ship).....
now under arrest and should the said property be sold by order of the Court, a caveat against
payment out of court of the proceeds of sale.

Dated the day of 19.....
(Signed)

THE GRAND COURT LAW
(Law 8 of 1975)

ADMIRALTY RULES

In exercise of the powers conferred upon the Rules Committee by section 21 of the above
Law the following Rules of Court are hereby made.

- | | |
|---------------------------------------|---|
| Short title. | 1. These Rules may be cited as the Grand Court (Admiralty) Rules. |
| Interpretation. | 2. In these Rules unless the context otherwise requires —
“action in rem” means an Admiralty action in rem;
“Attorney” means an attorney-at-law;
“Bailiff” has the meaning ascribed to it in the Grand Court Law;
“caveat against arrest” means a caveat entered in the caveat book under Rule 9;
“caveat against release and payment” means a caveat entered in the caveat book under Rule 14;
“caveat book” means the book kept in the Registry in which caveats issued under these Rules are entered;
“Clerk” means the Clerk of the Grand Court and every person from time to time lawfully acting in that capacity;
“limitation action” means an action by shipowners or other persons under the Merchant Shipping Acts, 1894 to 1974 for the limitation of the amount of their liability in connection with a ship or other property;
“Registry” means the Admiralty Registry established by these Rules; and
“ship” means any description of vessel used in navigation upon the sea and includes hovercraft. |
| Law of 1975. | |
| Application of Civil Procedure Rules. | 3. Subject to any provisions herein inconsistent therewith, the Grand Court (Civil Procedure) Rules shall apply mutatis mutandis to these Rules. |
| The Registry. | 4. There is hereby established the Admiralty Registry of the Grand Court to which there shall be transferred the existing records of all cases which, had they been commenced after the coming into existence of these Rules, would have been dealt with hereunder. |
| Admiralty actions. | 5. (1) Admiralty actions include —
(a) every action to enforce a claim for damage, loss of life or personal injury arising out of —
(i) a collision between ships; or
(ii) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or |

- (iii) non-compliance, on the part of one or more of two or more ships, with the collision regulations; and
- (b) every limitation action.

(2) In this this Rule “collision regulations” means regulations under section 418 of the Merchant Shipping Act, 1894, or any such rules as are mentioned in subsection (1) of section 421 of that Act or any rules made under sub-section (2) of that section.

Commencement of actions in rem.

6. Every action in rem shall begin by the filing in the Registry of a writ in the form prescribed.

Service of writ outside jurisdiction.

7. Service of a writ or notice of a writ containing any such claim as is mentioned in Rule 5 (1) (a) is permissible with the leave of the Court if —
- (a) the action is in personam; and
 - (b) the defendant has a place of business or habitual residence within the Islands; or
 - (c) the cause of action arose within the jurisdiction; or
 - (d) an action arising out of the same circumstances is proceeding in or has been determined by the Court; or
 - (e) the defendant has submitted or agreed to submit to the jurisdiction.

Warrant of arrest.

8. (1) After a writ has been issued in an action in rem a warrant in the prescribed form for the arrest of the relevant property may, subject to the other provisions of this Rule, be issued at the instance of the party concerned.
- (2) A party applying for a warrant to arrest any property shall first procure a search in the caveat book.
- (3) A warrant shall not be issued until the party applying for it has filed a request therefor in the prescribed form together with an affidavit containing the particulars required by sub-rules (6), (7) and (8) unless the Court orders that such particulars may be dispensed with.
- (4) Except with the leave of the Court, a warrant shall not be issued against a ship belonging to a port of a foreign state having a consulate in London, for possession of the ship or for wages, until notice that the action has been begun has been sent to the consul.
- (5) Except with the leave of the Court, a warrant of arrest shall not be issued in a claim arising out of bottomry until the bond and, if appropriate, a notarial translation thereof, has been produced to the Clerk.
- (6) Every affidavit must state —
- (a) the name, address and occupation of the applicant;
 - (b) the nature of the claim or counterclaim in respect of which the warrant is required and that it has not been satisfied; and
 - (c) the nature of the property to be arrested and, if the property is a ship, the name of the ship and the port to which she belongs.
- (7) Every affidavit in an action in rem brought against a ship by virtue of section 3 (4) of the Administration of Justice Act 1956 must state —
- (a) whether the ship is the ship in connection with which the claim arose;
 - (b) that in the belief of the deponent the person who would, apart from section 4 of the Act, be liable on the claim in an action in personam was, when the cause of action arose, the owner or charterer, or in

Form Ad. 2

Cause No.

WARRANT OF ARREST
(Rule 8)

(Heading as in Form Ad. 1)
ELIZABETH II etc.
To the Bailiff of the Grand Court

You are hereby commanded to arrest the ship
of the port of (cargo, freight etc. as the case may
be) and to keep the same under safe arrest until further orders from us.

.....
Clerk of the Grand Court

The Plaintiff's claim is (copied from writ)
Taken out by (Attorney-at-Law for Plaintiff)

Bailiff's endorsement of service.

Form Ad. 3

Cause No.

REQUEST FOR WARRANT
(Rule 8)

(Heading as in Form Ad. 1)

We of Attorneys-at-Law
for the Plaintiffs request a warrant to arrest (description
of property giving name: if a ship).

Dated the day of 19.....

(Signed)

Form Ad. 4

Cause No.

REQUEST FOR CAVEAT
(Rule 9)

(Heading as in Form Ad. 1)

(Description of property — giving name (if a ship)).

We of Attorney-at-Law
for of request a caveat
against the arrest of (description of property giving name, if a ship)
..... and hereby undertake to enter an appearance in any action

FIRST SCHEDULE

Form Ad. 1

Cause No.

IN THE GRAND COURT
ADMIRALTY REGISTRY

(Admiralty No.)

* Writ for Summons in Rem issued out of Admiralty Registry against

the Ship X (or as may be describing the res)

The owners of Ship Y (or as may be) Plaintiffs

AND

The owners of Ship X (or as may be describing the res) Defendants

ELIZABETH THE SECOND, BY THE GRACE OF GOD, OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND OF OUR OTHER REALMS AND
TERRITORIES, QUEEN, HEAD OF THE COMMONWEALTH, DEFENDER OF THE FAITH.

To the (owners of and other) persons interested in the ship of the port of
(or cargo etc. as the case may be)

We command you that within eight days after the service of this writ inclusive of the day of
service, you do cause an appearance to be entered for you in action at the suit of ; and
take notice that in default of you so doing the plaintiff may proceed therein, and judgment may be
given in your absence, and if the res described in this writ is then under arrest of the Court it may
be sold by order of the Court.

Witness

The Honourable

Judge of the Grand Court.

This day of 19 ..

Indorsement of Claim

The Plaintiff's claim is for

.....

This writ was issued by of Attorney-at-Law
for the said Plaintiff whose address for service is

Indorsement as to Service

This writ was served by me at on the day
of 19 by (state manner of service)

.....
Bailiff

* To be varied for an action in personam.

The Grand Court (Admiralty) Rules -- 5

possession or control, of the ship in connection with which the claim
arose and was also, at the time of the issue of the writ, the beneficial
wner of all the shares in the ship against which the action is brought;
and

(c) the grounds of the deponent's belief.

(8) Every action in rem for possession of a ship or for wages must state
the nationality of the ship against which the action is brought and that the notice
(if any) required by sub-rule (4) has been sent, and a copy of such notice must
be annexed to the affidavit.

(9) An affidavit in such an action as is referred to in sub-rule (5) must have
annexed thereto a copy of the bottomry bond or the translation thereof.

Caveat against
arrest.

9. (1) A person who desires to prevent the arrest of any property must file in
the Registry a request in the prescribed form signed by him or his Attorney
undertaking —

(a) to enter an appearance in any action begun against the property
therein described; and

(b) within three days of receiving notice that such an action has been
begun, to give bail in the action in a sum not exceeding an amount
specified, or to pay the amount so specified into Court.

and on the filing of a request a caveat against the issue of a warrant shall be
entered in the caveat book.

(2) The fact that there is a caveat against arrest in force shall not prevent
the issue of a warrant to arrest the property to which the caveat relates.

Remedy where
property protected
by caveat is
arrested without
sufficient reason.

10. 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 in-
stance the caveat was entered may apply to the Court by motion for an order
that under this Rule and, on the hearing of the application, the Court, unless it
is satisfied that the party procuring the arrest of the property had a good and
sufficient reason for so doing, may by order discharge the warrant and may
also order the last-mentioned party to pay to the applicant damages in respect
of the loss suffered by the applicant as the result of the arrest.

Service of writ in
action in rem.

11. (1) Subject to sub-rule (2) a writ by which an action in rem is begun must
be served on the property against which the action is brought except —

(a) where the property is freight, in which case it must be served on the
cargo in respect of which the freight is payable or on the ship in which the
cargo was carried; or

(b) where that property has been sold and the proceeds of sale paid into
court, in which case it must be served on the Clerk.

(2) A writ need not served under sub-rule (1) if it is deemed to have been
duly served under the Grand Court (Civil Procedure) Rules.

(3) Where by virtue of this Rule a writ is required to be served on any
property, then, if the plaintiff wishes service of the writ to be effected by the
Bailiff, he must leave the writ and a copy thereof at the Registry and file
therein a request in the prescribed form and, where he does so the Bailiff shall
serve the writ and the plaintiff shall pay the Bailiff's expenses in that behalf
upon demand.

(4) Where the plaintiff or his attorney in an action in rem becomes aware
that there is in force a caveat against arrest with respect to the relevant
property, he must serve the writ forthwith upon the person at whose instance

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the caveat was entered.

(5) Where a writ has been amended the amended writ must, subject to any direction by the Court, be served on any defendant who has entered an appearance or, if no appearance has been entered, then upon the property or the Clerk as the case may be.

Attorney failing to comply with undertaking.

12. The Attorney to a party to an action in rem who fails to comply with his written undertaking to any other party or the Attorney of such party to enter an appearance, give bail or pay money into court shall be liable to committal.

Execution etc. of warrant of arrest.

13. (1) A warrant of arrest is valid for one year from the date of issue.

(2) Only the Bailiff may execute a warrant of arrest.

(3) A warrant of arrest shall not be executed until an undertaking in writing, satisfactory to the Bailiff, to pay the Bailiff's fees and expenses has been lodged in the Registry or with the Bailiff.

(4) A warrant shall not be executed if the party, at whose instance it was issued, lodges with the Bailiff a written request in that behalf.

(5) A warrant issued against freight may be executed by serving it upon the cargo in respect of which the freight is payable or on the ship in which the cargo was carried or on both.

(6) Subject to sub-rule (5), a warrant of arrest must be served on the property against which it is issued.

(7) A warrant of arrest may be served on a Sunday.

(8) Within seven days of the service of a warrant of arrest the Bailiff must file it in the Registry.

Service on ships.

14. (1) Subject to sub-rule (2) service of a warrant of arrest or writ in an action in rem against a ship, freight or cargo shall be effected by —

(a) affixing the warrant or writ for a short time on any mast of the ship or on the outside of any suitable part of the ship's superstructure: and

(b) on removing the warrant or writ, leaving a copy of it affixed (in the case of a warrant) in its place or (in the case of a writ) on a sheltered, conspicuous part of the ship.

(2) Service of a warrant of arrest or writ in an action in rem against freight or cargo or both shall, if the cargo has been landed or trans-shipped, be effected —

(a) by placing the warrant of arrest or writ for a short time on the cargo and, on removing the warrant or writ, leaving a copy of it on the cargo; or

(b) if the cargo is in the custody of a person who will not permit access to it, by leaving a copy of the warrant or writ with that person.

Applications with respect to property under arrest.

15. (1) The Bailiff may at any time apply to the Court for directions with respect to property under arrest in an action and may, or, if the Court so directs, shall, give notice of the application to any or all of the parties to every action against the property.

(2) The Bailiff shall send a copy of any order made under sub-rule (1) to all the parties to every action against the property to which the order relates.

Release of property under arrest.

16. (1) Except where property arrested in pursuance of a warrant of arrest is sold under an order of the Court, property which has been so arrested shall only be released under the authority of an instrument of release (in this Rule referred to as a "release"), in the prescribed form issued out of the Registry.

(2) A party at whose instance any property was arrested may, before an

Limitation action: proceedings to set aside decree.

Judgments and orders.

Inspection of documents filed in the Registry.

Forms.

Fees.

vertisement in the Gazette and in a newspaper specified in the decree, identifying the action, the casualty and the relationship of the plaintiff thereto (whether as owner of the ship involved in the casualty or otherwise as the case may be), stating that the decree has been made and specifying the amounts fixed thereby as the limits of the plaintiff's liability and the time allowed thereby for the entering of appearances, the filing of claims and the taking out of summonses to have the decree set aside.

The plaintiff must, within the time fixed under sub-rule (2) (b) file in the Registry a copy of the newspaper in which the advertisement required under sub-rule (2) (a) appears.

(4) The time allowed under sub-rule (2) (b) shall, unless for special reasons the Judge thinks fit to provide otherwise, be not less than two months from the latest date allowed for the appearance of the advertisements; and after the expiration of the time so allowed, no appearance may be entered, claim filed or summons taken out to set aside the decree except with leave of the Judge.

(5) Save as aforesaid, any decree limiting the plaintiff's liability may make any such provision as is authorised by section 504 of the Merchant Shipping Act, 1894.

40. (1) Where a decree limiting the plaintiff's liability fixes a time in accordance with Rule 39 (2), any person with a claim against the plaintiff in respect of the casualty to which the action relates who —

(a) was not named by his name in the writ as a defendant in the action; or

(b) if so named, neither was served with the writ nor entered an appearance

may, within that time, after entering an appearance, take out a summons returnable in chambers before the Judge asking that the decree be set aside.

(2) The summons must be supported by an affidavit or affidavits showing that the defendant in question has a bona fide claim against the plaintiff in respect of the casualty in question and that he has sufficient prima facie grounds for the contention that the plaintiff is not entitled to the relief given him by the decree.

(3) The summons and every affidavit in support thereof must, at least seven clear days before the hearing, be served on the plaintiff and any defendant who has entered an appearance.

(4) On the hearing of the summons the Judge, if he is satisfied that the defendant in question has a bona fide claim against the plaintiff and sufficient prima facie grounds for the contention that the plaintiff is not entitled to the relief given him by the decree, shall set the decree aside and give such directions as to the further proceedings in the action as appear to him to be appropriate.

41. Every judgment given or made in an Admiralty cause or matter shall be drawn up in the Registry and shall be entered by the Clerk in the book kept for that purpose.

42. Any person shall, on payment of the prescribed fee, be entitled during office hours to search for and inspect and take copies of any of the following documents filed in the Registry —

(a) a copy of a writ of summons or other originating process;

(b) any judgment or order given or made in court or any copy thereof; and

(c) with the leave of the court, on application made ex parte, any other document.

43. Forms to be used in connection with these Rules are prescribed in the First Schedule.

44. Fees payable in connection with these Rules are prescribed in the Second Schedule.

- (a) the plaintiff's case in the action; and
(b) if none of the defendants named in the writ by their names has entered an appearance, service of the writ on at least one of the defendants so named.
- (3) The affidavit in support of the summons must state —
(a) the names of all the persons who, to the knowledge of the plaintiff, have claims against him in respect of the casualty to which the action relates, not being defendants to the action who are named in the writ by their names; and
(b) the address of each of those persons, if known to the plaintiff.
- (4) The summons and every affidavit in support thereof must, at least seven clear days before the hearing, be served on any defendant who has entered an appearance.
- (5) On the hearing of the summons the Judge, if it appears to him that it is not disputed that the plaintiff has a right to limit his liability, shall make a decree limiting the plaintiff's liability and fix the amount to which the liability is to be limited.
- (6) After hearing the summons the Judge, if it appears to him that any defendant has not sufficient information to enable him to decide whether or not to dispute that the plaintiff has a right to limit his liability, shall give such directions as appear to him to be appropriate for enabling the defendant to obtain such information and shall adjourn the hearing.
- (7) If on the hearing or resumed hearing of the summons the Judge does not make a decree limiting the plaintiff's liability, he shall give such directions as to the further proceedings in the action as appear to him to be appropriate including, in particular, a direction requiring the taking out of a summons for directions.
- (8) Any defendant who, after the Judge has given directions under sub-rule (7), ceases to dispute the plaintiff's right to limit his liability must forthwith file a notice to that effect in the Registry and serve a copy on the plaintiff and on any other defendant who has entered an appearance.
- (9) If every defendant who disputes the plaintiff's right to limit liability serves a notice on the plaintiff under sub-rule (8), the plaintiff may take out a summons returnable in chambers asking for a decree limiting his liability; and sub-rules (4) and (5) shall apply to a summons under this sub-rule as they apply to a summons under sub-rule (1).
39. (1) Where the only defendants in a limitation action are those named in the writ by their names and all persons so named have either been served with a writ or entered an appearance, any decree in the action limiting the defendant's liability —
(a) need not be advertised; but
(b) shall only operate to protect the plaintiff in respect of claims by persons so named or persons claiming through or under them.
- (2) In any case not falling within sub-rule (1), any decree in the action limiting the plaintiff's liability —
(a) shall be advertised by the plaintiff in such manner and within such time as may be provided by the decree;
(b) shall fix a time within which persons with claims against the plaintiff in respect of the casualty to which the action relates may enter an appearance in the action (if they have not already done so) and file their claims, and, in the cases to which Rule 40 applies, take out a summons if they think fit, to set the order aside.
- (3) The advertisement to be required under sub-rule (2) (a) shall unless for special reasons the Judge thinks fit otherwise to provide, be a single ad-

Limitation action:
proceedings under
decree.

Caveat against
release and
payment.

Duration of caveats.

Bail.

Interveners.

appearance is entered in the action, file a notice withdrawing the warrant of arrest and, if he does so, a release shall, subject to sub-rules (3) and (5) be issued with respect to that property.

(3) Unless the Court otherwise orders, a release shall not be issued with respect to property as to which a caveat against release is in force.

(4) A release may be issued at the instance of the party interested in the property under arrest if the Court so orders, or, subject to sub-rule (3), if all the other parties to the action in which the warrant of arrest was issued consent.

(5) Before a release is issued the party entitled to its issue must —

(a) if there is a caveat against release of the property in force, give notice to the party at whose instance it was issued or to his Attorney requiring the caveat to be withdrawn; and
(b) file in the prescribed form a request for the release.

(6) Before property under arrest is released under this Rule, the part at whose instance the release was issued must, in accordance with the directions of the Bailiff, either pay the costs, charges and expenses due or give a written undertaking so to do.

(7) The Court may, on the application of any party who objects to directions given to him by the Bailiff under sub-rule (6) vary or revoke them.

17. (1) Whoever desires to prevent the release of any property under arrest in an action in rem and the payment out of court of any money in court representing the proceeds of the sale of that property must file in the Registry a request in the prescribed form and on the filing thereof a caveat in that behalf shall be entered in the caveat book.

(2) Where the release of any property under arrest is delayed by the entry of a caveat under this Rule, any person having an interest in that property may apply to the Court by motion for an order requiring the person who procured the entry of the caveat to pay to the applicant damages for the loss he suffered by reason of the delay, and the Court, unless it is satisfied that the person procuring the entry of the caveat had a good and sufficient cause for so doing, may make an order accordingly.

18. (1) Every caveat entered in the caveat book is valid for six months from the date of entry but the person at whose instance a caveat was entered may withdraw it by filing a request in the prescribed form.

(2) The period of validity of a caveat may not be extended but caveats may be entered in succession.

19. Bail on behalf of a party to an action in rem must be given by bond in the prescribed form and the sureties thereto must enter into the bond before a Justice of the Peace. The Court may, at the instance of the opposite party, require that one of the sureties shall be a banking corporation.

20. (1) Where property against which an action in rem is brought is under arrest or money representing the proceeds of sale of that property is in court, a person who has an interest in that property or money but who is not a defendant to the action may, with the leave of the Court, intervene in the action.

(2) An application for the grant of leave under this Rule must be made ex parte by affidavit showing the interest of the applicant in the property or the money in court.

(3) A person to whom leave is granted to intervene in an action must enter appearance therein in the Registry within the period specified in the order granting leave.

(4) The Court may order that a person to whom it grants leave to intervene

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in an action shall, within such period as may be specified in the order, serve on every other party to the action such pleading as may be so specified.

Preliminary acts.

21. (1) In an action to enforce a claim for damage, loss of life or personal injury arising out of a collision between ships, unless the Court otherwise orders, the plaintiff must, within two months after issue of the writ, and the defendant must, within two months after entering an appearance in the action, and before any pleading is served, lodge in the Registry a document (in these Rules referred to as a preliminary act) containing a statement of 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 measures were taken with reference to her presence, whichever was the earlier;
- (h) the lights (if any) carried by the ship;
- (i) (i) the distance and bearing of the other ship if and when her echo was first observed by radar;
(ii) the distance, bearing and approximate heading of the other ship when first seen;
- (j) when light or combination of lights (if any) of the other ship were first seen;
- (k) what alterations (if any) were made to the course and speed of the ship after the earlier of the two times referred to in paragraph (g) up to the time of the collision, and when, and what measures (if any), other than alterations of course or speed, were taken to avoid the collision, and when;
- (l) the parts of each ship which first came into contact and the approximate angle between the ships at the moment of contact;
- (m) what sound signals (if any) were given and when; and
- (n) what sound signals (if any) were heard from the other ship and when.

(2) Every preliminary act shall be sealed by the Clerk and shall be filed in a closed envelope (stamped with an official stamp showing the date of filing) and, unless the Court otherwise orders, no such envelope shall be opened until the pleadings are closed and a consent signed by each of the parties or his attorney to the opening of the preliminary acts is filed in the Registry.

(3) Where the Court orders the preliminary acts to be opened, the Court may further order the action to be tried without pleadings, but where the Court orders the action to be so tried any party who intends to rely on the defence of compulsory pilotage must give notice of his intention so to do to the other parties within seven days after the opening of the preliminary acts.

(4) Where the Court orders the action to be tried without pleading, it may also order each party, within such period as may be specified in the order, to file a statement of the grounds on which he charges the other party with negligence in connection with the collision and to serve a copy thereof on that other party.

(5) Unless the Court orders the action to be tried without pleadings, the plaintiff must serve a statement of claim on each defendant within fourteen days of the latest date on which the preliminary act of any party to the action is filed.

Examination of witnesses and other persons.

Proceedings for apportionment of salvage.

Filing and service of notice of motion.

Agreement between Attorneys out of court.

Originating summons.
Limitation action: parties.

Limitation action: summons for decree or directions.

32. The Court may, in its discretion, authorize the examination on oath of a witness or other person in any cause or matter before such cause or matter has been set down for trial and may make provision for any arrangements consequential thereon including the taking of a record of such evidence and the provision of copies thereof to all parties concerned for use at the trial.

33. (1) Proceedings for the apportionment of salvage, the aggregate amount of which has already been ascertained, shall be begun in the Registry by originating motion.

(2) The notice of such motion, together with the affidavits in support thereof, must be filed in the Registry at least seven days before the hearing, unless the Court gives leave to the contrary, and copies of the notice and of the affidavits must be served on all the other parties to the proceedings before the originals are filed.

(3) On hearing of the motion the Judge may exercise any of the jurisdiction conferred by section 556 of the Merchant Shipping Act, 1894.

34. (1) Notice of a motion in any action, together with the affidavits (if any) in support thereof, must be filed in the Registry at least three days before the hearing unless the Court gives leave to the contrary.

(2) A copy of the notice of motion and of the affidavits (if any) in support thereof must be served on all the parties to the proceedings before the originals are filed.

35. Any agreement in writing between the Attorneys of the parties to a cause or matter, dated and signed by those Attorneys, may, if the Clerk thinks it reasonable and just and such as the Judge would under the circumstances allow, be filed in the Registry, and the agreement shall thereupon become an order of the court and have the same effect as if such order had been made by the Judge in person.

36. An originating summons in Admiralty may be issued out of the Registry.

37. (1) In a limitation action the person seeking relief shall be the plaintiff and shall be named in the writ by his name and not described merely as the owner of, or as bearing some other relation to, a particular ship or property.

(2) The plaintiff must make one of the persons with claims against him in respect of the casualty to which the action relates defendant to the action and may make all or any of the others defendants also.

(3) At least one of the defendants to the action must be named in the writ by his name but the other defendants may be described generally and not by their names.

(4) The writ must be served on one or more of the defendants who are named by their names therein and need not be served on any other defendant.

(5) In this Rule and in Rules 38, 39 and 40 "name" includes a firm name or the name under which a person carries on his business, and where any person with a claim against the plaintiff in respect of the casualty to which the action relates has described himself for the purpose of his claim merely as the owner of, or bearing some other relation to, a ship or other property, he may be so described as defendant in the writ and, if so described, shall be deemed for the purposes of the Rules aforesaid to have been named in the writ by his name.

38. (1) Within seven days after the entry of appearance by one of the defendants named by their names in the writ, or, if none of them enters an appearance, within seven days after the time limited for appearing, the plaintiff, without serving a statement of claim, must take out a summons asking for a decree limiting his liability, or, in default of such a decree, directions as to the further proceedings in the action.

(2) The summons must be supported by affidavit or affidavits proving —

- persons; or
(c) where in any other case there is no dispute between the parties.

Summons for directions.

28. (1) Unless a Judge in person otherwise directs, the summons for directions shall be heard by a Judge in person.
(2) An order made on the summons for directions shall determine whether the trial is to be with or without one or more nautical or other assessors.
(3) An order may be made on the summons for directions limiting the number of witnesses who may be called at the trial, whether expert witnesses or not.
(4) Any order or direction made under this Rule may be varied or revoked at or before the trial.

Fixing date for trial etc.

29. (1) The Court may at any stage of an action, either on an application made by either party or by order made by virtue of Rule 38, fix a date for trial and vacate or alter such date.
(2) Not less than seven days after a date for trial has been fixed, the action must be set down for trial —
(a) where the date was fixed on application made under sub-rule (1), by the applicant; or
(b) where the date was fixed by order made by virtue of Rule 38, by the plaintiff.

Where the applicant or plaintiff does not, within the period fixed by this sub-rule, set down the action for trial, any other party may set it down or an application may be made to the Court to dismiss the action for want of prosecution and, on the hearing of any such application, the Court may order the action to be dismissed accordingly or make such other order as it thinks just.

(3) Not less than seven days before the date fixed for the trial, or such other period before that date as may be specified by the Judge, the party by whom the action was set down for trial must file in the Registry —

- (a) if trial with one or more assessors has been ordered, a request for his or their attendance; and
(b) sufficient copies of the proceedings, having regard to the number of the assessors.

(4) If an action set down for trial has been settled or withdrawn it shall be the duty of all the parties to notify the Registry forthwith.

Stay of proceedings in collision etc. until security given.

30. Where an action in rem, being an action to enforce any such claim as is referred to in Rule 5 (1) (a), is begun and a cross action in rem arising out of the same collision or other occurrence as the first-mentioned action is subsequently begun, or a counterclaim arising out of that occurrence is made in the first-mentioned action, then —

- (a) if the ship in respect of or against which the first-mentioned action is brought has been arrested or security given to prevent her arrest, but
(b) the said ship cannot be arrested and security has not been given to satisfy any judgment given in favour of the party bringing the cross action or making the counterclaim,

the Court may stay proceedings in the first-mentioned action until security is given to satisfy any judgment given in favour of that party.

Inspection of ship etc.

31. The Court may, on the application of any party, make an order for the inspection by the assessors, or any party or witness, of any ship or other property, whether real or personal, the inspection of which may be necessary or desirable for the purpose of obtaining full information or evidence in connection with any issue in the action.

Proceedings against party in default.

22. (1) Where in an action under Rule 21 the plaintiff fails to lodge a preliminary act within the prescribed period, any defendant who has lodged such an act may apply to the Court by summons to dismiss the action, and the Court may by order dismiss the action or make such other order on such terms as it thinks just.

(2) Where such an action, being an action in personam, a defendant fails to lodge a preliminary act within the prescribed period, the plaintiff, if he has lodged a preliminary act, may enter judgment against the defendant as the circumstances of the case may require.

(3) Where in such an action, being an action in rem, a defendant fails to lodge a preliminary act within the prescribed period, the plaintiff, if he has lodged an act, may apply to the Court by motion for judgment against the defendant, and it shall not be necessary for the plaintiff to file or serve a statement of claim or an affidavit before the hearing of the motion.

(4) On the hearing of a motion under sub-rule (3) the Court may make such order as it thinks just, and where the defendant does not appear on the hearing, that judgment should be given for the plaintiff provided he proves his case, it shall order the plaintiff's preliminary act to be opened and require the plaintiff to satisfy the Court that his claim is well founded. The plaintiff's evidence may, unless the Court otherwise orders, be given by affidavit without any order or direction in that behalf.

(5) Where the plaintiff in accordance with a requirement under sub-rule (4) satisfies the Court that his claim is well founded, the Court may give judgment for the claim and may at the same time order the property against which the action is brought to be appraised and sold the proceeds to be paid into court or make such order as it thinks just.

(6) The Court may, on such terms as it thinks just, set aside any judgment entered in pursuance of this Rule.

(7) In this Rule, references to the prescribed period shall be construed as references to the period within which, by virtue of Rule 21 (1), or any order of the Court, the plaintiff or defendant, as the context of the reference requires, is required to lodge a preliminary act.

Special provisions as to pleadings in collision etc. actions.

23. (1) The plaintiff in any such action as is referred to in Rule 5 (1) (a) may not serve a reply or defence to counterclaim on the defendant except with leave of the Court.

(2) If in any such action there is a counterclaim but no defence to counterclaim by the plaintiff, there is an implied joinder of issue which operates as a denial of every material allegation of act made in the counterclaim.

Judgment by default.

24. (1) Where a writ is served under Rule 11 on a party at whose instance a caveat against arrest was issued, then if —

- (a) the sum claimed in the action begun by the writ does not exceed the amount specified in the undertaking given by that party or his Attorney to procure the entry of the caveat, and
(b) that party or his Attorney does not within fourteen days after service of the writ fulfil the undertaking given by him aforesaid,

the plaintiff may, after filing an affidavit verifying the facts on which the action is based, apply to the Court for judgment by default.

(2) Judgment given under sub-rule (1) may be enforced by the arrest of the property against which the action was brought and committal of the party at whose instance the caveat with respect to that property was entered.

(3) Where a defendant in an action in rem fails to enter an appearance within the time limited for appearing, then, on the expiration of fourteen days after service of the writ and upon filing —

- (a) an affidavit proving due service of the writ;
- (b) an affidavit verifying the facts on which the action is based; and
- (c) if a statement of claim was not endorsed on the writ, a copy of the statement of claim,

the plaintiff may apply to the Court for judgment by default. Where the writ is deemed to have been duly served upon the defendant, an affidavit proving due service of the writ need not be filed under this sub-rule, but the writ endorsed by the Clerk that he accepts service of the writ must be lodged with the affidavit verifying the facts on which the action is based.

(4) Where a defendant to an action in rem fails to serve a defence on the plaintiff, then, after the expiration of the period fixed by or under these Rules for the service of the defence and upon filing —

- (a) an affidavit that no defence was served on him by that defendant during that period;
- (b) an affidavit verifying the facts upon which the action is based; and
- (c) if a statement of claim was not endorsed on the writ, a copy of the statement of claim,

the plaintiff may apply to the Court for judgment by default.

(5) Where a defendant to a counterclaim to an action in rem fails to serve a defence to the counterclaim on the defendant making the counterclaim, then, subject to sub-rule (6), after the expiration of the counterclaim and upon filing —

- (a) an affidavit that no defence to counterclaim was served on him by the first-mentioned defendant during that period;
- (b) an affidavit verifying the facts on which the counterclaim is based; and
- (c) a copy of the counterclaim,

the defendant making the counterclaim may apply to the Court for judgment by default.

(6) No applications may be made under sub-rule (5) against the plaintiff in any such action as is referred to in Rule (5) (1) (a).

(7) An application to the Court under this Rule must be made by motion and if, on the hearing of the motion, the Court is satisfied that the applicant's claim is well founded it may give judgment for the claim and may at the same time order the property against which the action or as the case may be, counterclaim is brought to be appraised and sold and the proceeds to be paid into court or make such other order as it thinks just.

(8) In default actions in rem evidence may, unless the Court otherwise orders, be given by affidavit without any order or direction given in that behalf.

(9) The Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Rule.

25. (1) Where in an action in rem against a ship the Court has ordered the ship to be sold, any party who has obtained or obtains judgment against the ship or proceeds of sale may —

- (a) in a case where the order for sale contains the further order referred to in sub-rule (2), after the expiration of the period specified in the order under paragraph (a), or
- (b) in any case after obtaining judgment,

apply to the Court by motion for an order determining the order of priority of the claims against the proceeds of sale of the ship.

(2) Where in an action in rem against a ship the Court orders the ship to be sold, it may further order —

- (a) that the order of priority of the claims against the proceeds of sale of the ship shall not be determined until the expiration of ninety days, or such other period as the Court may specify, beginning with the day in which the proceeds of sale are paid into Court;
- (b) that any party to the action or to any other action in rem against the

ship or the proceeds of sale thereof may apply to the Court in the action to which he is a party to extend the period specified in the order;

- (c) that within seven days after the date of payment into court of the proceeds of sale the Bailiff shall send for publication in the Gazette, Lloyd's List and Shipping Gazette and such other newspaper, if any, as the Court may direct a notice complying with sub-rule (3).

(3) The notice referred to in sub-rule (2) (c) must state —

- (a) that the ship (naming her) has been sold by an order of the Grand Court in an action in rem, identifying the action;
- (b) that the gross proceeds of sale, specifying the amount thereof, have been paid into court;
- (c) that the order of priority of claims against the said proceeds will not be determined until the expiration of the period (specifying it) specified in the order of sale; and
- (d) that any person with a claim against the ship or the proceeds of sale thereof, on which he intends to proceed to judgment should do so before the expiration of that period.

(4) The Bailiff must lodge in the Registry a copy of each newspaper in which the notice referred to in sub-rule (2) (c) appeared.

(5) The expenses incurred by the Bailiff in complying with an order of the Court under this Rule shall be included in his expenses relating to the sale of the ship.

(6) An application to the Court to extend the period referred to in sub-rule (2) (a) must be made by motion, and a copy of the notice of motion must, at least three days before the day fixed for the hearing thereof, be served on each party who has begun an action in rem against the ship or the proceeds of sale thereof.

(7) In this Rule "Court" means the Judge in person.

Appraisal and
sale of property.

26. (1) A commission for the appraisal and sale of any property under an order of the Court shall not be issued until the party applying for it has filed a request in the prescribed form.

(2) Such a commission must, unless the Court otherwise orders, be executed by the Bailiff in the prescribed form.

(3) A commission for appraisal and sale shall not be executed until an undertaking in writing satisfactory to the Bailiff to pay his fees and expenses on demand has been lodged in his office.

(4) The Bailiff shall pay into court the gross proceeds of the sale of any property sold by him under a commission for sale and shall bring into court the account relating to the sale (with vouchers in support) for taxation.

(5) On the taxation of the Bailiff's account relating to a sale any person interested in the proceeds of sale shall be entitled to be heard and any decision made on taxation shall be subject to review by the Court.

Payment in to and
out of court.

27. (1) Subject to sub-rule (2), money paid into court shall not be paid out except in pursuance of an order of the Judge in person.

(2) The Clerk may, with the consent of the parties interested in money paid into court, order the money to be paid out to the persons entitled thereto in the following cases, that is to say —

- (a) where a claim has been referred to the Clerk for decision and all the parties to the reference have agreed to accept the Clerk's decision and to the payment out of any money in court in accordance with that decision;
- (b) where property has been sold and the proceeds thereof paid into court, and the parties are agreed as to the persons to whom the proceeds shall be paid and the amount to be paid to each of those

Order for sale of
ship: priority of
claims.