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ADMIRALTY JURISDICTION PROCEDURE RULES



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ADMIRALTY JURISDICTION PROCEDURE RULES 2011

In exercise of the powers conferred on me by section 254 of the Constitution of the Federal Republic of Nigeria 1999, section 21 of the Admiralty Jurisdiction Act and of all other powers enabling me in that behalf I, DANIEL DANTSOHO ABUTU, FCI Arb, Chief Judge, Federal High Court, hereby make the following Rules :

PART A—REVOCATION, CITATION, SAVINGS, ETC.

ORDER 1

REVOCATION, CITATION, SAVINGS, ETC.

- | | |
|--|--|
| 1. The Admiralty Jurisdiction Procedure Rules 1993 are hereby revoked. | Revocation of Admiralty Jurisdiction Procedure Rules 1993. |
| 2. These Rules may be cited as the Admiralty Jurisdiction Procedure Rules 2011 and shall come into force on the 14th day of March, 2011. | Citation and commencement. |
| 3.—(1) These Rules shall apply to every admiralty cause or matter brought in the Court pursuant to the Act; and

(2) The Federal High Court (Civil Procedure) Rules shall apply subject to the provisions of these Rules. | Application of Rules. |
| 4.—(1) These Rules shall not apply to any cause or matter part-heard on the date when these Rules come into operation.

(2) Where an action is filed and no further step is taken other than the filing, other subsequent procedure shall be under these Rules.

(3) In all other cases where causes or matters are pending, the Court shall give such directions as may be necessary or expedient to ensure conformity with the requirements of these Rules.

(4) The Chief Judge may issue practice directions generally or in respect of a particular case, for carrying out any of the proceedings under these Rules.

(5) Except where the context otherwise requires, any reference in these Rules to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment. | Savings: Part-heard matters. |
| 5.—(1) In these Rules, unless the context otherwise requires—

“Act” means the Admiralty Jurisdiction Act ;

“Admiralty” shall bear the same meaning as in the Act ;

“Admiralty Marshal” means the Chief Registrar of the Federal High Court ;

“Admiralty Marshal or his substitute” means the Chief Registrar or any of his authorized officers ; | Interpretation. |

"*Admiralty Registry*" means the Registry established by the Chief Judge for Admiralty matters ;

"*Aircraft*" shall bear the same meaning as in the Civil Aviation Act No.6 of 2006 ;

"*Amount claimed*" includes an amount in respect of interest and/or costs ;

"*Arrest*" means the detention of ship by judicial process to secure a maritime claim, but does not include the seizure of a ship in execution or satisfaction of a judgment ;

"*Attorney-General*" means the Attorney-General of the Federation ;

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

"*Caveator*" means the person by whom or on whose behalf the caveat was filed ;

"*Chief Judge*" means the Chief Judge of the Federal High Court ;

"*Concurrent Writ*" has the same meaning as provided in Order 3 rules 9 and 10 of these Rules ;

"*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 an insurer of the ship or other property or of a liability in relation to the ship or other property ;

"*Judge*" means Judge of the Federal High Court ;

"*Out of jurisdiction*" means out of the Federal Republic of Nigeria ;

"*Registrar*" means the Chief Registrar, Deputy Chief Registrar, Assistant Chief Registrar, Principal Registrar, Senior Registrar or any other officer acting or performing the functions of a Registrar ;

"*Ship*" shall bear the same meaning as in the Act ;

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

PART B—ADMIRALTY

ORDER 2

PLACE OF INSTITUTING AND TRIAL OF SUITS

Actions in
Rem.

1. An action in rem may be commenced in the Judicial Division of the Court in which the res may be found or is expected to arrive.

Other
Actions.

2. All other actions shall be commenced and determined in the Judicial Division in which the defendant resides or carries on substantial part of his business or in which the cause of action arose.

Suit
commenced
in wrong
Judicial
Division.

3. Where a suit is commenced in any other Judicial Division of the Court than that in which it ought to have been commenced, it may, notwithstanding, be tried in the Judicial Division in which it has been commenced, unless the Court otherwise directs or the defendant pleads specially in objection to the jurisdiction before or at the time when he is required to state his answer or to plead in the cause.

ORDER 3

FORM AND COMMENCEMENT OF ACTIONS

1. An admiralty action filed in the Court shall be commenced by :

- (a) writ of summons or
- (b) originating summons.

Commence-
ment of
actions

2. Where an action is commenced by writ of the writ shall be issued by the summons Admiralty Marshal.

Admiralty
Marshal to
issue writ of
summons.

3.—(1) An action in rem shall be commenced by a Form 1 writ of summons as in Form 1, which shall be accompanied by a statement of claim and a copy of every document to be relied on at the trial.

Action in
rem :
Form 1.

(2) The plaintiff shall within 7 days of filing the of summons file written statements of his witnesses which shall be adopted on oath at the trial.

4.—(1) An action in personam shall be commenced by writ of summons as in Form 2 which shall be accompanied by :

Action in
Personam.
Form 2.

- (a) a statement of claim ;
- (b) a copy of every document to be relied on at the trial ;
- (c) a list of non-documentary exhibits ;
- (d) a list of witnesses to be called at the trial ; and
- (e) written statements on oath of the witnesses ;

Provided that :

(i) the statements on oath of witnesses requiring subpoena from the Court need not be filed at the commencement of the action ; and

(ii) the witnesses who require subpoena or summons shall at the instance of the party calling them be served with Form 3 before the filing of the statements of such witnesses.

Summons to
witness
requiring
subpoena :
Form 3.

(2) Where a plaintiff fails to comply with sub- rule 1 of this rule, his originating processes shall not be accepted for filing by the Registry.

5. A party who desires to call any witness not being a witness whose written statement or statement on oath accompanied his pleading shall apply to the Judge for leave to call such witness. Such application shall be accompanied by the statement on oath of the witness.

Additional
witness.

6. A writ of summons to be served out of jurisdiction shall be as in Form 4 with such modifications or variations as circumstances may require.

Form of writ
for service
out of
jurisdiction:
Form 4.

Form of
originating
summons :
Form 5.

7.—(1) Any action not required by these Rules to be commenced by writ of summons shall be commenced by originating summons and shall be as in Form 5, with such modifications or variations as circumstances may require.

(2) An originating summons shall be accompanied by :

- (a) an affidavit setting out the facts relied upon ;
- (b) copies of all the exhibits to be relied upon ; and
- (c) a written address.

Headings.

8.—(1) A process filed in or issued out of the Court in an admiralty proceeding shall include as part of the heading, the words “IN ADMIRALTY”.

(2) Where the action is an action in rem, the process filed shall contain the heading “ADMIRALTY ACTION IN REM”.

Originating
process to be
attested by
its date.

9.—(1) The Admiralty Marshal shall indicate the date and time of presentation for filing on every originating process presented for filing and shall arrange for service thereof to be effected.

Sealing of
originating
process.

(2) The Admiralty Marshal shall seal every originating process whereupon it shall be deemed to be issued.

(3) An originating process shall not be altered after it is sealed except upon application to a Judge in Chambers.

Loss of
originating
process.

10. Where an originating process is lost after issue, a Judge upon being satisfied of the loss and of the correctness of the process may order a copy to be filed and sealed in place of the lost originating process.

Concurrent
originating
process.

11. A plaintiff may at the issuance of an originating process or at any time during its life span, cause to be issued one or more concurrent originating processes each to bear the same date as the initial process marked “CONCURRENT” and have stated on it the date of issue.

Concurrent
originating
process for
service
within and
out of
Jurisdiction.

12. An originating process for service within jurisdiction may be issued and marked as a concurrent originating process with one for service out of jurisdiction and an originating process for service out of jurisdiction may be issued and marked as a concurrent originating process with one for service within jurisdiction.

ORDER 4

PRELIMINARY ACT

Filing of
preliminary
act.

1. In an action to enforce a claim for damages arising from the loss of a ship or for 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.

Contents of
preliminary
act.

2. 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 length, breadth, gross tonnage, beam, horse power and draught at the material time of the collision and the nature and tonnage of any cargo carried by the ship ;

(c) The date and time (including the time zone of the collision) ;

(d) The place of the collision ;

(e) The direction and force of the wind ;

(f) The state of the weather ;

(g) The state, direction and force of the tidal or other current ;

(h) The position, 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 ;

(i) The lights or shapes (if any) carried by the ship ;

(j)—(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 ;

(k) The light or shape or combination of lights or shapes (if any) of the other ship when first seen ;

(l) Other lights or shapes or combination of lights or shapes (if any) of the other ship subsequently seen before the collision, and when ;

(m) The alterations (if any) made to the course and speed of the ship after the earlier of the two times referred to in Rule 2 (h) of this order up to the time of the collision and when, and what measures of course or speed, taken to avoid the collision and when ;

(n) The heading of the ship, parts of each ship which first came into contact and the approximate angle between the two ships at the moment of contact ;

(o) The sound signals (if any) given and when ;

(p) The sound signals (if any) heard from the other ship, and when.

3. The contents of a preliminary act shall be set out in parallel columns and where ever possible, as stated in numerical values as in Form 6.

Form of
preliminary
act: Form 6.

4. The plaintiff shall file his preliminary act within 7 days after the commencement of the proceedings and the other party shall file their preliminary act before filing any pleading.

Time for
filing
preliminary
act.

5. 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.

Preliminary
act to be
sealed.

6.—(1) Where the plaintiff fails to file a preliminary act, the Court may, on application, dismiss the proceedings or make such order on terms as it thinks just.

Default in
filing.

(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 under the Federal High Court (Civil Procedure) Rules.

(3) In proving his case in pursuance of sub-rule (2) of this rule, the plaintiff's evidence may, unless the Court otherwise orders, be given on affidavit.

Opening of preliminary act.

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

Endorsement of preliminary act.

8. On the opening of an envelope containing a preliminary act, the Registrar shall endorse the preliminary act with the date on which it was filed, the date on which the envelope was opened and the date on which any order was made, or consent filed, pursuant to which the envelope was opened.

Preliminary act deemed part of statement of claim or defence.

9. A preliminary act shall be read with and form a part of the statement of claim or statement of defence, as the case may be, as though it were a schedule thereto.

ORDER 5

PARTIES IN ACTIONS IN REM

Actions in rem: Form 1.

1. The writ of summons 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 1 in the schedule to these Rules.

Nature of specification.

2. The specification may be by reference to ownership of, or other relevant relationship with the ship or other property concerned.

Actions against ship or other property.

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

Sister Ship.

4. —(1) Where the action is commenced against a sister ship within the meaning of Section 5 (4) (b) of the Act, the ship in relation to which it is a sister ship shall also be identified in the initiating process.

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

Amendment.

5.—(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 ;

(c) substituting for a ship some other ship ; and

(d) Adding a co-plaintiff or a co-defendant.

ORDER 6

SERVICE OF PROCESS

A—ACTIONS IN REM

1. The writ of summons 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.

Service on ship or other property on a ship.
2. The writ of summons 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 or storage facility containing the property.

Service on property not on Ship
3. If access to the ship or property cannot reasonably be obtained, the process may be served on the ship or other property:
 - (a) by handing a sealed copy of the process to or leaving it with a person apparently in charge of the ship or other property ; or
 - (b) if that person refuses to accept service, by placing a sealed copy of the process down in the person's presence and telling the person what the document is.

Service where access impossible.
4. 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.

Nigerian Ports Authority to be notified.
5. The writ of summons 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.

Service of writ on proceeds.
6. The writ in a proceeding commenced as an action in rem against freight shall be served in the following manner:
 - (a) if the cargo in respect of which the freight is owing is on board a ship, by attaching a sealed copy of the writ of summons and statement of claim in the suit to a conspicuous part of the ship ;
 - (b) if the cargo in respect of which the freight is owing is not on board a ship, by attaching a sealed copy of the writ of summons and statement of claim to the cargo ; or
 - (c) if monies payable for the freight are in the possession of a person, by personal service of the writ of summons and statement of claim on that person.

Service of writ on freight.
7. The writ in a proceeding commenced as an action in rem against a fund shall be served by handing a copy of the writ to the Admiralty Marshal.

Service of writ on funds.

Service upon
caveator.

8. 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 other property is in force or is filed, after the proceeding is commenced,

a sealed copy of the writ of summons 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.

Service by
Admiralty
Marshal.

9. 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.

No
substituted
service.

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

Service on
any day.

11. An originating process in a proceeding commenced as an action in rem may be served on any day.

Service of
amended
process.

12.—(1) Where a writ of summons in a proceeding commenced as an action in rem has been amended, the amended writ of summons shall, unless the Court otherwise orders, be served on each person on whom, and on each ship, or on the other property, on which the writ of summons was served.

(2) Where a writ of summons in an action in rem has been amended by joining or adding a person or a ship or other property as a party to the suit, the amended court processes in the suit shall be served on the joined or added person, and the owner or the master or any person apparently in charge of the ship or other property.

Acceptance
of service by
solicitor.

13. 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 other property undertakes in writing to accept service of the writ of summons, or any other process, in relation to the proceeding, the process may be served on the solicitor in any way in which other process of the Court may be served on the solicitor instead of being served as elsewhere provided or as the case may be.

Service in
certain
circumstances.

14. 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 other 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.

Where
violence
threatened.

15. Where the officer of Court or person charged with the service of any writ of summons or document on any person is prevented by the violence or threats of such person, or any other person in concert with him, from personally serving the writ of

summons or documents, it shall be sufficient to inform the person to be served of the nature of the writ of summons or documents and drop the same as near that person as practicable.

B—SERVICE OUT OF JURISDICTION

16. The Court or Judge, in giving leave to serve a court process or document out of jurisdiction under these Rules, may in an appropriate case direct that courier service shall be used by the party effecting service.

Service by courier.

17. Any order giving leave to effect service out of jurisdiction shall prescribe the mode of service, and shall limit a time after service within which the defendant is to enter an appearance, such time to depend on the place or country where or within which the writ of summons is to be served, and the Court may receive an affidavit or statutory declaration of such service having been effected as prima facie evidence thereof.

Mode of service to be prescribed and order thereon.

18. The costs of and incidental to the execution of any process in a suit shall be paid in the first place by the party requiring the execution, and the Sheriff shall not (except by order of the Court) be bound to serve or execute any process unless the fees and reasonable expenses thereof shall have been previously paid or tendered to him.

Expenses of service

19. A book shall be kept at every Court for recording service of process, in such form as the Chief Judge may direct, in which shall be entered by the officer serving the process, or by the Admiralty Marshal, the name of the plaintiff or complainant and the defendant, the particular Court issuing the process, the method, whether personal or otherwise, of the service, and manner in which the person serving ascertained that he served the process on the right person, and where any process is not duly served, then the cause of failure shall be stated and every entry in the book or an office copy of any entry shall be prima facie evidence of the several matters therein stated.

Recording of service.

ORDER 7

ARREST OF SHIP AND OTHER PROPERTY

1.—(1) A party to a proceeding commenced as an action in rem may by a motion ex parte apply for a warrant of arrest in respect of the ship or other property against which the proceeding was commenced, provided that at the time of the application the ship or other property is within Nigerian territorial waters or is expected to arrive there within three days.

Application.

(2) Before a warrant to arrest any ship or other property is issued, the party applying shall procure a search to be made in the caveat book for the purpose of ascertaining whether there is a caveat against arrest in force with respect to that ship or other property.

(3) A warrant of arrest shall not be issued until the party applying has filed an affidavit sworn to by him or his agent containing the particulars required by sub-rule (6) of this rule.

(4) A warrant of arrest may not be issued in the case of a ship or other property whose beneficial ownership has, since the issuance of the writ of summons, changed as a result of a sale or disposal by any Court exercising admiralty jurisdiction.

Warrant of
arrest :
Form 7.

(5) A warrant of arrest shall be signed by the Judge and shall be as in Form 7 of the schedule to these Rules.

(6) An affidavit required by sub-rule (3) of this rule shall state—

(a) in every case:

(i) the nature of the claim or counter-claim and that it has not been satisfied and, if it arises in connection with a ship, the name of that ship ; and

(ii) the nature of the property to be arrested and, if the property is a ship, the name of the ship and her port of registry, if known.

(b) In the case of a claim against a ship by virtue of section 5(4) of the Act:

(i) the name of the person who would be liable on the claim in an action in personam (the relevant person) ; and

(ii) that the relevant person was when the cause of action arose the owner or charterer of, or in possession or in control of the ship in connection with which the claim arose ; and

(iii) that at the time of the issuance of the writ the relevant person was either the beneficial owner of all the shares in the ship in respect of which the warrant is required or (where appropriate) the charterer of it under a charter by demise ;

(c) Where, pursuant to Section 5(4) (b) of the Act, the warrant is sought against a ship that is not the subject of the action, that the deponent has reasonable grounds to believe that the ship against which the warrant is sought is beneficially owned by the person who is the owner of the ship that is the subject of the action.

(d) In the case of a claim for possession of a ship or for wages, the nationality of the ship in respect of which the warrant is required ; and

(e) In the case of a claim in respect of a liability incurred under The Merchant Shipping Act, the facts relied upon as establishing that the Court is not prevented from entertaining the action.

Issuance of
warrant of
arrest: Form
7.

2. A warrant of arrest shall be issued by the Judge and shall be as in Form 7.

Period of
validity.

3. A warrant of arrest shall be valid for a period of 6 months from the date of its issue and may be renewed for another period of 6 months.

Execution
of warrant
of arrest.

4.—(1) A warrant of arrest shall be executed by the Admiralty Marshal or his substitute.

(2) A warrant of arrest shall not be executed on a ship or other property unless the writ of summons in the proceeding concerned has previously been served or is to be served concurrently with the execution of the warrant.

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

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

(5) Where a warrant of arrest 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 other property is, at the time of the application, in force ; or

(b) in any other case, an interested person in relation to the ship or other property, and on such terms as are just ; order that the warrant of arrest:

(i) be discharged ; or

(ii) be not executed ; or

(iii) be not executed within a specified period.

5. A ship or other property specified in a warrant of arrest as in Form 7 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 sold by order of Court. Duration of arrest: Form 7.

6. Execution of a warrant of arrest shall be verified by affidavit.

Verification of arrest.

7. A warrant of arrest may be executed on any day.

Execution on any day.

ORDER 8

CAVEATS

1. A caveat against the arrest of a ship or other property may be filed in the Registry in Form 8 in the schedule to these Rules. Caveat against arrest :
Form 8. /

2.—(1) The caveat shall not be filed unless the Admiralty Marshal is satisfied (whether because of an undertaking in writing to given by the caveator or by a solicitor in addition to the undertaking specified in rule 3 of this Order, or for other sufficient reason) that the caveator will, in any proceeding of the kind specified in the caveat that is commenced as an action in rem against the ship or other property: Admiralty Marshal to be satisfied .

(a) appear to the suit within 3 days of being served ; and

(b) provide bail or pay the amount claimed into Court in the name of the Admiralty Marshal.

(2) The Admiralty Marshal may in addition to the requirements under sub-rule 1 of this rule demand that the undertaking, guarantee or bond to be produced or to secure the amount claimed or to satisfy any judgment in the amount claimed shall be by:

Bank and
other
Financial
Institutions
Act

Undertaking
by caveators.

Caveator to
give bail.

Bail Bond :
Form 9.

Caveat may
be set aside.

Caveat
against
release:
Form 10.

Payment of
damages for
insufficient
reason.

(a) a protection and indemnity association that is a member of the International Group of Protection and Indemnity Associations ; or

(b) a bank within the meaning of same in the Banks and other Financial Institutions Act carrying on banking business in Nigeria ; or

(c) an insurance company of repute registered under the Insurance Act carrying on business in Nigeria.

3.—(1) The filing of a caveat constitutes 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 or pay the amount claimed into Court in the name of the Admiralty Marshal.

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

4.—(1) This rule applies where :

(a) a caveat against the arrest of a ship or other property is in force ;

(b) under these Rules, a writ of summons 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 working 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, or

(b) cause a bail bond to be executed by a bank and an insurance company or Protection and Indemnity Club as in Form 9 in the schedule to these Rules.

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

5. The Court may set aside a caveat against the arrest of a ship or other property.

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

7. Where any ship or other 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 ship or other property 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 ship or other property was arrested to pay to the applicant damages in respect of the loss suffered by the applicant as a result of the arrest.

8.—(1) A caveat expires one year after the day on which it was filed except it is withdrawn or set aside. Expiration of Caveat.

(2) A new caveat may be filed before or after the expiration of an existing caveat. Filing of a new caveat.

9. A caveator may withdraw a caveat by filing an instrument of withdrawal of the caveat as in Form 11. Withdrawal of caveat : Form 11.

10.—(1) The Admiralty Marshal shall establish and maintain two Registers, to be known as— Registers.

(a) Register of caveats against arrest.

(b) Register of caveats against release.

(2) Any Register established under sub-rule (1) of this rule may be inspected by any person, without payment of any fee.

ORDER 9

CUSTODY AND SALE OF SHIP AND OTHER PROPERTY UNDER ARREST

1. An application for a warrant of arrest shall constitute an undertaking to the Court to pay to the Admiralty Marshal, on demand, an amount equal to the expenses of the Admiralty Marshal in relation to the arrest. Liability for Admiralty Marshal's expenses.

2.—(1) The documented expenses of the Admiralty Marshal including bank charges shall be paid by the arresting party. Funds to be deposited with Admiralty Marshal.

(2) Where a person is liable to pay for expenses, the Admiralty Marshal may:

(a) accept an amount of money not less than ₦100,000 and not more than ₦500,000 as deposit towards discharging the liability ; and

(h) make more demands fortnightly for payment on account of those expenses ;

(c) where another party arrests the arrested vessel or files a caveat against release, he shall be jointly and severally liable with the first arrestor to pay the Admiralty Marshal's expenses.

(d) Within 7 working days of the release of the ship or other property, the Admiralty Marshal shall file a return of receipts and expenditures to the Court.

Custody of
arrested ship
or other
property.

3.—(1) The Admiralty Marshal shall after executing the order of arrest of a ship or other property, have the custody of the ship or other property.

(2) The Admiralty Marshal shall, unless the Court otherwise orders, take all appropriate steps to retain custody of, and preserve the ship or other property, including :

(a) removing from the ship, or storing place, 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.

Applications
concerning
arrested ship
or other
property.

4.—(1) Where the Admiralty Marshal has the custody of a ship or other property, he or a party interested may at any time apply to the Court or a Judge in Chambers for directions with respect to other property, and such directions may include steps to be taken where an arrestor defaults in payment of the expenses of the Admiralty Marshal after a demand has been made for same.

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

(3) The Court may order the applicant :

(a) to give notice of the application ; and

(b) to give notice of the directions, to such persons as are specified in the order.

(4) The Court may make such orders as seems to it just including an order for the immediate and unconditional release of any ship or other property under arrest in the proceedings.

Discharge of
ship or cargo
not under
arrest.

5.—(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 ; and

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

(c) the Court so requires, that the applicant indemnifies the Admiralty Marshal, in form satisfactory to the Admiralty Marshal in respect of any claim against the Admiralty Marshal arising from the discharge, the Court may order 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 of the cargo from the ship.

6.—(1) 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.

Preservation,
management
and power of
sale.

(2) Where a ship or other property has been arrested and the owners thereof have failed to provide bail for the release of same for a period of not less than six months from the date of the arrest, the Court may, on the application of the arrestor or other interested party order that the ship or other property be sold by the Admiralty Marshal and the proceeds of sale paid into an interest-yielding fixed deposit account in the name of the Admiralty Marshal pending further orders of the Court.

ORDER 10

RELEASE FROM ARREST

1.—(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.

Release
generally.

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

Form 12.

2. 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 other property shall be released from arrest upon oral application to a Judge in Chambers.

Release by
consent.

3. Where—

Release
where
proceedings
ended

(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 the ship or other property from arrest.

B 250
Release at
request of
interested
person.

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

(2) An application for the release of the arrested ship or other property shall be heard by the Judge who ordered the arrest or, in his absence by any available Judge.

Release
where
security is
in force.

5.—(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 other property, whichever is less, has been paid into Court ; or

Form 9.

(b) a bail bond for an amount equal to—

(i) the amount claimed ; or

(ii) the value of the ship or other property, whichever is less, has been filed in the proceedings, the Admiralty Marshal may, on written application by the relevant person obtain the authorization of a Judge to release from arrest the ship or other property.

(2) Release shall not be made under sub-rule (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 other property that is under arrest has been:

(a) agreed between the parties ; or

(b) determined by the Court.

Release
where
caveat
against
release
is in
force.

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

ORDER II

REPARATION FOR NEEDLESS ARREST

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

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

2. 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 on 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, 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.

Cases in which compensation may be awarded.

3.—(1) The provisions of the preceding rules shall not take away any 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.

No action for damages where compensation awarded.

(2) Further to sub-rule (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. 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.

Application for damages for wrongful arrest may be taken summarily.

ORDER 12

PAYMENT OF BAIL

1.—(1) Where a sum is paid into Court by way of bail or other security, the said sum shall be paid by the Admiralty Marshal into a fixed deposit account with a bank at the best available rate of interest ;

Payment into Court and obligations of the Admiralty Marshal.

(2) The Admiralty Marshal shall place the moneys on a 30 day roll-over fixed deposit with the said bank ;

(3) Payment out of the said deposit account together with any accrued interest shall be made forthwith by the Admiralty Marshal not later than seven days after a proper request for the same shall have been made ;

Provided that in the event of the termination of a deposit before the due date, some accrued interest may be forfeited.

2. Evidence of every payment into a fixed deposit account as provided for in rule 1 of this Order shall be filed in Court by the Admiralty Marshal within 7 days of such payment.

Admiralty Marshal to file evidence of deposit.

Court may
vary bail.

3. The Court may by order reduce or increase the amount in respect of which bail has been provided.

ORDER 13

SECURITY FOR COSTS

A—ACTIONS IN REM

Court may
order
security for
costs.

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

(b) Where the plaintiff's claim is in excess of Five 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.

(c) 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 financial institution providing the security.

Form of
security.

2. The security shall take the form of :

(a) a deposit of the sum specified by the Court ; or

(b) a guarantee or undertaking supplied by a Protection and Indemnity Club, an insurance company of repute or a bank.

Quantum of
security.

3. In determining the quantum of security to be provided, the Court shall have regard to all the circumstances of the case.

Time within
which
security to
be furnished.

4. The Court shall specify the time within which the plaintiff shall furnish security and upon the expiration of the time specified, if no security is provided, the arrested ship or other property shall be released from arrest.

Security to
be withdrawn
upon
conclusion
of action.

5.—(1) A plaintiff shall be at liberty to withdraw any security provided to the Admiralty Marshal upon obtaining judgment against the defendant 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.

Security for
costs in
wages
and collision
matters.

6. 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.

Stay pending
security
in collision
proceeding.

7. Where in relation to maritime claims arising out of a collision between two or more ships :

(a) a proceeding has been commenced as an action in rem and

(i) a counter-claim has been made ; or

(ii) a cross-action has been commenced, whether as an action in personam or an action in rem ;

(b) a ship has been arrested, or security has been given to avoid arrest, by 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 counter-claim.

B—ACTIONS IN PERSONAM

8.—(1) When on the application of the plaintiff or defendant, as the case may be, it appears to the Court either at commencement or at any stage of the proceedings—

Security for costs by plaintiff or defendant.

(a) that the plaintiff or defendant is ordinarily resident out of jurisdiction ; or

(b) that the plaintiff (not being a plaintiff who is suing in a representative capacity) is a nominal plaintiff who is suing for the benefit of some other person and that there is reason to believe that he will be unable to pay the costs of the defendant if ordered to do so ; or

(c) subject to sub-rule (2) of this rule, that the plaintiff's address is not stated in the writ or other originating process or it is incorrectly stated therein ; or

(d) that the plaintiff or the defendant has changed his address during the course of the proceedings with a view to evading the consequences of the litigation, then if having regard to all the circumstances of the case, the Court thinks it just to do so it may order the plaintiff or the defendant to give such security for the plaintiff's costs or defendant's costs of the action or other proceedings as it thinks just.

(2) The Court shall not require a plaintiff to give security by reason only of sub-rule (1) (c) of this rule if he satisfies the Court that the failure to state his address or the mis-statement thereof was made innocently and without intention to deceive.

9.—(1) In fixing the amount of costs, the principle to be observed is that the party who is in the right is to be indemnified for the expenses to which he has been unnecessarily put in the proceedings, as well as compensated for his time and effort in coming to Court. The Judge may take into account all the circumstances of the case.

Principle to be observed in fixing costs.

(2) When costs are ordered to be paid, the amount of such costs shall, if practicable, be summarily determined by the Judge at the time of delivering the judgment or making the order.

(3) When the Judge has adjudged costs to be paid but he is unable to determine the quantum thereof, all questions relating thereto shall be referred to a taxing officer for taxation.

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Security for costs.

10. In any cause or matter in which security for costs is required, the security shall be of such amount and be given at such time and in such manner and form as the Judge shall direct.

Security for costs by plaintiff temporarily within jurisdiction.

11. A plaintiff ordinarily resident out of jurisdiction may be ordered to give security for costs though he may be temporarily resident within the jurisdiction.

Action founded on judgment or bill of exchange.

12. In actions brought by persons resident out of jurisdiction, when the plaintiff's claim is founded on a judgment or order or on a bill of exchange or other negotiable instrument, the power to require the plaintiff to give security for costs shall be exercised at the Judge's discretion.

Bond as security for costs.

13. Where a bond is to be given as security for costs, it shall unless the Judge otherwise directs, be issued in favour of the party or person requiring the security and filed in the Court.

C—COST GENERALLY

Cost at discretion of Court.

14. Subject to the provisions of any applicable law and these Rules, the costs of and incidental to all proceedings in the Court, shall be at the discretion of the Judge, and the Judge shall have full power to determine by whom and to what extent the costs are to be paid.

Costs out of fund or property.

15. The Judge may order any costs to be paid out of any fund or property to which a suit or proceedings relate.

Stay of proceedings until costs paid.

16. Where the Judge orders costs to be paid or security to be given for costs by any party, the Judge may order all proceedings by or on behalf of that party in the same suit or proceeding or connected with it to be stayed until the costs are paid or security given accordingly but such order shall not supersede the use of any other lawful method of enforcing payment.

Stage of proceedings at which costs to be dealt With.

17.— (1) Costs may be dealt with by the Judge at any stage of the proceedings.

(2) Costs when ordered become payable forthwith and shall be paid within seven days of the order, otherwise the defaulting party or his legal practitioner may be denied further audience in the proceedings.

Costs to follow the event.

18. In addition to any penalty payable for default under these Rules the costs of and occasioned by any application to extend the time fixed by the Rules or any direction or order there under for delivering or filing any document or doing other act, including the costs of any order made on the application shall be borne by the party making the application unless the Judge otherwise orders.

19. The Judge in exercising his discretion as to costs shall take into account any offer or contribution made by any of the parties and any payment into Court and the amount of such payment.

Matters to be taken into account in exercising discretion.

20.—(1) Where in any cause or matter anything is done or omission is made improperly or unnecessarily by or on behalf of a party, the Judge may direct that any costs to that party in respect of it shall not be allowed and any costs occasioned by it to other party shall be paid by him to them.

Costs arising from misconduct or neglect.

(2) Without prejudice to the generality to Sub-rule (1) of the Rule, the Judge shall for the purpose of that Sub-rule have regard in particular to the following matters that is to say—

(a) the omission to do anything the doing of which would have been calculated to save costs ;

(b) the doing of anything calculated to occasion or in a manner or at a time calculated to occasion unnecessary costs ;

(c) any unnecessary delay in the proceedings.

(3) The Judge may instead of giving directions under Sub-rule (1) of this Rule in relation to anything done or any omission made direct the taxing officer to inquire into it and if it appears to him that such direction as aforesaid should have been given in relation to it to act as if the appropriate direction had been given.

21.—(1) Subject to the following provisions of this rule, where in any proceeding costs are incurred improperly or without reasonable cause or are wasted by undue delay or by any other misconduct or default, the Judge may make against any legal practitioner whom the Judge considers to be responsible whether personally or through a servant or agent, an order:

Personal liability of legal practitioner for costs.

(a) disallowing the costs as between the legal practitioner and the legal practitioner's client; and

(b) directing the legal practitioner to pay the client's costs which the client has been ordered to pay to other parties to the proceedings ; or

(c) directing the legal practitioner personally to indemnify such other parties against cost payable by them.

(2) The provisions of Rule 20 Sub-rule (1) of this Order shall apply where proceedings in Court cannot conveniently proceed or fail or are adjourned without useful progress being made :

(a) because of the failure of the legal practitioner to attend in person or by a proper representative ; or

(b) because of the failure of the legal practitioner to deliver any document for the use of the Court which ought to have been delivered or to be prepared with any proper evidence or account or otherwise to proceed.

(3) No order under this Rule shall be made against a legal practitioner unless the legal practitioner has been given a reasonable opportunity to appear before the Judge to show cause why the order should not to be made.

(4) If, on the taxation of costs to be paid out of a fund, one-sixth or more of the amount of the bill for those costs is taxed off, the legal practitioner whose bill it is shall not be allowed the fees to which he would otherwise be entitled for drawing the bill and for attending the taxation.

(5) The Judge may direct that notice of any proceeding or order against a legal practitioner under this Rule shall be given to the legal practitioner's client in such manner as may be specified in the direction.

ORDER 14

PLEADINGS

Application
of the
Federal High
Court
(Civil
Procedure)
Rules.

Subject to the provisions of these Rules, the provisions of the Federal High Court (Civil Procedure) Rules shall mutatis mutandis apply to any proceedings relating to pleadings under these Rules.

ORDER 15

LIMITATION PROCEEDINGS

Limitation
proceedings.

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

(2) At least one of the respondents shall be named respondent to the originating summons.

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

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

Service on at
least one
respondent.

2.—(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 to the originating summons has been served.

(2) The application shall be supported by an affidavit setting out the name and, if known to the applicant, the address of each other person who, to the knowledge of the applicant, has or may have a maritime claim against the applicant arising out of or connected with the matter in respect of which liability is to be limited.

Advertisement
of
determination.

3.—(1) In a limitation proceeding, where persons are identified as respondents in the originating summon 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, not less than one month after the last day allowed for the advertisement of the determination, as the period within which a person who claims to have a maritime claim against the applicant in respect of which the applicant's liability is determined may :

(i) prosecute that claim ; or

(ii) apply under rule 5 of this Order.

(2) The Court may not make an order under sub-rule (1) of this rule if it is satisfied that all the persons included within the class of persons concerned have been served.

4. Where a determination in a limitation proceeding has not been advertised under rule 3 of this Order, the determination shall bind only persons identified as respondents in the originating process who have been served.

Effect of
determination.

5.—(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.

Proceeding
to set aside
determination

(2) The application may 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 7 days before the application is to be determined.

6. Where any person claims to be entitled to a limitation of liability referred to in section 9 (1) of the Act, the Court may give such directions as it deems fit with regard to the procedure in any such claim, the staying of any other proceedings and the conditions for the consideration of any such claim, which may include a condition that such amount as the Court may order be paid into Court to abide the result of the consideration of the said claim, or that the claimant be required to admit liability for all or any claims made against him or her, or any other condition which the Court deems fit.

Court to give
direction.

ORDER 16

VALUATION AND SALE

1.—(1) The Court may, on application by a party either before or after final judgment in a proceeding, order that a ship or other property that is under arrest in the proceeding—

Order for
valuation and
sale.

(a) be valued ; or

(b) be valued and sold.

(2) An application under sub-rule (1) of this rule constitutes an undertaking by the party who made it to pay on demand to the Admiralty Marshal an amount equal to the expenses 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, on notice to the parties order it to be sold subject to valuation.

Sale.

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

(2) Unless the Court otherwise orders, the sale shall be by auction not less than 21 days after an advertisement shall have been placed in two national daily newspapers by the Admiralty Marshal.

Return of
sale.

3. The Admiralty Marshal shall within 21 days after the sale of the ship or other 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.

Admiralty
Marshal's
Expenses.

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

(2) The Admiralty Marshal shall deduct two percent (2%) from the proceeds of sale of a ship or other property to cover his expenses including bank charges.

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

ORDER 17

PRIORITIES

Application
to determine
priorities.

1.—(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 other property, being a judgment that is enforceable in the Court, may apply to the Court for the determination of the order of priority of claims against the ship or other property.

(2) The Court may on such 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.

Admiralty
Marshal's
expenses.

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

ORDER 18

INTERVENERS

1.—(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. Interveners
in an action
in rem.

(2) An application for the grant of leave under this rule may be made ex parte supported by an affidavit showing the interest of the applicant in the property against which the action is brought or in the money in Court.

(3) A person to whom leave is granted under this rule shall thereupon become a party to the action.

(4) The Court may order that a person to whom it grants leave to intervene in an action shall, within such period or periods as may be specified in the order, serve on any other party to the action such notice of his intervention and such pleading as may be so specified.

PART C—AVIATION

ORDER 19

1. Subject to the provisions of these Rules and of all laws, conventions, treaties, protocols and understandings on aviation matters as domesticated in Nigeria and contained in the Federal Civil Aviation Act, all claims relating to aviation shall be instituted and prosecuted in accordance with the Federal High Court (Civil Procedure) Rules. Aviation
matters
generally.

2. The Court may grant an order for the arrest, detention, custody or preservation of an aircraft where the action relates to a proprietary claim concerning the aircraft in accordance with the provisions of Order 30 of the Federal High Court (Civil Procedure) Rules with such modifications and variations as the case may warrant. Arrest of
aircrafts.

3. A warrant of arrest of an aircraft shall be signed by a Judge and shall be as in Form 13 of the schedule to these Rules. Warrant of
arrest :
Form 13.

PART D—GENERAL

ORDER 20

MISCELLANEOUS PROVISIONS

1. Subject to particular rules, the Court may in all causes and matters make any order which it considers necessary for doing justice, whether the order has been expressly asked for by the person entitled to the benefit of the order or not. Orders to be
made.

2. All fines, forfeitures, pecuniary penalties and costs ordered to be paid may be levied by distress, seizure and sale of both movable and immovable property of the person making default in payment. Recovery of
penalties and
costs.

Notices.

3. In all cases in which the publication of any notice is required, the same may be made by advertisement in the Federal Gazette, unless otherwise provided in any particular case by any rule of Court or otherwise ordered by the Court.

Filing.

4. A document shall not be filed unless it has endorsed on it, the name and number of the case, the date of filing and whether filed by plaintiff or defendant, and on being filed the endorsements shall be initialed by the Registrar.

Fees
Appendix 2.
of Federal
High Court
(Civil
Procedure)
Rules.

5. The fees set out in Appendix 2 to the Federal High Court (Civil Procedure) Rules and any subsequent amendment may be charged in respect of the duties of a notary public or of a notarial act and other duties therein mentioned.

Committal of
solicitor
failing to
comply with
undertaking.

6. Where the solicitor of a party to an action in rem fails to comply with a written undertaking given by him to any other party or his solicitor to acknowledge issue of or service of the writ in the action, give bail or pay money into Court in lieu of bail, he shall be liable to committal.

Effect of
non-
compliance.

7.—(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 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 may be treated as an irregularity and if so treated, will not nullify the proceedings, or any document, judgment or order therein.

(2) The Court may on the ground that there has been such a failure as mentioned in sub-rule (1) of this rule and on such terms as to costs or otherwise as it thinks just, set aside either wholly or in part the proceedings in which the failure occurred, any step taken in those proceedings or any document, judgment or order therein, or it may 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.

Application
to set aside
for
irregularity.

8.—(1) An application to set aside for irregularity any proceeding, any step taken in any proceeding 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 in the proceedings.

(2) Any application under sub-rule (1) of this rule may be made by summons or motion on notice, and the grounds of objection shall be stated in the summons or motion on notice.

Where no
rules or
provisions
exist.

9. Where a matter arises in respect of which no provision or no adequate provisions are made in these Rules or in the Federal High Court (Civil Procedure) Rules the Court shall adopt such similar procedure in other Rules as will in its view do substantial justice between the parties concerned.

ORDER 21

GENERAL POWERS OF THE COURT

1. 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) 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.

Court may give directions, abridge or extend time.

2. A party to a proceeding may apply to the Court for the review of a decision or other act of the Admiralty Marshal in the proceeding.

Review of Admiralty Marshal's actions.

ORDER 22

POWERS OF THE CHIEF JUDGE TO AMEND RULES AND ISSUE PRACTICE DIRECTIONS

1. Whenever additional provisions are made to these Rules or any part thereof is amended or modified, the Chief Judge may issue directives for addition, publication or reprint of supplements to these Rules.

Powers of Chief Judge over new Rules.

2. Whenever the Chief Judge makes amendment or modification to these Rules, it shall be sufficient to publish same as supplemental provisions.

Publication of supplemental provisions.

3. The Chief Judge shall have the power to issue practice directions, protocols, directives and guidance towards the realization of speedy, just and effective administration of justice.

Chief Judge's power to issue practice directions, etc.

ORDER 23

ESTABLISHMENT OF ADMIRALTY REGISTRY

1. The Chief Judge may issue directions to establish the Admiralty Registry for the Court.

Chief Judge to establish Admiralty Registry.

2. The Chief Judge shall make such further Rules to guide the operation of the Admiralty Registry.

Further Rules.

3. The Chief Judge shall designate the Divisions of the Court where the Registry shall be located.

Location of Admiralty Registry.

SCHEDULE

ADMIRALTY PROCEDURE FORMS

FORM 1
(Order 3 Rule 3 (1))

WRIT OF SUMMONS IN ACTION IN REM

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE JUDICIAL DIVISION

SUIT NO :

ADMIRALTY IN REM

BETWEEN:

AND

To the Defendant (name) of _____

(address) _____

Admiralty Action in Rem against: (The ship "X" or as the case may be describing the property against which action is brought).

Between the owners of the Ship "A" or as the case may be describing the plaintiff (or name) _____ Plaintiffs.

And the Owners of the Ship "X" or as the case may be describing the property against which action is brought _____ Defendants.

To the Defendants and other persons interested in the Ship "X" (detailing registration of ship 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 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 or file a memorandum of appearance

If you fail to satisfy the claim or lodge an acknowledgment within the time stated, the plaintiff 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.....

(Statement of Claim to be affixed to the back)

The plaintiff's claim is for etc. (b) _____

The writ was issued by G.H. of _____ whose address for service is _____

_____ agent for _____ of _____ legal practitioner for the said plaintiff

Who resides at (d) _____ (mention the city/town or district and also the name of the street and number of the house of the plaintiff's residence, if any).

Endorsement to be made on copy of writ forthwith after service.

This writ was served by me at _____ on the defendant (here insert mode of service)

On the _____ day of _____ 20 _____

Endorsed the _____ day of _____ 20 _____

(Signed) _____

Address _____

Note :

(a) Endorsement of claim—if the plaintiff sues, or the defendant is sued, in a representative capacity, the endorsement must state in what capacity the plaintiff sues or the defendant is sued. If the claim is for a debt or liquidated demand only, the endorsement, even though not special, must strictly comply with the provisions of the Act including a claim for four days' costs.

(b) Address for Service—the address must be within the jurisdiction

(c) Address of Plaintiff – In the case of a Company in liquidation the plaintiff's address should run —“ _____ plaintiffs, who are a company in liquidation. The liquidator is (name of liquidator, Address of liquidator)”.

In the case of a foreign corporation within the meaning of the Companies and Allied Matters Act, the plaintiffs' address should run thus:-

“_____ plaintiffs, who are a foreign corporation within the meaning of Companies and Allied Matters Act, the registered name and address of the person to be served are (here add registered name and address)”.

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Endorsement of Service –

Before the writ is issued the following certificate must be indorsed on it.

The Registry, Federal High Court

In the _____ Judicial Division

A sufficient affidavit in verification of the endorsement on this writ to authorise the
sealing thereof has been produced to me this _____ day of _____

_____ 20 _____

(Signature of Registrar)

• (Order 4 Rule 1)

WRIT OF SUMMONS IN ACTION IN PERSONAM

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

IN ADMIRALTY

Suit No: _____

A.B. _____ PLAINTIFF

A N D

C.D. _____ DEFENDANT

To C.D. of _____ in the _____ of _____

You are hereby commanded that within thirty days after the service of this writ on you, inclusive of the day of such service you do cause an appearance to be entered for you in an action at the suit of A.B., And take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

DATED this _____ day of _____ 20_____

Registrar

Memorandum to be subscribed on the writ.

N.B. : This writ is to be served within twelve Calendar months from the date thereof or, if renewed, within six Calendar months from the date of the last renewal including the day of such date, and not afterwards. The defendant may enter appearance personally or by legal practitioner either by handing in the appropriate forms duly completed at the Registry of the Federal High Court of the Judicial Division in which the action is brought or by sending them to the Registry by registered post.

Endorsement to be made on the writ before issue thereof

(Order 3 Rule 3 (4) (e) (ii))

SUMMONS TO WITNESS REQUIRING SUBPOENA

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

IN ADMIRALTY

Suit No: _____

BETWEEN:

PLAINTIFF (S)

AND

DEFENDANT (S)

Whereas the plaintiff/defendant has listed your name as a prospective witness in this case and has indicated that a subpoena will be needed to get you to testify at the trial; Whereas the rules of practice and procedure of this Court require every witness to reduce his intended testimony in writing under oath for same to be filed in the Registry of the Court by the party calling the witness, for service on the opposite party; Now therefore, you are hereby ordered to deliver to the above-named plaintiff(s)/defendant(s) or his/her legal practitioner at the address indicated below, on or before the _____ day of _____ 20____ your written statement (i.e. your intended testimony) on oath, concerning the case.

TAKE NOTICE that if you fail to deliver the statement as aforesaid, you will be guilty of contempt of the Court and a Bench Warrant for arrest and/or committal to prison may be issued against you.

DATED this _____ day of _____ 20____

Address at which the statement is to be delivered :

To plaintiff (s)/defendant (s) :

C/o. _____

Registrar

Note : (a) This summons is to be served with the pleadings of the party calling the witness.

(b) The witness will still be required to attend Court when duly notified, or a formal adoption of the written statement on oath and to tender exhibits if need be, and be cross-examined.

(Order 3 Rule 6)

WRIT FOR SERVICE OUT OF JURISDICTION
ADMIRALTY ACTIONS IN PERSONAM

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

To: C.D. of _____

You are hereby commanded that within _____ (here insert the number of days directed by the Court or Judge ordering the service or notice) days after service of this writ (or notice of writ, as the case may be) on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the _____ Judicial Division of the Federal High Court in an action at the suit of A.B., and take notice that in default of you so doing the plaintiff may proceed therein and judgment may be given in your absence.

DATED this _____ day of _____ 20_____

By Order of the Court.

Registrar

MEMORANDUM TO BE SUBSCRIBED ON WRIT

N.B.: This writ is to be served within twelve Calendar months from the date thereof, or if renewed within six Calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The defendant (or defendants) may appear hereto by entering appearance (or appearances) either personally or by legal practitioner at the Registry of the Judicial Division in which the writ is issued.

This writ was served, etc. (as in Form 1)

Endorsement to be made on the writ before the issue thereof:

N.B.: This writ is to be used where the defendant or all defendants or one or more defendants is or are out of jurisdiction.

When the defendant to be served is not a citizen of Nigeria, notice of this writ and not the writ itself is to be served upon him.

Note : The above endorsement "N.B." must be on every writ or concurrent writ for service out of jurisdiction, or of which notice is to be served out of jurisdiction. The endorsement "N.B." need not be made on a writ against defendants domiciled abroad, but on whom it is intended to serve within the jurisdiction.

See also notes to Form 1, supra.

FORM 5

(Order 3 Rule 7)

GENERAL FORM OF ORIGINATING SUMMONS

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

IN ADMIRALTY

Suit No : _____

A.B. _____ PLAINTIFF(S)

AND

C.D. _____ DEFENDANT(S)

To C.D. of _____ in the _____ of _____

Let _____ of _____

_____ in _____

_____ within thirty days after service of this summons on him, inclusive of the day of such service, cause an appearance to be entered for him to this summons which is issued upon the application of _____ of _____ who claim the following reliefs (state the nature of the claim), for the determination of the following questions: (state the questions).

DATED this _____ day of _____ 20_____

This summons was taken out by _____ legal practitioners for the above-named _____

The defendant may appear hereunto by entering appearance personally or by a legal practitioner either by filing the appropriate processes in response at the Registry of the Court where the summons was issued or by sending them to that office by any of the methods allowed by these Rules.

Note : If the defendant does not respond within the time at the place above mentioned, such orders will be made and proceedings may be taken as the Judge may think just and expedient.

FORM 6

(Order 4 Rule 3)

PRELIMINARY ACT

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

IN ADMIRALTY

Suit No : _____

A.B. _____ PLAINTIFF(S)

AND

C.D. _____ DEFENDANT(S)

Preliminary Act on Behalf of _____

PART I

1. The names of the ships which came into collision and their ports of registry.
2. The length, breadth, gross tonnage, beam, horsepower and draught at the material time of the ship and the nature and tonnage of any cargo carried by the ship.
3. The date and time (including the time zone) of the collision.
4. The place of the collision.
5. The direction and force of the wind.
6. The state of the weather.
7. The state, direction and force of the tidal or other current.
8. The position, 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.
9. The lights or shapes (if any) carried by the ship.
10. (a) The distance and bearing of the other ship if and when her echo was first observed by radar. (b) The distance, bearing and approximate heading of the other ship when first seen.
11. The light or shape or combination of lights or shapes (if any) of the other ship when first seen.
12. Other lights or shapes or combination of lights or shapes (if any) of the other ship subsequently seen before the collision, and when.

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13. The alterations (if any) made to the course and speed of the ship after the earlier of the two times referred to in rule 2 (h) of this Order up to the time of collision, and when, and what measures (if any) other than alterations of course or speed, taken to avoid the collision, and when.
14. The heading of the ship, the parts of each ship which first came into contact and the approximate angle between the two ships at the moment of contact.
15. The sound signals (if any) given, and when.
16. The sound signals (if any) heard from the other ship, and when.

PART 2

State :

- (1) that the information in Part 1 is incorporated in Part 2;
- (2) any other facts and matters upon which the party filing this Preliminary Act relies;
- (3) all allegations of negligence or other fault on which the party filing this Preliminary Act relies;
- (4) the relief or remedy which the party filing this Preliminary Act claims.

Statement of Truth

- (I believe) (The Plaintiff believes) that the facts stated in this Preliminary Act are true.
- I am duly authorised by the plaintiff/defendant to sign this statement.

Full name _____ (Plaintiff)

Name of Plaintiff/Defendant's solicitor's firm _____

Signed _____ position or office held _____

- Plaintiff/Defendant's representative (if signing on behalf of firm or company).
- Delete as appropriate.

FORM 7

(Order 7 Rules 2 (1) and 5)

IN THE FEDERAL HIGH COURT

HOLDEN AT, NIGERIA

Suit No. : _____

ADMIRALTY ACTION IN REM AGAINST: (a)

BETWEEN:

_____ PLAINTIFF(S)

AND

_____ DEFENDANT(S)

WARRANT OF ARREST AND DETENTION OF

(a) PRESENTLY AT (b)

To the Admiralty Marshal of the Federal High Court and to all and singular his substitute.

WHEREAS it appears that the (c) presently at is about to leave Nigeria outside the jurisdiction of the Court (d)

The plaintiff's claim is as per the writ of summons being served along with this warrant of arrest.

This is therefore to require and order you forthwith to arrest and detain the said (e) and to keep same under detention until you shall receive further order(s) from the Court.

MADE by the Presiding Judge and under the SEAL of the Court, the day of 20.....

.....
Presiding Judge

Notes

(a) If a ship, Name of ship, if cargo or other property, description of cargo or other property.

(b) State location of ship or cargo/name of custodian of cargo in respect of which it is due/if freight, its location.

(c) State name of ship.

(d) If cargo, paragraph should read:

WHEREAS it appears that the cargo of presently on board the MV/MT/FT etc. Or at warehouse is about to be taken out of the jurisdiction of the Court.

If freight, paragraph should read

WHEREAS it appears that freight payable in respect of a cargo of which freight is currently in the custody of is about to be taken out of the jurisdiction of the Court and/or dissipated.

(e) Name of ship or description of cargo or freight and the cargo in respect of which it is payable.

FORM 8

(Order 8 Rule 1)

PRAECIPE FOR CAVEAT AGAINST ARREST

(Description of Property or name of ship)

IN ADMIRALTY

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 3 working days after receiving notice that such an action has
 begun, to give bail in the action in the sum not exceeding = N= 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 9

(Order 8 Rule 4 (2) (b))

BAIL BOND

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

Suit No : _____

IN ADMIRALTY

BETWEEN:

_____ PLAINTIFF

AND

_____ DEFENDANT

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 abovementioned plaintiffs and defendants.

Now, therefore, we "A.B." and "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 counter-claim) 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 is settled before the judgment and which is filed in the said Court, execution may issue against us, our executors or administrators, goods and chattels, for the amount unpaid, or an amount of ₦ _____—whichever is the less.

(Signed)

This Bail Bond was signed by the said A.B. and C.D.,

The sureties, this _____ day of _____ 20 _____

Before me

COMMISSIONER FOR OATHS

FORM 10

(Order 8 Rule 6)

PRAECIPE FOR CAVEAT AGAINST RELEASE

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE _____ JUDICIAL DIVISION

Suit No: _____

ADMIRALTY ACTION IN REM

BETWEEN:

A.B. _____ PLAINTIFF

AND

C.D. & E.F. _____ DEFENDANTS

(Description of property or name of Ship)

We, _____ Solicitor/Agent for _____ of _____
 request the entry of a Caveat with respect to the Above-mentioned property pursuant
 to Order _____

The intending Caveator claims to have a right of action in rem against the
 above-mentioned property for [state nature of claim, e.g. salvage, collision damage
 and the approximate amount claimed if known].

DATED the _____ day of _____ 20 _____

(Signed): _____

FORM 11

(Order 8 Rule 9)

PRAECIPE FOR WITHDRAWAL OF CAVEAT

(Description of property or name of ship)

We A.B. of (Address) (Solicitors for the Owners of the X) of (Address) request that the Caveat (state nature of Caveat) entered on the _____ day of _____ 20 _____ on behalf of the Owners of X be withdrawn.

DATED the _____ day of _____ 20 _____

(Signed) _____

FORM 12
(Order 10 Rule 1(2))

RELEASE

To the Chief Registrar of the Federal High Court and to all singular, his substitutes.

WHEREAS in this action you were ordered to arrest the _____ and to keep same under safe custody until you receive further Orders from the Court.

Now you are hereby ordered to release the said _____ from the arrest effected by virtue of the Warrant in this action.

.....
MADE by the Presiding Judge.

at _____ this _____ day of _____ 20_____

FORM 13

(Order 19 Rule3)

IN THE FEDERAL HIGH COURT

HOLDEN AT..... NIGERIA

WARRANT OF ARREST OF AIRCRAFT

Suit No. :.....

BETWEEN:

.....

PLAINTIFF(S)

AND

.....

DEFENDANT(S)

WARRANT OF ARREST AND DETENTION OF.....PRESENTLY
AT.....

To the Chief Registrar of the Federal High Court and to all his authorised officers

WHEREAS it appears that the..... presently at.....
is about to leave Nigeria.

The plaintiff's claim is as per the writ of summons being served along with this warrant of arrest.

This is therefore to require and order you forthwith to arrest and detain the said
..... and to keep same under detention until you shall receive further
order(s) from the Court.

MADE by the Presiding Judge and under the SEAL of the Court, the
..... day of.....20.....

.....

Presiding Judge

FORM 14

RELEASE OF AIRCRAFT

To the Chief Registrar of the Federal High Court and to all singular, his substitutes.

WHEREAS you were ordered to arrest the _____ and to keep same under safe custody until you receive further Orders from the Court.

You are hereby ordered to release the said _____ from the arrest effected by virtue of the Warrant in this action.

.....
MADE by the Presiding Judge.

at _____ this _____ day of _____ 20 _____

MADE at Abuja this 1st day of March, 2011.

DANIEL DANTSOHO ABUTU, FCI Arb.
Chief Judge of the Federal High Court

EXPLANATORY NOTE

(This note does not form Part of the above rules but is intended to explain their purport).

These Rules provide for the rules of procedure to be followed in the Federal High Court in admiralty actions and accordingly revoke the Admiralty Jurisdiction Procedure Rules 1993.