
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 205

**Act of Sederunt (Rules of the Court of Session
Amendment No. 4) (Miscellaneous) 2010**

Admiralty proceedings

5.—(1) The Rules are amended in accordance with the following subparagraphs.

(2) In rule 16.13 (arrestment of ships and arrestment *in rem* of cargo on board ship), in paragraph (3)—

- (a) after “owners” insert “or demise charterers”;
- (b) after “ship or” (in the second place) insert “the owners of the”.

(3) In rule 46.1 (interpretation), in the definition of “Admiralty action” omit “or in respect of a contract of *respondentia*”.

(4) In rule 46.2 (forms of action)—

- (a) after “owners” insert “or demise charterers”;
- (b) before “parties” insert “other”;
- (c) before “cargo” (in the first place) insert “the owners of the”.

(5) In paragraph (1) of rule 46.3 (actions *in rem*)—

- (a) after “owners” (in all places) insert “or demise charterers”;
- (b) before “parties” (in both places) insert “other”;
- (c) before “cargo” (in both places) insert “the owners of the”.

(6) In rule 46.4 (actions *in personam*)—

- (a) in paragraph (1) for “of a ship or cargo, such owners” substitute “or demise charterers, or other parties interested in a ship, or the owners of cargo, the defenders”;
- (b) in paragraph (2), after “owners” (in both places) insert “or demise charterers”;
- (c) in paragraph (5)—
 - (i) after “owner” (in both places) insert “or demise charterer”;
 - (ii) for “a” (in the second place) substitute “other”;
 - (iii) before “cargo” insert “the owner of the”;
 - (iv) before “party” (in the second place) insert “other”.

(7) For rule 16.14 (arrestment of cargo) substitute—

“Arrestment of cargo

16.14.—(1) An arrestment of cargo on board a ship shall be executed by a messenger-at-arms who shall serve the schedule of arrestment on—

- (a) the master of the ship;
- (b) any other person in charge of the ship or cargo; or

(c) other proper arrestee.

(2) Where the schedule of arrestment cannot be executed in accordance with paragraph (1), the arrestment may be executed as provided for in rule 16.13(4) and (5).

(3) A person who has an interest in a ship or cargo which is the subject of an arrestment under this rule may apply by motion for a warrant authorising the movement of the ship or cargo and rule 13.11 shall apply to such a motion.”.

(8) In rule 46.5 (sale of ship or cargo), after paragraph (1) insert—

“(1A) Where section 47E of the Administration of Justice Act 1956(1) applies, the pursuer may apply for an order for the sale of the ship by public auction or private bargain.

(1B) Where the owner or demise charterer of the ship has made payment of the sum due under section 47E(2)(a) of the Administration of Justice Act 1956(2), or has tendered the sum due under section 47E(2)(b) of that Act and that tender has not been accepted within a reasonable time, the owner or demise charterer may apply to the court for an order declaring that the arrestment ceased to have effect from a specified date.”.

(1) 1956 c.46
(2) 1956 c.46