

ADMIRALTY RULES COMMITTEE

Proposed amendment to <i>Admiralty Rules 1958 (6th)</i>	Comment
<p><b>Rule 51(1)</b></p> <p>Insert new subrule 51(1)(c):</p> <p>“(c) the party on whose application the ship or other property was arrested has made arrangements satisfactory to that party for the release of the ship or other property.”</p> <p>At the end of subrule 51(1)(b), replace “property.” with “property; or”</p> <p><i>Explanatory notes:</i></p> <ul style="list-style-type: none"> <li>• <i>This provision is to facilitate and streamline the release from arrest by a Registrar, which is the most common form of release.</i></li> </ul>	
<p><b>Rule 51(3)</b></p> <p>Amend subrule 51(3) as follows:</p> <p>“(3) If, in a proceeding, the party on whose application a ship or other property was arrested consents in writing to the release from arrest of the ship or property, the Registrar may, <b>on application in accordance with Form 18A</b>, order the release from arrest of the ship or property.”</p> <p><i>Explanatory notes:</i></p> <ul style="list-style-type: none"> <li>• <i>The proposed new Form 18A (attached) will be a prescribed form under the Admiralty Rules. This will address the current lack of certainty as to the content of the form and ensure that there is national consistency.</i></li> </ul>	
<p><b>Rule 47</b></p> <p>Insert the following paragraphs as new subrules 47(3) and 47(4):</p> <p>“(3) When considering moving a ship under arrest the Marshal may take into consideration the operational requirements of the port authority where the ship under arrest is lying.</p> <p>(4) If, at any time after a ship has been arrested, the Marshal considers it appropriate, the Marshal</p>	

may demand and take possession of the original certification documents of the ship which are to be returned to the ship as soon as practicable after it is released from arrest.”

Renumber existing subrules 47(3) and 47(4) as subrules 47(5) and 47(6) respectively.

Insert the following new terms into subrule 3(1):

“*original certification documents* includes:

- (a) Classification Certificate (hull and machinery);
- (b) Survey Certificate;
- (c) Registration Certificate;
- (d) Safety Equipment Certificate;
- (e) Safety Radio Certificate;
- (f) Safety Management Certificate;
- (g) Safety Construction Certificate;
- (h) International Tonnage Certificate;
- (i) International Load Line Certificate; and
- (j) International Ship Security Certificate.

*Classification Certificate* has the meaning given by subsection 187A(1) of the Navigation Act.

*International Load Line Certificate* has the meaning given by subsection 218(1) of the Navigation Act.

*International Ship Security Certificate* means an *ISSC* as defined in section 10 of the *Maritime Transport and Offshore Facilities Security Act 2003*.

*International Tonnage Certificate* means an *International Tonnage Certificate (1969)* as defined in subsection 405B(1) of the Navigation Act.

*Navigation Act* means the *Navigation Act 1912*.

*Registration Certificate* means:

- (a) a *registration certificate* as defined in subsection 3(1) of the *Shipping Registration Act 1981*; or
- (b) a document issued under the law of a foreign country that corresponds with a *registration certificate* as defined in subsection 3(1) of the *Shipping Registration Act 1981*.

*Safety Construction Certificate* means a certificate issued

in accordance with Regulation 12(a)(ii) of Chapter I of the Safety Convention.

**Safety Convention** means *the Safety Convention* as defined in subsection 187A(1) of the Navigation Act.

**Safety Equipment Certificate** means a certificate issued in accordance with Regulation 12(a)(iii) of Chapter I of the Safety Convention.

**Safety Management Certificate** means a certificate issued in accordance with Regulation 4.3 of Chapter IX of the Safety Convention.

**Safety Radio Certificate** means a certificate issued in accordance with Regulation 12(a)(iv) of Chapter I of the Safety Convention.

**Survey Certificate** means a *certificate of survey* as defined in subsection 187A(1) of the Navigation Act.”

*Explanatory notes:*

- *Some of the above defined terms adopt definitions used in the Navigation Act 1912 and the Shipping Registration Act 1981. As part of the Government’s shipping reforms, it is anticipated that the Navigation Act 1912 will be replaced by the Navigation Act 2012 and the Shipping Registration Act 1981 will be substantially amended. This could result in a need to amend the above definitions.*

**Rule 43(1A) and 43(2)**

Replace subrules 43(1A) and 43(2) with the following:

“(1A) The affidavit in support of the application for the arrest warrant and, unless it is not reasonably practicable to do so, a copy of the writ and all annexures and exhibits to the affidavit, must be served by leaving same at or near the place where initiating process is served in accordance with Rule 30 at the same time the arrest warrant is executed.

(2) The arrest warrant must be executed in the same way as initiating process is served.”

in accordance with Regulation 12(a)(ii) of Chapter I of the Safety Convention.

**Safety Convention** means *the Safety Convention* as defined in subsection 187A(1) of the Navigation Act.

**Safety Equipment Certificate** means a certificate issued in accordance with Regulation 12(a)(iii) of Chapter I of the Safety Convention.

**Safety Management Certificate** means a certificate issued in accordance with Regulation 4.3 of Chapter IX of the Safety Convention.

**Safety Radio Certificate** means a certificate issued in accordance with Regulation 12(a)(iv) of Chapter I of the Safety Convention.

**Survey Certificate** means a *certificate of survey* as defined in subsection 187A(1) of the Navigation Act.”

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