

SCHEDULE 1

The Rules of the Supreme Court (Northern Ireland) 1980 SPECIAL PROVISIONS AS TO PARTICULAR PROCEEDINGS

ORDER 75

ADMIRALTY PROCEEDINGS

Application and interpretation

1.—(1) This Order applies to Admiralty causes and matters, and the other provisions of these Rules apply to those causes and matters subject to the provisions of this Order.

(2) In this Order—

“action in rem” means an Admiralty action in rem;

“caveat against arrest” means a caveat entered in the caveat book under rule 6;

“caveat against release and payment” means a caveat entered in the caveat book under rule 14;

“caveat book” means the book kept in the Central Office in which caveats issued under this Order are entered;

“limitation action” means an action by shipowners or other persons under the Merchant Shipping Acts 1894 to 1974 for the limitation of the amount of their liability in connection with a ship or other property;

“marshal” means the Admiralty marshal and includes the Deputy Marshal;

“Registrar” means the Registrar (Queen's Bench and Appeals);

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

[E.r. 1]

Certain actions to be assigned to Admiralty

2.—(1) Without prejudice to Order 1 or to any other statutory provision providing for the assignment of causes and matters to the Queen's Bench Division—

(a) every action to enforce a claim for damage, loss of life or personal injury arising out of—

(i) a collision between ships, or

(ii) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships, or

(iii) non-compliance, on the part of one or more of two or more ships with the collision regulations,

(b) every limitation action, and

(c) every action to enforce a claim under section 1 of the Merchant Shipping (Oil Pollution) Act 1971(1) or section 4 of the Merchant Shipping Act 1974(2)

shall be assigned to that Division.

(1) 1971 c. 59

(2) 1974 c. 43

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(2) In this rule “collision regulations” means regulations under section 418 of the Merchant Shipping Act 1894⁽³⁾, or any such rules as are mentioned in subsection (1) of section 421 of that Act or any rules made under subsection (2) of the said section 421.

[E.r. 2]

Proceedings against, or concerning, the International Pollution Fund

2A.—(1) All proceedings against the International Oil Pollution Compensation Fund (in this rule referred to as “the Fund”) under section 4 of the Merchant Shipping Act 1974 shall be commenced in the Central Office.

(2) For the purpose of section 6(2) of the Merchant Shipping Act 1974, any party to proceedings brought against an owner or guarantor in respect of liability under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 may give notice to the Fund of such proceedings by serving a notice in writing on the Fund together with a copy of the writ and copies of the pleadings (if any) served in the action.

(3) The Court shall, on the application made ex parte by the Fund, grant leave to the Fund to intervene in any proceedings to which the preceding paragraph applies, whether notice of such proceedings has been served on the Fund or not, and paragraphs (3) and (4) of rule 17 shall apply to such an application.

(4) Where judgment is given against the Fund in any proceedings under section 4 of the Merchant Shipping Act 1974, the Registrar shall cause a stamped copy of the judgment to be sent by post to the Fund.

(5) The Fund shall notify the Registrar of the matters set out in section 4(12)(b) of the Merchant Shipping Act 1974 by a notice in writing, sent by post to, or delivered at, the Central Office.

[E.r. 2A]

Issue of writ and entry of appearance

3.—(1) An action in rem must be begun by writ, and the writ must be in Form 1 in Appendix B.

(2) Order 6, rule 6, shall apply in relation to a writ by which an Admiralty action is begun, and Order 12 shall apply in relation to such an action.

[E.r. 3]

Service of writ out of jurisdiction

4.—(1) Subject to the following provisions of this rule, service out of the jurisdiction of a writ; or notice of a writ, containing any such claim as is mentioned in rule 2(1)(i) is permissible with the leave of the Court, if, but only if—

- (a) the defendant has his habitual place of business within Northern Ireland, or
- (b) the cause of action arose within inland waters of Northern Ireland or within the limits of a port of Northern Ireland, or
- (c) an action arising out of the same incident or series of incidents is proceeding in the High Court or has been heard and determined in the High Court, or
- (d) the defendant has submitted or agreed to submit to the jurisdiction of the High Court.

In this paragraph “inland waters” and “port” have the same meanings as in paragraph 4(1) of the First Schedule to the Administration of Justice Act 1956⁽⁴⁾.

(3) 1894 c. 60

(4) 1956 c. 46

(2) Order 11, rule 3 and rule 4(1), (2) and (4), shall apply in relation to an application for a grant of leave under this rule as they apply in relation to an application for the grant of leave under rule 1 or 2 of that Order.

(3) Paragraph (1) shall not apply to an action in rem.

(4) The proviso to rule 6(1) of Order 6 and Order 11, rule 1(2), shall not apply to a writ by which any Admiralty action is begun or to notice of any such writ.

[E.r. 4]

Warrant of arrest

5.—(1) After a writ has been issued in an action in rem a warrant in Form No. 2 in Appendix B for the arrest of the property against which the action or any counterclaim in the action is brought may, subject to the provisions of this rule, be issued at the instance of the plaintiff or, of the defendant, as the case may be.

(2) A party applying for the issue out of the Central Office of a warrant to arrest any property 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 property.

(3) A warrant of arrest shall not be issued until the party applying for it has filed a praccipe in Form No. 3 in Appendix B requesting issue of the warrant together with an affidavit made by him or his agent containing the particulars required by paragraphs (6), (7), (8) and (10) so, however, that the Court may, if it thinks fit, allow the warrant to issue notwithstanding that the affidavit does not contain all those particulars.

(4) Except with the leave of the Court or where notice has been given under paragraph (11) a warrant of arrest shall not be issued in an action in rem against a foreign ship belonging to a port of a State having a consulate in Northern Ireland, being an action for possession of the ship or for wages, until notice that the action has been begun has been sent to the consul.

(5) Except with the leave of the Court, a warrant of arrest shall not be issued in an action in rem in which there is a claim arising out of bottomry until the bottomry bond and, if the bond is in a foreign language, a notarial translation thereof is produced to the Registrar.

(6) Every affidavit must state—

- (a) the name, address and occupation of the applicant for the warrant;
- (b) the nature of the claim or counterclaim in respect of which the warrant is required and that it has not been satisfied; and
- (c) the nature of the property to be arrested and, if the property is a ship, the name of the ship and the port to which she belongs.

(7) Every affidavit in an action in rem brought against a ship by virtue of paragraph 3(4) of the First Schedule to the Administration of Justice Act 1956 must state—

- (a) whether the ship against which the action is brought is the ship in connection with which the claim in the action arose;
- (b) that in the belief of the deponent the person who would, apart from paragraph 4 of the First Schedule to that Act, be liable on the claim in an action in personam was, when the cause of action arose, the owner or charterer, or in possession or control, of the ship in connection with which the claim arose and was also, at the time of the issue of the writ, the beneficial owner of all the shares in the ship against which the action is brought; and
- (c) the grounds of the deponent's belief.

(8) Every affidavit in an action in rem for possession of a ship or for wages must state the nationality of the ship against which the action is brought and that the notice (if any) required by paragraph (4) has been sent.

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A copy of such notice must be exhibited to the affidavit.

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

(10) Where, by any convention or treaty, the United Kingdom has undertaken to minimise the possibility of arrest of ships of another State, no application shall be made for the issue of a warrant of attest in an action in rem against a ship owned by that State until notice in Form No. 14 in Appendix B has been served on a consular officer at the consular office of that State in London or the port at which it is intended to cause the ship to be arrested.

In a case to which this paragraph applies the affidavit required by paragraph (3) shall state that the notice required by this paragraph has been served and a copy of the notice shall be exhibited to the affidavit.

[E.r. 5]

Caveat against arrest

6.—(1) A person who desires to prevent the arrest of any property must file in the Central Office a praecipe, in Form No. 4 in Appendix B, signed by him or his solicitor undertaking—

- (a) to enter an appearance in any action that may be begun against the property described in the praecipe, and
- (b) within 3 days after receiving notice that such an action has been begun, to give bail in the action in a sum not exceeding an amount specified in the praecipe or to pay the amount so specified into court;

and on the filing of the praecipe a caveat against the issue of a warrant to arrest the property described in the praecipe shall be entered in the caveat book.

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

[E.r. 6]

Remedy where property protected by caveat is arrested

7. 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 property had a good and sufficient reason for so doing, may by order discharge the warrant and may also order the last-mentioned party to pay to the applicant damages, in respect of the loss suffered by the applicant as a result of the arrest.

[E.r. 7]

Service of writ in action in rem

8.—(1) Subject to paragraph (2), a writ by which an action in rem is begun must be served on the property against which the action is brought except—

- (a) where that property is freight, in which case it must be served on the cargo in respect of which the freight is payable or on the ship in which that cargo was carried, or
- (b) where that property has been sold and the proceeds of sale paid into court, in which case it must be served on the Registrar.

(2) A writ need not be served on the property mentioned in paragraph (1) or the Registrar if the writ is deemed to have been duly served on the defendant by virtue of Order 10, rule 1(4) or (5).

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(3) Where by virtue of this rule a writ is required to be served on any property, the plaintiff may request service of the writ to be effected by the marshal if, but only if, a warrant of arrest has been issued for service against the property or the property is under arrest, and in that case the plaintiff must file in the Central Office a praecipe in form No. 5 in Appendix B and lodge—

- (a) the writ and copy thereof, and
- (b) an undertaking to pay on demand all expenses incurred by the marshal or his substitute in respect of the service of the writ,

and thereupon the marshal or his substitute shall serve the writ on the property described in the praecipe.

(4) Where the plaintiff in an action in rem, or his solicitor, becomes aware that there is in force a caveat against arrest with respect to the property against which the action is brought, he must serve the writ forthwith on the person at whose instance the caveat was entered.

(5) Where a writ by which an action in rem is begun is amended under Order 20, rule 1, after service thereof, Order 20, rule 1(2), shall not apply and, unless the Court otherwise directs on an application made ex parte, the amended writ must be served on any defendant who has entered an appearance in the action or, if no defendant has entered an appearance therein, on the property mentioned in paragraph (1) or the Registrar.

[E.r. 8]

Committal of solicitor failing to comply with undertaking

9. 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 enter an appearance in the action, give bail or pay money into court in lieu of bail, he shall be liable to committal.

[E.r. 9]

Execution, etc., of warrant of arrest

10.—(1) A warrant of arrest is valid for 12 months beginning with the date of its issue.

(2) A warrant of arrest may be executed only by the marshal or his substitute.

(3) A warrant of arrest shall not be executed until an undertaking to pay on demand the fees of the marshal and all expenses incurred by him or on his behalf in respect of the arrest of the property and the care and custody of it while under arrest has been lodged in the marshal's office.

(4) A warrant of arrest shall not be executed if the party at whose instance it was issued lodges a written request to that effect with the marshal.

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

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

(7) Within 7 days after the service of a warrant of arrest, the warrant must be filed in the Central Office.

[E.r. 10]

Service on ships, etc. : how effected

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

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- (a) affixing the warrant or writ for a short time on any mast of the ship or on the outside of any suitable part of the ship's superstructure, and
 - (b) on removing the warrant or writ, leaving a copy of it affixed (in the case of the warrants) in its place or (in the case of the writ) on a sheltered, conspicuous part of the ship.
- (2) Service of a warrant of arrest or writ in an action in rem against freight or cargo or both shall, if the cargo has been landed or transhipped, be effected—
- (a) by placing the warrant or writ for a short time on the cargo and, on removing the warrant or writ, leaving a copy of it on the cargo, or
 - (b) if the cargo is in the custody of a person who will not permit access to it, by leaving a copy of the warrant or writ with that person.

[E.r. 11]

Applications with respect to property under arrest

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

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

[E.r. 12]

Release of property under arrest

13.—(1) Except where property arrested in pursuance of a warrant of arrest is sold under an order of the Court, property which has been so arrested shall only be released under the authority of an instrument of release (in this rule referred to as a “release”), in Form No. 6 in Appendix B, issued out of the Central Office.

(2) A party at whose instance any property was arrested may, before an appearance is entered in the action, file a notice withdrawing the warrant of arrest and, if he does so, a release shall, subject to paragraphs (3) and (5), be issued with respect to that property.

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

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

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

- (a) if there is a caveat against release in force as to the property in question, give notice to the party at whose instance it was entered or his solicitor requiring the caveat to be withdrawn, and
- (b) file a praecipe in Form No. 7 in Appendix B requesting issue of a release.

(6) Before property under arrest is released in compliance with a release issued under this rule, the party at whose instance it was issued must, in accordance with the directions of the marshal, either—

- (a) pay the fees of the marshal already incurred and lodge in the marshal's office an undertaking to pay on demand the other fees and expenses in connection with the arrest of the property and the care and custody of it while under arrest and of its release, or
- (b) lodge in the marshal's office an undertaking to pay on demand all such fees and expenses, whether incurred or to be incurred.

(7) The Court, on the application of any party who objects to directions given to him by the marshal under paragraph (6), may vary or revoke the directions.

[E.r. 13]

Caveat against release and payment

14.—(1) A person who desires to prevent the release of any property under arrest in an action in rem and the payment out of Court of any money in court representing the proceeds of sale of that property must file in the Central Office a praecipe in Form No. 8 in Appendix B, and on the filing of the praecipe a caveat against the issue of a release with respect to that property and the payment out of court of that money shall be entered in the caveat book.

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

[E.r. 14]

Duration of caveats

15.—(1) Every caveat entered in the caveat book is valid for 6 months beginning with the date of its entry but the person at whose instance a caveat was entered may withdraw it by filing a praecipe in Form No. 9 in Appendix B.

(2) The period of validity of a caveat may not be extended but this provision shall not be taken as preventing the entry of successive caveats.

[E.r. 15]

Bail

16.—(1) Bail on behalf of a party to an action in rem must be given by bond in Form No. 10 in Appendix B; and the sureties to the bond must enter into the bond before a commissioner to administer oaths, not being a commissioner who, or whose partner, is acting as solicitor or agent for the party on whose behalf the bail is to be given, or before the Registrar.

(2) Subject to paragraph (3), a surety to a bail bond must make an affidavit stating that he is able to pay the sum for which the bond is given.

(3) Where a corporation is a surety to a bail bond given on behalf of a party, no affidavit shall be made under paragraph (2) on behalf of the corporation unless the opposite party requires it, but where such an affidavit is required it must be made by a director, manager, secretary or other similar officer of the corporation.

(4) The party on whose behalf bail is given must serve on the Opposite party a notice of bail containing the names and addresses of the persons who have given bail on his behalf and of the commissioner or Registrar before whom the bail bond was entered into; and after the expiration of 24 hours from the service of the notice (or sooner with the consent of the opposite party) he may file the bond and must at the same time file the affidavits (if any) made under paragraph (2) and an affidavit proving due service of the notice of bail to which a copy of that notice must be exhibited.

[E.r. 16]

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Interveners

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

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

(3) A person to whom leave is granted to intervene in an action must enter an appearance therein in the Central Office within the period specified in the order granting leave; and Order 12, rules 1 to 4, shall, with the necessary modifications, apply in relation to the entry of appearance by an intervener as if he were a defendant named in the writ.

(4) The Court may order that a person to whom it grants leave to intervene in an action shall, within such period as may be specified in the order, serve on every other party to the action such pleading as may be so specified.

[E.r. 17]

Preliminary acts

18.—(1) In an action to enforce a claim for damage, loss of life or personal injury arising out of a collision between ships, unless the Court otherwise orders, the plaintiff must, within 2 months after issue of the writ, and the defendant must, within 2 months after entering an appearance in the action, and before any pleading is served, lodge in the Central Office a document (in these rules referred to as a preliminary act) containing a statement of the following particulars :—

- (i) the names of the ships which came into collision and their ports, of registry;
- (ii) the date and time of the collision;
- (iii) the place of the collision;
- (iv) the direction and force of the wind;
- (v) the state of the weather;
- (vi) the state, direction and force of the tidal or other current;
- (vii) 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;
- (viii) the lights (if any) carried by the ship;
- (ix) (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;
- (x) what light or combination of lights (if any) of the other ship was first seen;
- (xi) what other lights or combinations of lights (if any) of the other ship were subsequently seen before the collision, and when;
- (xii) what alterations (if any) were made to the course and speed of the ship after the earlier of the two times referred to in article (vii) up to the time of the collision, and, when, and what measures (if any), other than alterations of course and speed, were taken to avoid the collision, and when;
- (xiii) the parts of each ship which first came into contact and the approximate angle between the two ships at the moment of contact;

(xiv) what sound signals (if any) were given, and when;

(xv) what sound signals (if any) were heard from the other ship, and when.

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

(3) Where the Court orders the preliminary acts to be opened, the Court may further order the action to be tried without pleadings but, where the Court orders the action to be so tried, any party who intends to rely on the defence of compulsory pilotage must give notice of his intention to do so to the other parties within 7 days after the opening of the preliminary acts.

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

(5) Order 18, rule 1, shall not apply to an action in which preliminary acts are required but, unless the Court orders the action to be tried without pleadings, the plaintiff must serve a statement of claim on each defendant within 14 days after the latest date on which the preliminary act of any party to the action is filed.

[E.r. 18]

Failure to lodge preliminary act: proceedings against party in default

19.—(1) Where in such an action as is referred to in rule 18(1) the plaintiff fails to lodge a preliminary act within the prescribed period, any defendant who has lodged such an act may apply to the Court by summons for an order to dismiss the action, and the Court may by order dismiss the action or make such other order on such terms as it thinks just.

(2) Where in such an action, being an action in personam, a defendant fails to lodge a preliminary act within the prescribed period, Order 19, rules 2 and 3, shall apply as if the defendant's failure to lodge the preliminary act within that period were a failure by him to serve a defence on the plaintiff within the period fixed by or under these rules for service thereof, and the plaintiff, if he has lodged a preliminary act may, subject to Order 77, rule 9, accordingly enter judgment against that defendant in accordance with the said rule 2 or the said rule 3, as the circumstances of the case require.

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

(4) On the hearing of a motion under paragraph (3) the Court may make such order as it thinks just, and where the defendant does not appear on the hearing and the Court is of opinion that judgment should be given for the plaintiff provided he proves his case, it shall order the plaintiff's preliminary act to be opened and require the plaintiff to satisfy the Court that his claim is well founded.

The plaintiff's evidence may, unless the Court otherwise orders, be given by affidavit without any order or direction in that behalf.

(5) Where the plaintiff in accordance with a requirement under paragraph (4) satisfies the Court that his claim is well founded, the Court may give judgment for the claim with or without a reference to the Registrar and may at the same time order the property against which the action is brought to be appraised and sold and the proceeds to be paid into court or make such an order as it thinks just.

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

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(7) In this rule references to the prescribed period shall be construed as references to the period within which by virtue of rule 18(1) or of any order of the Court the plaintiff or defendant, as the context of the reference requires, is required to lodge a preliminary act.

[E.r. 19]

Special provisions as to pleadings in collision, etc. actions

20.—(1) Notwithstanding anything in Order 18, rule 3, the plaintiff in any such action as is referred to in rule 2(1)(a) may not serve a reply or a defence to counterclaim on the defendant except with the leave of the Court.

(2) If in such an action there is a counterclaim and no defence to counterclaim by the plaintiff, then, notwithstanding Order 18, rule 14(3), but without prejudice to the other provisions of that rule, there is an implied joinder of issue on the counterclaim, and the joinder of issue operates as a denial of every material allegation of fact made in the counterclaim.

[E.r. 20]

Judgment by default

21.—(1) Where a writ is served under rule 8(4) on a party at whose instance a caveat against arrest was issued, then if—

- (a) the sum claimed in the action begun by the writ does not exceed the amount specified in the undertaking given by that party or his solicitor to procure the entry of the caveat, and
- (b) that party or his solicitor does not within 14 days after service of the writ fulfil the undertaking given by him as aforesaid,

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

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

(3) Where a defendant to an action in rem fails to enter an appearance within the time limited for appearing, then, on the expiration of 14 days after service of the writ and upon filing an affidavit proving due service of the writ, an affidavit verifying the facts on which the action is based and, if a statement of claim was not indorsed on the writ, a copy of the statement of claim, the plaintiff may apply to the Court for judgment by default.

Where the writ is deemed to have been duly served on the defendant by virtue of Order 10, rule 1(4) or was served on the Registrar under rule 8 of this Order, an affidavit proving due service of the writ need not be filed under this paragraph, but the writ indorsed as mentioned in the said rule 1(4) or indorsed by the Registrar with a statement that he accepts service of the writ must be lodged with the affidavit verifying the facts on which the action is based.

(4) Where a defendant to an action in rem fails to serve a defence on the plaintiff, then, after the expiration of the period fixed by or under these Rules for service of the defence and upon filing an affidavit stating that no defence was served on him by that defendant during that period, an affidavit verifying the facts on which the action is based and, if a statement of claim was not indorsed on the writ, a copy of the statement of claim, the plaintiff may apply to the Court for judgment by default.

(5) Where a defendant to a counterclaim in an action in rem fails to serve a defence to counterclaim on the defendant making the counterclaim, then, subject to paragraph (6), after the expiration of the period fixed by or under these Rules for service of the defence to counterclaim and upon filing an affidavit stating that no defence to counterclaim was served on him by the first-mentioned defendant during that period; an affidavit verifying the facts on which the counterclaim

is based and a copy of the counterclaim, the defendant making the counterclaim may apply to the Court for judgment by default.

(6) No application may be made under paragraph (5) against the plaintiff in any such action as is referred to in rule 2(1)(a).

(7) An application to the Court under this rule must be made by motion and if, on the hearing of the motion, the Court is satisfied that the applicant's claim is well founded it may give judgment for the claim with or without a reference to the Registrar and may at the same time order the property against which the action or, as the case may be, counterclaim is brought to be appraised and sold and the proceeds to be put into court or may make such other order as it thinks just.

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

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

(10) Order 13 and Order 19 (except rule 1) shall not apply to actions in rem.

[E.r. 21]

Order for sale of ship: determination of priority of claims

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

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

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

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

- (a) that the order of priority of the claims against the proceeds of sale of the ship shall not be determined until after the expiration of 90 days, or of such other period as the Court may specify, beginning with the day on which the proceeds of sale are paid into court;
- (b) that any party to the action or to any other action in rem against the ship or the proceeds of sale thereof may apply to the Court in the action to which he is a party to end the period specified in the order;
- (c) that within 7 days after the date of payment into court of the proceeds of sale the marshal shall send for publication in Lloyd's List and Shipping Gazette and such other newspaper, if any, as the Court may direct, a notice complying with paragraph (3).

(3) The notice referred to in paragraph (2)(c) must state—

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

(4) The marshal must lodge in the Central Office a copy of each newspaper in which the notice referred to in paragraph (2)(c) appeared.

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

(6) An application to the Court to extend the period referred to in paragraph (2)(a) must be made by motion, and a copy of the notice of motion must, at least 3 days before the day fixed for the hearing thereof, be served on each party who has begun an action in rem against the ship or the proceeds of sale thereof.

(7) In this rule “the Court” means the judge in person.

[E.r. 22]

Appraisalment and sale of property

23.—(1) A commission for the appraisalment and sale of any property under an order of the Court shall not be issued until the party applying for it has filed a praecipe in Form No. 11 in Appendix B.

(2) Such a commission must, unless the Court otherwise orders, be executed by the marshal and must be in Form No. 12 in Appendix B.

(3) A commission for appraisalment and sale shall not be executed until an undertaking in writing satisfactory to the marshal to pay the fees and expenses of the marshal on demand has been lodged in the marshal's office.

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

(5) On the taxation of the marshal's account relating to a sale any person interested in the proceeds of the sale shall be entitled to be heard, and any decision of the Registrar made on the taxation to which objection is taken may be reviewed in the same manner and by the same persons as any decision made in taxation proceedings under Order 62, and rules 35 to 37 of that Order shall apply accordingly with the necessary modifications.

[E.r. 23]

Undertakings as to expenses, etc.

23A.—(1) Every undertaking under rule 8(3), 10(3); 13(7) or 23(3) shall be given in writing to the satisfaction of the marshal.

(2) Where a party is required by rule 8(3), 10(3), 13(7) or 23(3) to give to the marshal an undertaking to pay any fees or expenses, the marshal may accept instead of an undertaking the deposit with him of such sum as he considers reasonable to meet those fees and expenses.

(3) The Court may on the application of any party who is dissatisfied with a direction or determination of the marshal under rule 13(7) of this rule, vary or revoke the direction or determination.

[E.r. 23A]

Payment into and out of court

24.—(1) Order 22 (except rules 3, 4, S and 11) shall apply in relation to an Admiralty action as it applies to an action for a debt or damages.

(2) Subject to paragraphs (3) and (4) money paid into court shall not be paid out except in pursuance of an order of the judge in person.

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

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- (a) where a claim has been referred to the Registrar for decision and all the parties to the reference have agreed to accept the Registrar's decision and to the payment out of any money in court in accordance with that decision;
 - (b) where property has been sold and the proceeds of sale thereof paid into court, and the parties are agreed as to the persons to whom the proceeds shall be paid and the amount to be paid to each of the persons;
 - (c) where in any other case there is no dispute between the parties.
- (4) Where in an Admiralty action money has been paid into court pursuant to an order made under Order 29, rule 12, the Registrar may make an order under paragraph (3) of that rule for the money to be paid out to the person entitled thereto.

[E.r. 24]

Summons for directions

25.—(1) The time and place and mode of trial of an Admiralty action shall be settled by the judge on the hearing of a summons and such summons shall be served on the plaintiff within one month after the pleadings in the action are deemed to be closed, and in case the plaintiff shall not serve such summons within the time aforesaid, then any other party in the action may serve such summons, and on the hearing of such summons any party may apply for discovery including interrogatories, commissions for and examination of witnesses. Such summons shall not be necessary if a consent be filed in the registry whereby the parties agree on the time, place and mode of trial.

(2) Unless a judge in person otherwise directs, the summons shall be heard by a judge in person.

(3) An order made on the summons shall determine whether the trial is to be without assessors or with one or more assessors.

[E.r. 25]

Fixing date for trial, etc.

26.—(1) The Court may at any stage of an action, either on an application made by summons by any party or by order made by virtue of rule 34, fix a date for the trial and vacate or alter any such date.

(2) Not later than 7 days after a date for the trial of the action has been fixed, the action must be set down for trial—

- (a) where the date was fixed on an application made under paragraph (1), by the applicant;
- (b) where the date was fixed by order made by virtue of rule 34, by the plaintiff.

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

(3) Not less than 7 days before the date fixed for the trial, or such other period before that date as may be specified in general directions given by the Lord Chief Justice the party by whom the action was set down for trial must, unless the Court otherwise orders, file in the registry—

- (a) if trial with one or more assessors has been ordered, a praecipe for his or their attendance, and
- (b) three copies or, in the case of a trial with one or more assessors, four copies (if with one assessor) and five copies (if with two) of any pleadings, preliminary acts, notices given under rule 18(3) and statements filed under rule 18(4).

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(4) If an action which has been set down for trial is settled or withdrawn it shall be the duty of all the parties to notify the Central Office of the fact without delay and take such steps as may be necessary to vacate the date fixed for the trial.

(5) Order 21, rule 2(4), Order 33, rule 4, and Order 34 (except rule 9) shall not apply to Admiralty actions.

[E.r. 26]

Stay of proceedings in collision, etc. actions until security given

27. Where an action in rem, being an action to enforce any such claim as is referred to in rule 2(1)(a), is begun and a cross action in rem arising out of the same collision or other occurrence as the first mentioned action is subsequently begun, or a counterclaim arising out of that occurrence is made in the first mentioned action, then—

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

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

[E.r. 27]

Inspection of ship, etc.

28. Without prejudice to its powers under Order 29, rules 2 and 4, and Order 35, rule 5, the Court may, on the application of any party, make an order for the inspection by the assessors (if the action is tried with assessors), or by any party or witness, of any ship or other property, whether real or personal, the inspection of which may be necessary or desirable for the purpose of obtaining full information or evidence in connection with any issue in the action.

[E.r. 28]

Examination of witnesses and other persons

29.—(1) The court may make an order authorising the examination of a witness or person on oath before a judge sitting-in court as if for the trial of the cause or matter, without that cause or matter having been set down for trial or called on for trial.

(2) The power conferred by paragraph (1) shall also extend to the making of an order, with the consent of the parties, providing for the evidence of a witness being taken as if before an examiner, but without an examiner actually being appointed or being present.

(3) Where an order is made under paragraph (2), it may make provision for any consequential matters and, subject to any provision so made, the following provisions shall have effect—

- (a) the party whose witness is to be examined shall provide a shorthand writer to take down the evidence of the witness;
- (b) any representative, being counsel or solicitor, of either of the parties shall have authority to administer the oath to the witness;
- (c) the shorthand writer need not himself be sworn but shall certify in writing as correct a transcript of his notes of the evidence and deliver it to the solicitor for the party whose witness was examined, and that solicitor must file it in the registry;

(d) unless the parties otherwise agree or the Court otherwise orders, the transcript or a copy thereof shall, before the transcript is filed, be made available to the counsel or other persons who acted as advocates at the examination, and if any of those persons is of opinion that the transcript does not accurately represent the evidence he shall make a certificate specifying the corrections which in his opinion should be made therein, and that certificate must be filed with the transcript.

(4) In actions in which preliminary acts fall to be filed under rule 18, an order shall not be made under paragraph (1) authorising any examination of a witness before the preliminary acts have been filed, unless for special reasons the Court thinks fit so to direct.

(5) The Lord Chief Justice may appoint such number of barristers or solicitors as he thinks fit to act as examiners of the Court in connection with Admiralty causes and matters, and may revoke any such appointment.

[E.r. 30]

Trial as an Admiralty short cause

30.—(1) Where any defendant has entered an appearance in an Admiralty action, the plaintiff or that defendant may, within 7 days after the entry of the appearance, apply by summons, returnable before the Registrar, for an order that the action be tried as an Admiralty short cause.

(2) The summons shall be served on every other party to the action not less than 7 days before the hearing.

(3) On the hearing of the application the Registrar may, if he decides to make an order under paragraph (1)—

- (a) exercise any power which could be exercised under Order 18, rule 21 or Order 75, rule 18(4), on an application for the trial of the action without pleadings or further pleadings,
- (b) abridge the period within which a person is required or authorised by these rules to do any act in the proceedings and fix the period within which any notice under Order 38, rule 19, must be served,
- (c) in the case of such an action as is referred to in rule 18(1), fix the time within which, notwithstanding the provisions of that rule, preliminary acts are to be lodged;
- (d) require the parties to the action to make mutual discovery of documents notwithstanding that the action is ordered to be tried without pleadings,
- (e) if the parties so agree, order that the evidence in support of their respective cases may be given in whole or in part by the production of documents or entries in books,
- (f) give such directions as could be given on a summons for directions in the action; and
- (g) fix a date for the trial of the action.

(4) The party taking out a summons under this rule shall include in it an application for such orders or directions as he desires the Registrar to make or give in the exercise of powers set out in paragraph (3), and any party on whom the summons is served shall, within 3 days after service of the summons on him give notice to every other party of any other order or direction he desires the Registrar to make or give as aforesaid and lodge a copy of such notice in the registry.

(5) An application for an order under Order 18, rule 21, that an Admiralty action be tried without pleadings or further pleadings shall be made by way of an application for an order under paragraph (1) and not otherwise.

(6) Where an order is made under paragraph (1), the writ or originating summons by which the action was begun shall be marked in the top left-hand corner “Admiralty Short Cause”.

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(7) Any application subsequent to a summons under paragraph (1) and before judgment as to any matter capable of being dealt with on an interlocutory application in the action shall be made under the summons by 2 clear days' notice to the other party stating the grounds of the application.

[E.r. 31]

Further provisions with respect to evidence

31.—(1) Notwithstanding anything in Order 38, rule 6, rules 1 and 2 of that Order shall not apply to a reference to the Registrar.

(2) Unless the Court otherwise directs, Order 38, rule 19(1), shall not apply in relation to any statement which is admissible in evidence by virtue of section 1 or 2 of the Civil Evidence Act (Northern Ireland) 1971⁽⁵⁾ and which an applicant for judgment in, default under rule 19 or 21 desires to give in evidence at the hearing of the motion by which the application for judgment is made.

(3) In any Admiralty action in which a summons for directions is required by virtue of rule 37(7) to be taken out, any notice under Order 38, rule 19, must, if given by the party who takes out that summons, be served with that summons and, if given by any other party, be served within 21 days after service of the summons for directions on him.

(4) In any proceedings on a reference to the Registrar any notice under Order 38, rule 19, must be served not less than 6 weeks before the day appointed for the hearing of the reference.

(5) On the day on which any party serves on any other party a notice under Order 38, rule 19, or a counter-notice under Order 38, rule 23, he must lodge two copies of the notice or counter-notice in the Central Office.

(6) Unless the Court otherwise directs, an affidavit for the purposes of rule 19(4), 21 or 37(2) may, except in so far as it relates to the service of a writ, contain statements of information or belief with the sources and grounds thereof.

[E.r. 32]

Proceedings for apportionment of salvage

32.—(1) Proceedings for the apportionment of salvage the aggregate amount of which has already been ascertained shall be assigned to the Queen's Bench Division and be begun by originating motion.

(2) The notice of such motion, together with the affidavits in support thereof, must be filed in the Central Office 7 days at least before the hearing of the motion, unless the Court gives leave to the contrary, and a copy of the notice and of the affidavits must be served on all the other parties to the proceedings before the originals are filed.

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

[E.r. 33]

Filing and service of notice of motion

33.—(1) Notice of a motion in any action, together with the affidavits (if any) in support thereof, must be filed in the Central Office 3 days at least before the hearing of the motion unless the Court gives leave to the contrary.

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

(5) 1971 c. 36 (N.I.)

[E.r. 34]

Agreement between solicitors may be made order of court

34. Any agreement in writing between the solicitors of the parties to a cause or matter, dated and signed by those solicitors, may, if the Registrar thinks it reasonable and such as a judge would under the circumstances allow, be filed in the Central Office, and the agreement shall thereupon become an order of court and have the same effect as if such order had been made by a judge in person.

[E.r. 35]

Originating summons procedure

35.—(1) An originating summons in Admiralty may be issued out of the Central Office.

(2) Order 12 shall apply in relation to an originating summons in Admiralty to which appearance is required to be entered.

(3) Order 28, rule 2, shall apply in relation to Admiralty proceedings begun by originating summons.

(4) Rule 26 (except paragraph (3)) shall, with any necessary modifications, apply in relation to an Admiralty cause or matter begun by originating summons, and Order 28, rule 9, shall not apply to such a cause or matter.

[E.r. 36]

Limitation action: parties

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

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

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

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

(5) in this rule and rules 37, 38 and 39 “name” includes a firm name or the name under which a person carries on his business, and where any person with a claim against the plaintiff in respect of the casualty to which the action relates has described himself for the purposes of his claim merely as the owner of, or as bearing some other relation to, a ship or other property, he may be so described as defendant in the writ and, if so described, shall be deemed for the purposes of the rules aforesaid to have been named in the writ by his name.

[E.r. 37]

Limitation action: summons for decree or directions

37.—(1) Within 21 days after the entry of appearance by one of the defendants named by their names in the writ, or, if none of them enters an appearance, within 21 days after the time limited for appearing, the plaintiff, without serving a statement of claim, must take out a summons returnable in chambers before the Registrar asking for a decree limiting his liability or, in default of such a decree, for directions as to the further proceedings in the action.

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

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- (a) the plaintiff's case in the action, and
 - (b) if none of the defendants named in the writ by their names has entered an appearance, service of the writ on at least one of the defendants so named.
- (3) The affidavit in support of the summons must state—
- (a) the names of all the persons who, to the knowledge of the plaintiff, have claims against him in respect of the casualty to which the action relates, not being defendants to the action who are named in the writ by their names, and
 - (b) the address of each of those persons, if known to the plaintiff.
- (4) The summons and every affidavit in support thereof must, at least 7 clear days before the hearing of the summons, be served on any defendant who has entered an appearance.
- (5) On the hearing of the summons the Registrar, if it appears to him that it is not disputed that the plaintiff has a right to limit his liability, shall make a decree limiting the plaintiff's liability and fix the amount to which the liability is to be limited.
- (6) On the hearing of the summons the Registrar, if it appears to him that any defendant has not sufficient information to enable him to decide whether or not to dispute that the plaintiff has a right to limit his liability, shall give such directions as appear to him to be appropriate for enabling the defendant to obtain such information and shall adjourn the hearing.
- (7) If on the hearing or resumed hearing of the summons the Registrar does not make a decree limiting the plaintiff's liability, he shall give such directions as to the further proceedings in the action as appear to him to be appropriate including a direction fixing the period within which any notice under Order 38, rule 19, must be served.
- (8) Any defendant who, after the Registrar has given directions under paragraph (7), ceases to dispute the plaintiff's right to limit his liability must forthwith file a notice to that effect in the Central Office and serve a copy on the plaintiff and on any other defendant who has entered an appearance.
- (9) If every defendant who disputes the plaintiff's right to limit his liability serves a notice on the plaintiff under paragraph (8), the plaintiff may take out a summons returnable in chambers before the Registrar asking for a decree limiting his liability; and paragraphs (4) and (5) shall apply to a summons under this paragraph as they apply to a summons under paragraph (1).

[E.r. 38]

Limitation action: proceedings under decree

38.—(1) Where the only defendants in a limitation action are those named in the writ by their names and all the persons so named have either been served with the writ or entered an appearance, any decree in the action limiting the plaintiff's liability (whether made by the Registrar or on the trial of the action)—

- (a) need not be advertised, but
- (b) shall only operate to protect the plaintiff in respect of claims by the persons so named or persons claiming through or under them.

(2) In any case not falling within paragraph (1), any decree in the action limiting the plaintiff's liability (whether made by the Registrar or on the trial of the action)—

- (a) shall be advertised by the plaintiff in such manner and within such time as may be provided by the decree;
- (b) shall fix a time within which persons with claims against the plaintiff in respect of the casualty to which the action relates may enter an appearance in the action (if they have not already done so) and file their claims, and, in cases to which rule 39 applies, take out a summons, if they think fit, to set the order aside.

(3) The advertisement to be required under paragraph (2)(a) shall, unless for special reasons the Registrar or judge thinks fit otherwise to provide, be a single advertisement in each of three newspapers specified in the decree, identifying the action, the casualty and the relation of the plaintiff thereto (whether as owner of a ship involved in the casualty or otherwise as the case may be), stating that the decree has been made and specifying the amounts fixed thereby as the limits of the plaintiff's liability; and the time allowed thereby for the entering of appearances, the filing of claims and the taking out of summonses to set the decree aside.

The plaintiff must Within the time fixed under paragraph (2)(b) file in the registry a copy of each newspaper in which the advertisement under paragraph (2)(a) appears.

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

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

[E.r. 39]

Limitation action: proceedings to set aside decree

39.—(1) Where a decree limiting the plaintiff's liability (whether made by the Registrar or on the trial of the action) fixes a time in accordance with rule 38(2), any person with a claim against the plaintiff in respect of the casualty to which the action relates, who—

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

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

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

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

(3) The summons and every affidavit in support thereof must, at least 7 clear days before the hearing of the summons, be served on the plaintiff and any defendant who has entered an appearance.

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

[E.r. 40]

References to Registrar

40.—(1) Any party (hereafter in this rule referred to as the "claimant") making a claim which is referred to the Registrar for decision must, within 2 months after the order is made, or, in a limitation action, within such other period as the Court may direct, file his claim and, unless the reference is in such an action, serve a copy of the claim on every other party.

(2) At any time after the claimant's claim has been filed or, where the reference is in a limitation, action, after the expiration of the time limited by the Court for the filing of claims but, in any case, not less than 28 days before the day appointed for the hearing of the reference, any party to the cause or

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matter may apply to the Registrar by summons for directions as to the proceedings on the reference, and the Registrar shall give such directions, if any, as he thinks fit including, without prejudice to the generality of the foregoing words, a direction requiring any party to serve on any claimant, within such period as the Registrar may specify, a defence to that claimant's claim.

(3) The reference shall be heard on a day appointed by the Registrar and, unless the reference is in a limitation action or the parties to the reference consent to the appointment of a particular day, the appointment must be made by order on an application by summons made by any party to the cause or matter.

(4) An appointment for the hearing of a reference shall not be made until after the claimant has filed his claim or, where the reference is in a limitation action, until after the expiration of the time limited by the Court for the filing of claims.

(5) Not later than 7 days after an appointment for the hearing of a reference has been made the claimant or, where the reference is in a limitation action, the plaintiff must enter the reference for hearing by lodging in the registry by praecipe requesting the entry of the reference in the list for hearing on the day appointed.

(6) Not less than 14 days before the day appointed for the hearing of the reference the claimant must file—

- (a) a list, signed by him and every other party, of the items (if any) of his claim which are not disputed, stating the amount (if any) which he and the other parties agree should be allowed in respect of each such item, and
- (b) such affidavits or other documentary evidence as is required to support the items of his claim which are disputed;

and, unless the reference is in a limitation action, he must at the same time serve on every other party a copy of every document filed under this paragraph.

(7) If the claimant fails to comply with paragraph (1) or (6)(b); the Court may, on the application of any other party to the cause or matter, dismiss the claim.

[E.r. 41]

Hearing of reference

41.—(1) The Registrar may adjourn the hearing of a reference from time to time as he thinks fit.

(2) At or before the hearing of a reference, the Registrar may give a direction limiting the witnesses who may be called, whether expert witnesses or not, but any such direction may, on sufficient cause being shown, be revoked or varied by a subsequent direction given at or before the hearing.

(3) Subject to paragraph (2), evidence may be given orally or by affidavit or in such other manner as may be agreed upon.

(4) When the hearing of the reference has been concluded, the Registrar shall—

- (a) reduce in writing his decision on the questions arising in the reference (including any order as to costs) and cause it to be filed;
- (b) cause to be filed either with his decision or subsequently such statement (if any) on the grounds of the decision as he thinks fit; and
- (c) send to the parties to the reference notice that he has done so.

(5) Where no statement of the grounds of the Registrar's decision is filed with his decision and no intimation has been given by the Registrar that he intends to file such a statement later, any party to the reference may, within 14 days after the filing of the decision, make a written request to the Registrar to file such a statement.

[E.r. 42]

Objection to decision on reference

42.—(1) Any party to a reference to the Registrar may, by motion in objection, apply to a judge in court to set aside or vary the decision of the Registrar on the reference, but notice of the motion, specifying the points of objection to the decision, must be filed within 14 days after the date on which notice of the filing of the decision was sent to that party under rule 41(4) or, if a notice of the filing of a statement of the grounds of the decision was subsequently sent to him thereunder, within 14 days after the date on which that notice was sent.

(2) The decision of the Registrar shall be deemed to be given on the date on which it is filed, but, unless he or the judge otherwise directs, the decision shall not be acted upon until the time has elapsed for filing notice of a motion in objection thereto, or while such a motion is pending or remains undisposed of.

(3) A direction shall not be given under paragraph (2) without the parties being given an opportunity of being heard, but may, if the Registrar announces his intended decision at the conclusion of the hearing of the reference, be incorporated in his decision as reduced to writing under rule 41(4).

[E.r. 43]

Drawing up and entry of judgments and orders

43. Every judgment given or order made in an Admiralty cause or matter shall be drawn up in the Central Office and shall be entered by an officer of the Central Office in the book kept for the purpose.

[E.r. 45]