

ADMIRALTY JURIDICTION ACT

CHAPTER A5 LAWS OF THE FEDERATION OF NIGERIA, L.F.N. 2004

EXPLANATORY MEMORANDUM

This Act provides among others for the extent of the jurisdiction of the Federal High Court in admiralty matters and other matters connected therewith.

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An Act to provide for the extent of the jurisdiction of the Federal High Court in admiralty matters and other matters connected therewith.

[Commencement]

[30th December, 1991]

1. Extent of the admiralty jurisdiction of the Federal High Court

- (1) The admiralty jurisdiction of the Federal High Court (in this Act referred to as "the Court") includes the following, that is –
 - (a) jurisdiction to hear and determine any question relating to a proprietary interest in a ship or aircraft or any maritime claim specified in section 2 of this Act;
 - (b) any other admiralty jurisdiction being exercised by any other court in Nigeria immediately before the commencement of this Act;
 - (c) any jurisdiction connected with any ship or aircraft which is vested in any other court in Nigeria immediately before the commencement of this Act;

- (d) any action or application relating to any cause or matter by any ship owner or aircraft operator or any other person under the Merchant Shipping Act or any other enactment relating to a ship or an aircraft for the limitation of the amount of his liability in connection with the shipping or operation of aircraft or other property;
 - (e) any claim for liability incurred for oil pollution damage;
 - (f) any matter arising from shipping and navigation on any inland waters declared as national waterways;
 - (g) any manner arising within a Federal port or national airport and its precincts, including claims for loss or or damage to goods occurring between the off-loading of goods across space from a ship or an aircraft and their delivery at the consignee's premises, or during storage or transportation before delivery to the consignee;
 - (h) any banking or letter of credit transaction involving the importation or exportation of goods to and from Nigeria in a ship or an aircraft, whether the importation is carried out or not and notwithstanding that the transaction is between a bank and its customer;
 - (i) any cause or matter arising from the constitution and powers of all ports authorities, airport authority and the National Maritime Authority;
 - (j) any criminal cause and matter arising out of or concerned with any of the matters in respect of which jurisdiction is conferred by paragraphs (a) to (i) of this subsection.
- (2) The admiralty jurisdiction of the Court in respect of carriage and delivery of goods extends from the time the goods are placed on board a ship for the purpose of shipping to the time the goods are delivered to the consignee or whoever is to receive them, whether the goods were transported on land during the process or not.

- (3) Any agreement or purported agreement, monetary or otherwise connected with or relating to carriage of goods by sea, whether the contract of carriage is executed or not, shall be within the admiralty jurisdiction of the Court.

2. Maritime claims

- (1) A reference in this Act to a maritime claim is a reference to a proprietary maritime claim or a general maritime claim.
- (2) A reference in this Act to a proprietary maritime claim is a reference to-
- (a) a claim relating to-
- (i) the possession of a ship;
 - (ii) a title to or ownership of a ship or of a share in a ship;
 - (iii) a mortgage of a ship or of a share in a ship; or
 - (iv) a mortgage of a ship's freight;
- (b) a claim between co-owners of a ship relating to the possession, ownership, operation or earning of a ship;
- (c) a claim for the satisfaction or enforcement of a judgment given by the Court or any court (including a court of a foreign country) against a ship or other property in an admiralty proceeding *in rem*;
- (d) a claim for interest in respect of a claim referred to in paragraphs (a), (b) or (c) of this subsection.

- (3) A reference in this Act to a general maritime claim is a reference to-
- (a) a claim for damage done by a ship, whether by collision or otherwise;
 - (b) a claim for damage received by a ship;
 - (c) a claim for loss of life or for personal injury, sustained in consequence of a defect in a ship or in the apparel or equipment of a ship;
 - (d) subject to subsection (4) of this section, a claim, including a claim for loss of life or personal injury, arising out of an act or omission of-
 - (i) the owner or charterer of a ship;
 - (ii) a person in possession or control of a ship;
 - (iii) a person for whose wrongful act or omission the owner, charterer or person in possession or control of the ship is liable;
 - (e) a claim for loss of or damage to goods carried by a ship;
 - (f) a claim out of an agreement relating to the carriage of goods or persons by a ship or to the use or hire of a ship, whether by charter-party or otherwise;
 - (g) a claim relating to salvage (including life salvage of cargo or wreck found on land);
 - (h) a claim in respect of general average;
 - (i) a claim in respect of pilotage of a ship;
 - (j) a claim in respect of towage of a ship or an aircraft when it is waterborne;

- (k) a claim in respect of goods, materials or services (including stevedoring and lighterage service) supplied or to be supplied to a ship for its operation or maintenance;
- (l) a claim in respect of the construction of a ship (including such a claim relating to a vessel before it was launched);
- (m) a claim in respect of the alteration, repair or equipping of a ship or dock charges or dues;
- (n) a claim in respect of a liability for port, harbour, canal or light tolls, charges or dues, or tolls, charges or dues of any kind, in relation to a ship;
- (o) a claim arising out of bottomry;
- (p) a claim by a master, shipper, charterer or agent in respect of disbursements on account of a ship;
- (q) a claim for an insurance premium, or for a mutual insurance call, in relation to a ship, or goods or cargoes carried by a ship;
- (r) a claim by a master, or a member of the crew, of a ship for-
 - (i) wages; or
 - (ii) an amount that a person, as employer, is under an obligation to pay to a person as employee, whether the obligation arose out of the contract of employment or by operation of law, including by operation of the law of a foreign country;
- (s) a claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried in a ship, or for the restoration of a ship or any such goods after seizure;
- (t) a claim for the enforcement of or a claim arising out of an arbitral award (including a foreign award within the meaning of the Arbitration and Conciliation Act made in respect of a proprietary maritime claim or a claim referred to in any of the preceding paragraphs;

- (u) a claim for interest in respect of a claim referred to in any of the paragraphs (a) to (r) of this subsection.

- (4) A claim shall not be made under subsection (3) (d) of this section unless the act or omission is an act or omission relating to the management of the ship including an act or omission in connection with-
 - (a) the loading of goods on to or the unloading of goods from a ship;
 - (b) the embarkation of persons on to or the disembarkation of persons from a ship; and
 - (c) the carriage of goods or persons on a ship.

- (5) A claim under paragraphs (a) to (c) of subsection (4) may be made against the owner, agent or charterer of a ship.

3. Application of jurisdiction to ships, etc.

Subject to the provisions of this Act, the admiralty jurisdiction of the Court shall apply to-

- (a) all ships, irrespective of the places of residence or domicile of their owners; and
- (b) all maritime claims, wherever arising.

4. Aviation claims

Any reference in this Act to a claim in respect of an aircraft includes a claim that can be made under any of the Conventions in force to which Nigeria is a party.

5. Mode of exercise of admiralty jurisdiction

- (1) Subject to section 6 of this Act, an action *in personam* may be brought in the Court in all cases within the admiralty jurisdiction of the Court.
- (2) In the case of a claim as is mentioned in section 2 (2) (a) or section 2 (3) (u), or a question as is mentioned in section 2 (2) (b) of this Act, an action *in rem* may be brought in the Court against the ship or property in connection with which the claim or question arises.
- (3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, an action *in rem* may be brought in the Court against that ship, aircraft or property; and for the purpose of this subsection, "**maritime lien**" means a lien for-
 - (a) salvage; or
 - (b) damage done by a ship; or
 - (c) wages of the master or of a member of the crew of a ship; or
 - (d) master's disbursements.
- (4) In any other claim under section 2 of this Act, where the claim arises in connection with a ship and the person who would be liable on the claim in an action *in personam* (in this Act referred to as "the relevant person") was, when the cause of action arose, the owner or charterer of or in possession or in control of the ship, an action *in rem* may (whether or not the claim gives rise to a maritime lien on that ship) be brought against-

- (a) that ship, if at the time the action is brought the relevant person is either the beneficial owner of that ship in respect of all the shares in it or the charterer of the ship under a charter by demise; or
 - (b) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner in respect of all the shares in the ship.
- (5) In the case of a claim in the nature of towage in respect of an aircraft, an action *in rem* may be brought in the Court against that aircraft if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action *in personam*.
- (6) Where, in the exercise of its admiralty jurisdiction, the Court orders any ship, aircraft or other property to be sold, the Court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.
- (7) In determining, for the purposes of subsection (4) and (5) of this section, whether a person would be liable on a claim in an action *in personam*, it shall be assumed that the person has his habitual residence or place of business within Nigeria.
- (8) Where a ship has been served with a writ or arrested in an action *in rem* brought to enforce a claim, no other ship shall (subject to subsection (9) of this section) be served with a writ or arrested in that or any other action *in rem* brought to enforce that claim; but this subsection shall not prevent the issue, in respect of anyone such claim, of a writ naming more than one ship (for example where the claim relates to repairs to two or more ships in the same ownership) or of two or more writs each naming a different ship.
- (9) Where a ship has been arrested, no other ship shall be arrested in the proceeding unless the first-mentioned ship-
- (a) having been invalidly arrested, has been released from arrest; or
 - (b) had been unlawfully removed from the custody of the Admiralty Marshal and the Admiralty Marshal has not regained custody of the ship.
- (10) Where a person has a claim that is both-

- (a) a claim on a maritime lien or other charge; and
- (b) a general maritime claim,

in respect of a ship and has commenced proceedings against a sister ship, subsection (9) of this Act shall not prevent the arrest of the first-mentioned ship in a proceeding on the maritime lien or other charge if the amount recovered by the person in the proceeding is less than the amount of claim on the maritime lien or other charge.

6. Re-arrest

- (1) A ship or other property arrested in a proceeding on a maritime claim shall not be re-arrested in the proceeding in relation to the claim unless the Court so orders, because default has been made in the performance of a guarantee undertaking given to procure the release of the ship or property from the earlier arrest or for some other sufficient reason.
- (2) An order under subsection (1) of this section may be made subject to such conditions as the Court deems just in the circumstances.

7. Service and arrest within jurisdiction

- (1) A writ in a proceeding commenced as an action *in rem* in the Court may be served on a ship or other property.
- (2) A ship or other property may, in any proceeding under subsection (1) of this section, be arrested at any place within the limits of the territorial waters of Nigeria.

8. Proceeds of sale

Where, but for the sale of a ship or other property under this Act, a proceeding could have been commenced as an action *in rem* against the ship or property, the proceeding may be commenced as an action *in rem* against the proceeds of sale that have been paid into a Court under this Act.

9. Limitation of liability proceedings

- (1) A person who apprehends that a claim for compensation under any law, including the Merchant Shipping Act, that gives effect to a Liability Convention may be made against him by some other person, may apply to the Court to determine the question whether the liability of the first-mentioned person in respect of the claim may be limited under that law.
- (2) On an application under subsection (1) of this section, the Court may, in accordance with the law referred to in that subsection-
 - (a) determine whether the applicant's liability may be so limited and, if so determined the limit of the liability;
 - (b) order the constitution of a limitation fund for the payment of claims in respect of which the applicant is entitled to limit his liability; and
 - (c) make such orders as are just with respect to the administration and distribution of that fund.
- (3) Where the Court has jurisdiction under this Act in respect of a proceeding, that jurisdiction shall extend to entertaining a defence in the proceeding by way of limitation of liability under a law that gives effect to the provisions of a Liability Convention.

10. Retention of security where proceedings are stayed or dismissed

(1) Without prejudice to any other power of the Court-

(a) where it appears to the Court in which a proceeding commenced under this Act is pending that the proceeding should be stayed or dismissed on the ground that the claim concerned should be determined by arbitration (whether in Nigeria or elsewhere) or by a court of a foreign country; and

(b) where a ship or other property is under arrest in the proceeding,

the Court may, order that the proceeding be stayed on condition that the arrest and detention of the ship or property shall stay or satisfactory security for their release be given as security for the satisfaction of any award or judgment that may be made in the arbitration or in a proceeding in the Court of the foreign country.

(2) The power of the Court to stay or dismiss a proceeding commenced under this Act includes power to impose any condition as is just and reasonable in the circumstances, including a condition-

(a) with respect to the institution or prosecution of the arbitration or proceeding in the court of a foreign country; and

(b) that equivalent security be provided for the satisfaction of any award or judgment that may be made in the arbitration or in the proceeding in the court of a foreign country.

(3) Where the Court has made an order under subsection (1) or (2) of this section, the Court may make such interim or supplementary orders as are appropriate in relation to the ship or other property for the purpose of preserving-

- (a) the ship or other property; or
- (b) the rights of a party or of a person interested in the ship or other property.

(4) Where-

- (a) a ship or other property is under arrest in a proceeding;
- (b) an award or judgment as mentioned in subsection (1) of this section has been made in favour of a party; and
- (c) apart from this section, the award or judgment is enforceable in Nigeria,

then in addition to any other proceeding that may be taken by the party to enforce the award or judgment, the party may apply to the Court in the stayed proceeding for an appropriate order in relation to the ship or property to give effect to the award or judgment.

11. Liability not limited to value of ship or property

Where judgment is given for the plaintiff in any proceeding on a maritime claim commenced as an action *in rem* against a ship or other property, the extent to which a defendant in the proceeding, who has entered an appearance and is a relevant person in relation to the claim, is personally liable to the judgment shall not be limited by the value of the ship or other property.

12. Ownership disputes

In a proceeding on a maritime claim between co-owners of a ship relating to possession, ownership, operations or earnings of the ship, the orders that the Court may make shall include-

- (a) an order for the settlement of accounts outstanding and unsettled;
- (b) an order directing that the ship or a share in the ship be sold; and
- (c) an order relating to entries in and deletions from the Registry of Ships.

13. Damages for wrongful arrest

(1) Where, in relation to a proceeding commenced under this Act-

(a) a party unreasonably and without good cause-

(i) demands excessive security in relation to the proceeding; or

(ii) obtains the arrest of a ship or other property under this Act; or

(b) a party or other person unreasonably and without good cause fails to give a consent required under this Act for the release from arrest of a ship or other property,

the party or person shall be liable in damages to a party to the proceeding, being a party or person who has suffered loss or damage as a direct result.

(2) The jurisdiction of the Court shall extend to determining summarily, in relation to the proceeding, a claim arising under subsection (1) of this section.

14. Priorities: general maritime claims

Notwithstanding the provisions of any other law, where-

- (a) a proceeding in respect of a general maritime claim concerning a ship has been commenced under this Act against a sister ship; or
- (b) in relation to a proceeding commenced under this Act concerning a ship, a sister ship has been arrested, the order in which general maritime claims against both ships shall be paid out of the proceeds of the sale of a sister ship shall be determined, as if all the claims were general maritime claims against the sister ship.

15. Statutory powers of detention

- (1) Where a law, other than this Act, confers on a person a power to detain a ship-
 - (a) if the ship is under arrest under this Act, the power to detain the ship shall not be exercised;
 - (b) the exercise of the power to detain the ship shall not prevent the arrest of the ship under this Act.
- (2) If a ship that has been detained under such a power as is mentioned in subsection (1) of this section, is arrested under this Act, then, by force of this subsection the detention shall be suspended for so long as the ship is under arrest.
- (3) If a ship that has been detained pursuant to a civil claim or would, but for paragraph (a) of subsection (1) of this section, be liable to be detained under such a power, is arrested and sold under this Act, then, the civil claim shall, unless the Court otherwise directs, be payable in priority to any claim against the ship other than the claim of the Admiralty Marshal for expenses.

16. Liability for principal and agent

- (1) The charterer, manager, operator or master of any ship in a Nigerian port or territorial waterways who authorises an agent to act for the ship, in relation to any purpose for which the ship is in Nigeria, shall be liable for any act, declaration, default, omission or commission of his agent in carrying out his agency.
- (2) If the owner, charterer, manager, operator or master of any ship entering or coming into Nigeria requests the services of an agent in Nigeria, such request shall be notified in writing to the ports authorities before or on the arrival of the ship, and the authorisation shall only cease if no suit is brought against the ship within the limitation period.
- (3) A person who acts as an agent of the owner, charterer, manager or operator of a ship may be personally liable, irrespective of the liability of his principal, for the act, default, omission or commission of the ship in respect of anything done or failed to be done in Nigeria.
- (4) A person who does anything or carries out any duty under the provisions of this Act or under the provisions of any law in force in Nigeria in respect of any ship in the territorial waters of Nigeria shall by doing that thing or carrying out that duty constitute himself the agent of the ship.

17. Currency clause

- (1) The Court shall have the power to give judgment in any monetary currency (accepted as legal tender by the laws of any other country) in which any of the parties has suffered loss or damage if-
 - (a) the goods or consignment are paid for or are to be paid for in that foreign currency; or
 - (b) the goods are insured in that currency and part of the amount so claimed is confined to that portion in foreign currency; or

- (c) the consideration or loss is derived from, accruing in, brought into or received, as the case may be, in the foreign currency or for the benefit of the party making a claim before the Court.
- (2) A judgment awarded by the Court in any foreign currency shall be recoverable as if it were a judgment of the Court awarded in the currency of Nigeria.

18. Limitation periods

- (1) A proceeding may be brought under this Act on a maritime claim or on a claim on a maritime lien or other charge, at any time before the end of—
 - (a) the limitation period that would have been applicable to the claim if a proceeding on the claim had been brought otherwise than under this Act; or
 - (b) if no proceeding on the claim could have been so brought, a period of 3 years after the cause of action arose.
- (2) The provisions of subsection (1) of this section shall not apply if a limitation period is fixed in relation to the claim by any enactment or law.

19. Exclusive jurisdiction

Notwithstanding the provisions of any other enactment or law, the Court shall, as from the commencement of this Act, exercise exclusive jurisdiction in admiralty causes or matters, whether civil or criminal.

20. Ouster of jurisdiction by agreement void

Any agreement by any person or party to any cause, matter or action which seeks to oust the jurisdiction of the Court shall be null and void, if it relates to any admiralty matter falling under this Act and if—

- (a) the place of performance, execution, delivery, act or default is or takes place in Nigeria; or
- (b) any of the parties resides or has resided in Nigeria; or
- (c) the payment under the agreement (implied or express) is made or is to be made in Nigeria; or
- (d) in any admiralty action or in the case of a maritime lien, the plaintiff submits to the jurisdiction of the Court and makes a declaration to that effect or the *rem* is within Nigerian jurisdiction; or
- (e) it is a case in which the Federal Government or the Government of a State of the Federation is involved and the Federal Government or Government of the State submits to the jurisdiction of the Court; or
- (f) there is a financial consideration accruing in, derived from, brought into or received in Nigeria in respect of any matter under the admiralty jurisdiction of the Court; or
- (g) under any convention, for the time being in force to which Nigeria is a party, the national court of a contracting State is either mandated or has a discretion to assume jurisdiction; or
- (h) in the opinion of the Court, the cause, matter or action should be adjudicated upon in Nigeria.

21. Practice and procedure

The Chief Judge may make rules of practice and procedure for carrying into effect the objects of this Act. #

22. Venue of proceedings

Any proceeding which may be brought pursuant to this Act may be filed in any judicial division of the Court in which the ship or other property may be located.

23. Appeals

Appeals from any decision or order of the Court in admiralty matters shall be as in other civil or criminal cases under the provisions of the Constitution of the Federal Republic of Nigeria 1999.

24. Act to bind the State

- (1) This Act binds the State in all its capacities.
- (2) This Act does not authorise-
 - (a) a proceeding to be commenced as an action *in rem* against a Government ship or Government property; or
 - (b) the arrest, detention or sale of a Government ship or Government property.

- (3) Where a proceeding has been commenced as an action *in rem* against a Government ship or Government property, the Court may, if it is satisfied that the proceeding was so commenced on the reasonable belief that the ship was not a Government ship or the property was not Government property-
- (a) order that the proceeding be treated as though it were a proceeding commenced as an action *in personam* on the claim against the person specified as defendant in the order; and
 - (b) make such consequential orders as are necessary.

- (4) In this section-

"Government ship" means a ship that belongs or is for the time being demised or sub-demised to the Federal or a State Government and includes a ship that is being used by or in connection with a part of the Nigerian Navy but does not include a ship that belongs or is for the time being demised or sub-demised to a corporation that is an agency of the Federal or a State Government;

"Government property" means cargo or other property that belongs to the Federal or a State Government but does not include cargo or other property that belongs to a corporation that is an agency of the Federal or a State Government.

25. Interpretation

- (1) In this Act, unless the context otherwise requires-

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

"Court" means the Federal High Court;

"foreign ship" means a ship that is not registered under the Merchant Shipping Act;

"freight" includes passage money and hire;

"hovercraft" means a vessel that is an air cushion vehicle or a similar vehicle, used wholly or principally in navigation by water;

"initiating process" includes a third party notice;

"inland waters" means waters within Nigeria other than waters of the sea;

"inland waterways vessel" means a vessel that is used or intended to be used wholly on inland waters;

"master" in relation to a ship, means a person who has command or charge of the ship;

"member of the crew" in relation to a ship, means a person employed or engaged in any capacity on board the ship on the business of the ship other than-

(a) the master of the ship; or

(b) a person who has the conduct of the ship as the compulsory pilot of the ship; or

(c) a person temporarily employed on the ship in port;

"mortgage" in relation to a ship or a share in a ship, includes a hypothecation or pledge of and a charge on the ship or share, whether at law or in equity and whether arising under the law in force in a part of Nigeria or elsewhere;

"relevant person" in relation to a maritime claim, means a person who would be liable on the claim in a proceeding commenced on an action *in personam*;

"sea" includes all waters within the ebb and flow of the tide;

"ship" means a vessel of any kind used or constructed for use in navigation by water, however it is propelled or moved and includes-

- (a) a barge, lighter or other floating vessel, including a drilling rig;
- (b) a hovercraft;
- (c) an off-shore industry mobile unit; and
- (d) a vessel that has sunk or is stranded and the remains of such vessel, but does not include a vessel under construction that has not been launched.

- (2) A reference in this Act to the time when a proceeding is commenced is a reference to the time when the initiating process in relation to the proceeding is filed in or issued by the Court.

26. Short title

This Act may be cited as the Admiralty Jurisdiction Act.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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ADMIRALTY JURISDICTION PROCEDURE RULES - under section 21 of the Act

[Commencement]

[2nd August, 1993]

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ADMIRALTY JURISDICTION PROCEDURE RULES

under section 21 of the Act

[Commencement]

[2nd August, 1993]

ORDER I - *Citation, Application, etc.*

1. Citation

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

2. Application of Rules

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

3. **Interpretation**

In these Rules, unless the context otherwise requires-

"admiralty" shall bear the same meaning as in the Admiralty Jurisdiction Act 1991;

"amount" claimed" includes an amount in respect of interest or cost;

"arrest warrant" means a warrant for the arrest of a ship or other property;

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

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

"Court" means the Federal High Court;

"interested person" in relation to a proceeding or in relation to a ship or other property that is under arrest, includes an underwriter or insurer of the ship or property or of a liability in relation to the ship or property or intervener;

"Marshal" means the Admiralty Marshal;

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

"ship" includes any description of vessel used in navigation.

ORDER II - *Form and Commencement of Suits*

1. Commencement of suits

- (1) Every admiralty action filed in the Court shall be commenced by a writ of summons signed by a judge or other officer empowered to sign summonses.
- (2) The writ shall be issued by the Registrar or other officer of the Court empowered to issue summons upon receipt of written Particulars of Claim filed by a plaintiff.

2. Particulars of Claim

- (1) Every writ of summons in an action *in rem* shall be accompanied by a Statement of Claim.
- (2) In an action *in personam*, it shall be sufficient for the Plaintiff to state his claim in his application in writing for the writ of summons briefly in a general form, or he may deliver to the Registrar at the time of making the application for the writ of summons, particulars of his claim in any form which shall give the Defendant reasonably sufficient information as to the details thereof and such statement shall be affixed to Form "A" specified in the Schedule to these Rules.

3. Headings

- (1) A document filed in or issued out of the Court in an admiralty proceeding shall include as part of the heading of the document, the words "IN ADMIRALTY".
- (2) Where the action is an action *in rem*, a document filed shall contain the heading "ADMIRALTY ACTION *IN REM*"

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

4. Validity of writ

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

5. Limitation proceedings

- (1) A limitation proceeding shall be commenced as an action *in personam*.
- (2) At least one of the Respondents shall be named as respondent in the writ.
- (3) Other respondents need not be so named but may be identified as respondents in the writ by reference to their being members of a specified class of persons.
- (4) The writ need not be served on respondents so identified.

Appearance

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

- (2) Where the writ is served simultaneously with an order for the arrest of any ship or property, an interested person may apply for the release of the arrested ship or property and the Court shall, within 3 days of the filing and serving of the application for release of the ship or property, entertain the said application.
- (3) An application for the release of the arrested ship or property shall be heard by the judge who ordered the arrest or, in his absence, by another judge.

ORDER III - *Preliminary acts*

1. Filing of preliminary acts

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

2. Contents of preliminary acts

The preliminary act shall contain the following particulars-

- (a) the names of the ships which came into collision and their ports of registry;
- (b) the date and time of the collision;
- (c) the place of the collision;
- (d) the direction and force of the wind;
- (e) the state of the weather;

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

3. Time for filing of preliminary acts

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

4. Preliminary acts to be sealed

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

5. Default in filing

- (1) Where the Plaintiff fails to file a preliminary act, the Court may, on an application, dismiss the proceeding or make such order on such terms as it thinks just.
- (2) Where a defendant fails to file a preliminary act, the Plaintiff may take the same steps in the proceeding as may be taken in relation to a defendant who has failed to file a defence.
- (3) Improving his case in pursuance to paragraph (2) of this rule, the Plaintiff's evidence may, unless the Court otherwise orders, be given by affidavit.

6. Opening of preliminary acts

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

ORDER IV - *Parties*

1. Actions *in rem*

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

2. Action against a ship or other property

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

3. Sister ships

- (1) Where the action is commenced against a sister ship, the ship in relation to which it is a sister ship shall also be identified in the initiating process.
- (2) A writ may identify more than one ship as a sister ship.

4. Amendment

- (1) The powers of the Court in relation to amendment of process and joinder of parties shall extend to-
 - (a) making an order, on such terms as are just;
 - (b) substituting for a defendant identified in rule 2 of this Order some other person; and
 - (c) substituting for a ship some other ship.

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

ORDER V - *Service of Process*

1. Service on ships or other property on a ship

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

2. Service on property not on ship

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

3. Service where access impossible

If access to the ship or property cannot reasonably be obtained, the process may be served on the ship or property by-

- (a) handing a sealed copy of the process to a person apparently in charge of the ship or property; or
- (b) if that person refuses to accept service, placing a sealed copy of the process down in the person's presence and telling the person what the document is.

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

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

6. Where-

- (a) a proceeding is commenced as an action *in rem* against a ship or other property ;and

- (b) a caveat against the arrest of the ship or property is in force or, after the proceeding is commenced, is filed, a sealed copy of the writ shall be served on the caveator as soon as practicable after the person on whose behalf it was issued becomes aware of the existence of the caveat.
- 7.** The Admiralty Marshal shall effect the service of a writ in a proceeding commenced as an action *in rem* against a ship or other property.
- 8.** In a proceeding commenced as an action *in rem*, a court shall not order substituted service of the writ that is to be served on a ship or other property.
- 9.** Initiating process in a proceeding commenced as an action *in rem* may be served on any day.
- 10.** Where a writ in a proceeding commenced as an action *in rem* has been amended, the amended writ shall, unless the Court otherwise orders, be served on each person on whom, and on each ship or on the property, on which the writ was served.
- 11.** Where, in a proceeding commenced as an action *in rem* against a ship or other property, a solicitor acting for a defendant in the proceeding or the owner of the ship or property undertakes in writing to accept service, of the writ, or any other instrument, in relation to the proceeding, the process or instrument may be served on the solicitor in anyway in which other process of the court may be served on the solicitor or instead of being served as elsewhere provided in these Rules or as the case may be.

12. Where-

- (a) an action *in rem* is commenced against a ship or other property which has been abandoned in Nigeria; or
- (b) an action *in personam* is filed against a defendant who does not reside in or carry on business in Nigeria through an agent, the Court may order service on such defendant or the owner of such ship or property at the address of his last known place of business by a reputable courier company operating a courier service between Nigeria and the country of the place of business.

Order VI – Caveats

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

- 2.** The caveat shall not be filed unless the Registrar is satisfied (whether because of an undertaking in writing given by the caveator or by a solicitor, or for other sufficient reason) that the caveator shall in any proceeding of the kind specified in the caveat that is commenced as an action *in rem* against the ship or property-
 - (a) appear to the suit ; and
 - (b) provide bail.

- 3.** Without limiting the power of the Registrar under rule 2 of this Order, the Registrar may be satisfied as mentioned in that rule if there is produced to the Registrar an undertaking in writing to satisfy any judgment for the amount specified in a caveat, being an undertaking given by-
- (a) a protection and indemnity association that is a member of the International Group of Protection and Indemnity Association; or
 - (b) a bank within the meaning of the Banks and Other Financial Institutions Decree 1991 carrying on banking business in Nigeria; or
 - (c) an insurance company of repute carrying on business in Nigeria.
- 4.** (1) The filing of a caveat shall constitute an undertaking by the caveator
- (a) to appear in any proceeding of a kind specified in the caveat that is commenced as an action *in rem* against the ship or other property specified in the caveat; and
 - (b) to provide bail.
- (2) The undertaking shall be enforceable by the Court in which the proceeding is commenced.
- 5.** (1) This rule shall apply where
- (a) a caveat against the arrest of a ship or other property is in force;

- (b) under these Rules, a writ has been served on the caveator;
 - (c) the proceeding is a proceeding of a kind specified in the caveat; and
 - (d) the caveat specifies an amount not less than the amount claimed.
- (2) Within 3 days after having been so served, the caveator shall, unless otherwise agreed in writing between the caveator and the plaintiff-
- (a) pay into court an amount equal to-
 - (i) the amount claimed; or
 - (ii) the amount specified in the caveat, whichever is less; or
 - (b) cause a bail bond to be entered into as in Form D in the Schedule to these rules.
- (3) A caveator who fails to comply with paragraph (2) of this rule shall be taken to have failed to appear in the proceeding within the time limited for appearing.
- 6.** The fact that there is a caveat against arrest in force shall not prevent the arrest of the ship or property to which the caveat relates.

- 7.** Where a ship or other property is under arrest in a proceeding, a person may file in the Court a caveat against the release from arrest of the ship or property in lieu of obtaining a further arrest of that ship or property.
- 8.** Where any property with respect to which a caveat against arrest is in force is arrested in pursuance of a warrant of arrest, the party at whose instance the caveat was entered may apply to the Court by, motion for an order under this rule, and on the hearing of the application, the Court unless it is satisfied that the party procuring the arrest of the party had a good and sufficient reason for so doing, may by order discharge the warrant and may also order the party at whose instance the property was arrested to pay to the applicant damages in respect of the loss suffered by the applicant as a result of the arrest.
- 9.** (1) Unless sooner withdrawn or set 2side. a caveat remains in force for a period of 12 months or such shorter period, not being less than 7 days, as is specified in the caveat.

(2) Paragraph (1) of this rule shall not prevent the filing of a further caveat.
- 10.** A caveator may withdraw a caveat by filing an instrument of withdrawal of the caveat.
- 11.** (1) The Registrar shall establish and maintain a register, to be known as the Register of Caveats Against Arrest.

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

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

Order VII - Arrest of Ships and other Property

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

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

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

(2) Except by leave of the Court, an arrest warrant shall not be issued if the Court is made aware that-

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

(i) the proceeding is a proceeding of a kind specified in the caveat;

(ii) the caveat specifies an amount not less than the amount claimed by the applicant; and

(iii) the caveat has not expired;

(b) the proceeding is stayed because payment has been made into court; or

(c) a bail bond of not less than the amount claimed by the party has been filed.

(3) The court may allow an arrest warrant to issue although all the conditions required by paragraph (2) of this rule have not been complied with.

3. (1) An arrest warrant shall not, be executed for more than 6 months after it was issued.

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

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

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

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

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

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

(a) the caveator if a caveat against the arrest of the ship or property is, at the time of the application, in force; or

(b) in any case, an interested person in relation to the ship or property and on such terms are just,

that the arrest warrant be discharged, or be not executed, or be not executed within a specified time.

5. A ship or other property specified in an arrest warrant as in Form E in the Schedule to these Rules shall be under arrest from the time when the warrant is executed until it is lawfully released from arrest or is sold by the order of the Court.
6. Execution of an arrest warrant shall be verified by affidavit.
7. An arrest warrant may be executed on any day.

Order VIII - *Custody of Ships and Property under Arrest*

1. An application for an arrest warrant shall constitute an undertaking to the Court to pay to the Admiralty Marshal on demand, an amount equal to the fees and expenses of the Admiralty Marshal in relation to the arrest.
2. (1) Whilst a ship is under arrest pursuant to these Rules, no port or other dues shall be payable by an interested person to any person and no application for the same shall be entertained by the Court.
(2) The Admiralty Marshal shall pay for all services supplied at his request to the arrested ship by the Nigerian Ports PLC or any other person necessitated by the arrest.
3. (1) The fees and expenses of the Admiralty Marshal shall be paid by the arresting party.

- (2) Where a person is liable to pay fees or expenses, the Admiralty Marshall may-
 - (a) accept an amount of money not exceeding N5,000 as a deposit towards discharging the liability; and
 - (b) make one or more demands for interim payments on account of those fees and expenses.

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

- 4.** (1) The Admiralty Marshal, in arresting a strip or other property, shall, subject to the Decree and these Rules, have the custody of the ship or property,
 - (2) The Admiralty Marshal shall, unless the Court otherwise orders, take all appropriate steps to retain custody of, and to preserve, the ship or property, including-
 - (a) removing from the ship, or storing, cargo that is under arrest;
 - (b) removing cargo from a ship that is under arrest and storing it;
 - (c) removing, storing or disposing of perishable goods that are under arrest or are in a ship that is under arrest; and
 - (d) moving the ship that is under arrest.

- 5.** (1) Where the Admiralty Marshal has the custody of a ship or other property he or a party may at any time apply to the Court for directions with respect to the ship or property.
- (2) Notice of an application (not being an application for the release from arrest of property) made by a person, other than the Admiralty Marshal, shall be served on the Marshal.
- (3) The Court may order the applicant to give notice of the application and of the directions, to such persons as are specified in the order.

6. (1) Where-

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

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

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

(2) Where-

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

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

(c) if the court so requires, the applicant indemnifies the Marshal, in a form satisfactory to the Marshal in respect of any claim against the Marshal arising from the discharge, the Court may order the discharge.

(3) Where-

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

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

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

7. The Court may, at any stage of a proceeding, make appropriate orders with respect to the preservation, management or control of a ship or other property that is under arrest in the proceeding.

Order IX - Release from Arrest

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

(a) an amount equal to-

(i) the Amount claimed, or

(ii) the value of the ship or property,

whichever is the less, has been paid into court or

- (b) a bail bond for an amount equal to-
 - (i) the amount claimed; or
 - (ii) the value of the ship or property, whichever is the less, has been filed in the proceeding,
the Registrar may, on written application by the relevant person release from arrest the ship or property.
- (2) Release shall not be made under paragraph (1) of this rule in relation to a ship or other property that has been arrested in a proceeding concerning a claim for salvage unless the value of the ship or property that is under arrest has been –
 - (a) agreed between the parties; or
 - (b) determined by the Court.
- (3) Where, in a proceeding, the party on whose application a ship or other property was arrested consents in writing to the release from arrest, the ship or property shall be released from arrest.
- (4) Where-
 - (a) a ship or other property has been arrested in a proceeding ; and
 - (b) the proceeding has been discontinued or dismissed,
the Court may release from arrest the ship or property.

- (5) Where a caveat against the release from arrest of a ship or other property is in force, release shall not be made under paragraph (1), (3) or
 - (4) of this rule in relation to the ship or property unless the Court so orders.
- 2.** (1) A party to a proceeding may apply to the Court for the release of a ship or other property that is under arrest in the proceeding.
- (2) Where a caveat against release of the ship or other property is in force, a copy of the application shall be served on the caveator.
 - (3) On an application under paragraph (1) of this rule, the Court may order the release from arrest of the ship or property on such terms as are just.
- 3.** The Admiralty Marshal may refuse to release a ship or other property from arrest in accordance with an order under this Order unless arrangements satisfactory to the Marshal have been made for the payment of the fees and expenses of the Marshal in connection with custody of the ship or property while it was under arrest.
- 4.** The Order of release from arrest shall be as in Form F in the Schedule to these Rules.

Order X - Security for Costs

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

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

 - (a) a deposit of the sum specified by the Court; or
 - (b) a guarantee supplied by a protection and indemnity club, an insurance company of repute or a bank.
- 3.** In determining the quantum of security to be provided, the Court shall have regard to all the circumstances of the case and shall not restrict itself to the costs of the legal proceedings.
- 4.** The Court shall specify the time within which the plaintiff shall furnish security and upon the expiry of the time specified, the arrested ship or property shall be released from arrest.
- 5.** (1) A plaintiff shall be at liberty to withdraw any security provided to the Registrar upon obtaining judgment against the defendant or defendants in the action or upon discontinuance of the suit.

- (2) In the event of the plaintiff failing in the action the defendant or defendants shall be entitled to the, costs of the proceedings out of the security provided by the plaintiff and the balance of the security shall be returned to the plaintiff.
- 6.** The master, or a member of the crew, of a ship who is a plaintiff in a proceeding for his wages or for loss of goods or clothes in a collision between two or more ships, shall not be required to give security for costs.
- 7-** Where, in relation to maritime claims arising out of a collision of two or more ships-
- (a) a proceeding has been commenced as an action *in rem* and
- (i) a 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 favor of the other party on the cross-action or counter-claim.

Order XI - Reparation for Needless Arrest

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

2. In any case in which an arrest order as aforesaid has been made-

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

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

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

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

(2) Further to paragraph (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.

Order XII - *Payment of Bail*

1. Where a sum is paid into court by way of bail or other security, the sum shall be paid by the Registrar into a short call fixed deposit account with a prime bank, and payments out of the said deposit together with any accrued interest shall be paid forthwith by the Registrar not later than seven days after a proper request for the same shall have been made.
2. Every payment into a fixed deposit account as provided in rule I of this Order shall be acknowledged by the manager of the bank in a letter specifying that the payment was received from the Registrar on behalf of the party who effected payment.
3. (1) The Court may by order reduce or increase the amount of bail in respect of which bail has been provided to ensure fairness between the parties.
(2) Where the court makes an order under paragraph (1) of this rule it may also make such orders as are necessary to give effect to the order.
(3) Paragraphs (1) and (2) of this rule shall not affect any other power of the Court.

Order XIII – Proceedings

1. (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 respondent in the writ has been served with the writ.

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

2. (1) In a limitation proceedings where persons are identified as respondents in the writ by reference to their being members of a specified class of persons, the Court shall, after determining whether the liability of the applicant may be limited and the extent of that liability, make orders.
 - (a) specifying how the determination is to be advertised, and
 - (b) fixing a period, being not less than one month after the latest day allowed for the advertisement of the determination, as the period within which a maritime claim against the applicant in respect of which the applicant's liability is determined may-
 - (i) prosecute that claim; or
 - (ii) apply under rule 4 of, this Order.

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

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

- 4.** (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 condition as are just, vary or set aside.
 - (2) The application shall not be made after the end of the period fixed under rule 2 (1) (b) of this Order.
 - (3) The application, and the affidavits in support, shall be served on-
 - (a) the applicant in the limitation proceeding; and
 - (b) each respondent to that at proceeding who has appeared in the proceeding not less than 7 days before the application is to be determined.

Order XIV - Valuation and Sale

- 1.** (1) The Court may, in application by a party and either before or after final judgment in a proceeding, order that a ship or other property that is under arrest in the proceeding –
 - (a) be valued;

- (b) be valued and sold; or
 - (c) be sold without valuation.
-
- (2) An application under paragraph (1) of this rule shall constitute an undertaking by the party who made it to pay, on demand, to the Admiralty Marshal an amount equal to the fees and expenses of the Admiralty Marshal in complying with the order.
 - (3) If the ship and other property is deteriorating in value, the Court may at any stage of the proceeding, either with or without application, order it to be sold.
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- 2.** (1) The sale of any ship or other property ordered to be sold, under Rule 1 of this Order, shall be conducted by the Admiralty Marshal.
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- (2) The sale shall be by public auction 21 days after an advertisement shall have been placed in two national daily papers by the Admiralty Marshal.
-
- 3.** The Admiralty Marshal shall, as soon as practicable after the sale of the ship or property
- (a) file a return of sale;
 - (b) pay into court the proceed of sale; and

- (c) file an account of sale and the vouchers of the account.

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

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

Order XV - Priorities

- 1.** (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 foreign country) against the ship or property, being a judgment that is enforceable in the court, may apply to the Court for determination of the order of priority of claims against the ship or property.

- (2) The Court may, on the application, order that notice of the application, specifying the period within which claims may be notified, be given to be published as the Court directs.

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

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

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

Order XVI - *General Power of the Court*

1. The Court may, on application or of its own motion and in such terms as are just-
 - (a) give any appropriate direction with respect to a proceeding; and
 - (b) by order, extend or abridge any time prescribed by these Rules or by rules of court applicable to a proceeding, whether or not the time has ended.

2. (1) A party to a proceeding may apply to the Court for review, of a decision or other act of a Registrar in the proceeding.
 - (2) On the application, the Court may make such order as is just.

3. Each document (including each warrant) issued by or by authority of a court in a proceeding shall-
 - (a) be signed by the Registrar;
 - (b) be sealed with the seal of the court; and
 - (c) show the date on which it was sealed.

Order XVII - *Effect of Non-Compliance*

1. (1) Where in beginning or purporting to begin any proceeding or at any stage in the course of or in connection with any proceeding, there has by reason of anything done or left undone, been a failure to comply with the requirements of these Rules whether in respect of time, place, manner, form or content or in any other respect, the failure shall be

treated as an irregularity and shall not nullify the proceeding, step taken in the proceedings, or any document, judgment or order therein.

- (2) Subject to paragraph (3) of rule 1 of this order, the Court may, on the ground that there has been such a failure as is mentioned in paragraph (1) of, rule 1 of this Order and on such terms as to costs or otherwise as it thinks set aside either wholly, or in part the proceeding in which failure occurred, any step in those proceedings or any documents, judgment or order therein or exercise its powers under these Rules to allow such amendments (if any) to be made and to make such order (if any) dealing with the proceedings generally as it thinks fit.
 - (3) The Court shall not wholly set aside any proceedings or the writ or other originating process by which they were begun on the ground that the proceedings were required by any of these Rules to be begun by an originating process other than the one employed.
- 2. (1)** An application to set aside, for irregularity, any proceedings, 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 after becoming aware of the irregularity.
- (2) An application under this rule may be made by summons or motion and the grounds of objection shall be stated in the summons or notice of motion.

Schedule

Forms

Form A

Order 11 Rule (2)

WRIT OF SUMMONS IN ACTION IN PERSONAM

IN THE FEDERAL HIGH COURT

IN THE ADMIRALTY JUDICIAL DIVISION

SUIT NO

.

BETWEEN

..... PLAINTIFF

AND

.....DEFENDANT

To the Defendant

..... (name) of (address)

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

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

If you fail to return the Acknowledgment within the time stated the Plaintiff may proceed with the action without further notice to you.

Issued from the Admiralty Registry of Federal High Court thisday 20.....

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

Form B

Order IV Rule 1

WRIT OF SUMMONS IN ACTION IN REM
IN THE FEDERAL HIGH COURT
IN THE ADMIRALTY JUDICIAL DIVISION

SUIT NO

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

Between

The owners of the Ship "A" or as may be describing the plaintiff (or name) ----- Plaintiffs

And

The Owners of the Ship "X" or as may be describing the property against which the action is brought -----Defendants

To the Defendants and other persons interested in the Ship "X" (detailing registration of 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 the service of the Writ counting the day of service, you must either satisfy the claim or lodge in the registry of this Court mentioned below an acknowledgment of service.

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

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

This Writ was issued by

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

Form C

Order VI Rule 1

PRAECIPE FOR CAVEAT AGAINST ARREST

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

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

We consent that the writ of summons and any other document in the action may be left for us at

Dated theday of 20

.....

Signed

Form D

Order VI Rule 2

BAIL BOND

(Heading as in action)

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

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

.....

Signed

This Bail Bond was signed by the said A.B. and C.D., the sureties, thisday of 20

.....

Commissioner of Oaths

Form E

Order VII Rule 5

WARRANT OF ARREST

(Heading as in action)

(Head of State)

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

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

Witnessed by the Presiding judge.

Form F

Order IX Rule 4

RELEASE

To the Admiralty Marshal of our Federal High Court and to all and singular his substitute, Greetings

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

Now we do hereby command you to release the saidfrom the arrest effected by virtue of our Warrant in this action.

Witness (as in Form "E")

Made at Lagos this day **2nd** of **August** 1993

Mahmud Babatunde Belgore

Chief Judge

Federal High Court