1963 No. 367

OVERSEAS TERRITORIES

The British Guiana Supreme Court (Amendment) Rules Order in Council 1963

Made - - - - 27th February 1963

At the Court of Saint James, the 27th day of February 1963

Present,

Her Majesty Queen Elizabeth The Queen Mother
His Royal Highness The Duke of Gloucester
Lord President **Mr. Powell**
Mr. Vosper **Mr. Macpherson**

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the twenty-second day of January, 1963, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness The Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness The Prince Philip, Duke of Edinburgh, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent while absent from the United Kingdom:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Duke of Gloucester, being authorized thereto by the said Letters Patent, and in pursuance of the powers conferred on Her Majesty by section 7 of the Colonial Courts of Admiralty Act 1890(a) do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Citation.

1. This Order may be cited as the British Guiana Supreme Court (Amendment) Rules Order in Council 1963.

Approval of Rules of Court.

2. The Rules of Court entitled the Supreme Court (Amendment) Rules, 1962, made on the 12th day of July 1962 by the rule-making authority of the Supreme Court of British Guiana in exercise of the

(a) 53 & 54 Vict. c. 27.

powers conferred by section 7 of the Colonial Courts of Admiralty Act 1890 and section 75 of the Supreme Court Ordinance of the Legislature of British Guiana(a) and set out in the schedule to this Order are approved.

E. N. Landale.

SCHEDULE

THE SUPREME COURT (AMENDMENT) RULES, 1962

1. These Rules may be cited as the Supreme Court (Amendment) Rules, 1962, and shall be construed and read as one with the Supreme Court Rules, 1955, hereinafter referred to as the Principal Rules and any rules amending the same.

2. The Principal Rules are hereby amended by—

(*a*) The insertion therein after Order 60 of the following Order—

ORDER 61

ADMIRALTY

INTERPRETATION

General Rules applicable.

1.—(1) Save as provided in this Order the provisions of these Rules shall where applicable apply to Admiralty actions.

(2) The provisions of Order 20 rule 1 shall apply as if the words "or in an Admiralty action" were inserted after the word "damages" in the first line thereof.

Interpretation.

2. In this Order—

"action" includes any action, cause, suit or other proceedings in the Court;

"Court" means the Supreme Court of British Guiana when exercising its jurisdiction as a Colonial Court of Admiralty;

"party" includes the party's solicitor;

"Registrar" includes the Deputy Registrar of the Supreme Court;

"ship" includes every description of vessel used in navigation not propelled by oars only, whether British or foreign.

COMMENCEMENT OF PROCEEDINGS

Admiralty actions.

3.—(1) Admiralty actions may be brought either *in rem* or *in personam* and shall be commenced by writ of summons.

Form No. 1.

(2) The writ of summons in every Admiralty action *in rem* shall be in Form No. 1 in Part I of Appendix AA to these Rules with such variations as circumstances may require.

Form No. 2.

(3) The writ of summons in every Admiralty action *in personam* shall be in Form No. 2 in Part 1 of Appendix AA to these Rules with such variations as circumstances may require.

WRIT OF SUMMONS AND PROCEDURE

Limitation actions.

4. In actions to limit the liability of shipowners the plaintiff's name shall be set out if possible on the writ, which shall, where practicable, be directed to the principal defendants by name as owners of the other vessel, and also in general terms to all persons having claims arising out of the collision.

No "four-day costs."

5. The provision as to "Four-day costs" in Order 4 rule 7 shall not apply to Admiralty actions.

(a) Laws of British Guiana, Revised Edition, 1953, Cap. 7.

WARRANT OF ARREST

Arrest warrant after affidavit. Form No. 3.

6.—(1) In Admiralty actions *in rem* a warrant for the arrest of property shall be in Form No. 3 in Part 1 of Appendix AA to these Rules with such variations as circumstances may require and may be issued at the instance either of the plaintiff or of the defendant at any time after the writ of summons has issued.

(2) No warrant of arrest shall be issued until an affidavit by the party or his agent has been filed.

(3) Such affidavit shall state the name and description of the party at whose instance the warrant is to be issued, the nature of the claim or counterclaim, the name and nature of the property to be arrested, and that the claim or counterclaim has not been satisfied.

(4) In an action of wages or of possession such affidavit shall state the national character of the vessel proceeded against; if such is against a foreign vessel the affidavit shall also state that notice of the commencement of the action has been given to the Consul of the State to which the vessel belongs, if there be one resident in Georgetown, and a copy of the notice shall be annexed to such affidavit.

(5) In an action of bottomry, the bottomry bond, with a notarial translation thereof if the bond is in a foreign language, shall be produced for the inspection and perusal of the Registrar, and a copy of the bond, or of the translation thereof, certified to be correct, shall be annexed to the affidavit.

(6) In an action of distribution of salvage such affidavit shall state the amount of salvage money awarded or agreed to be accepted, and the name, address, and description of the party holding the same.

(7) An undertaking in writing by the solicitor who applies for the issue of the warrant to pay the fees and expenses of the Marshal shall be lodged before the issue of the warrant.

Waiving of requirements of rule 6.

7. On an application in a summary way the Court or a Judge may in any case, if the Court or Judge think fit, allow the warrant to issue, although the affidavit mentioned in rule 6 may not contain all the required particulars, and in an action of wages the Court or Judge may also waive the service of the notice, and in an action of bottomry, the production of the bond.

SERVICE OF WRIT AND WARRANT

Undertaking to accept service.

8. In Admiralty actions *in rem* no service of writ or warrant shall be required where the solicitor of the defendant agrees to accept service and to put in bail, or to pay money into Court in lieu of bail.

Service of warrant of arrest.

9.—(1) In Admiralty actions *in rem* the warrant of arrest shall be served by the Marshal or by a substitute appointed by the Registrar whether the property to be arrested be situate within the port of Georgetown or elsewhere within the jurisdiction of the Court.

(2) The service of such warrant may be effected at any time and on any day whatsoever.

(3) The Marshal or other person effecting service of the warrant shall, within six days from the service of the warrant, file the same in the Registry with a certificate of service indorsed thereon.

Service how effected.

10. In Admiralty actions *in rem*, service of the writ of summons or warrant against a ship, freight, or cargo or other property on board, shall be effected by nailing or affixing a certified copy of the writ or warrant on the main mast, or on the single mast of the vessel or in the manner prescribed in Order 7 rule 15.

Service where cargo landed.

11. Where the cargo or other property has been landed or transhipped, service of the writ of summons or warrant to arrest the cargo, freight or other property shall be effected by placing and leaving a certified copy of the writ or warrant on the cargo or other property.

Where no access to cargo.

12. Where the cargo or other property is in the custody of a person who will not permit access to it, or where the freight is in the hands of any person or where there are proceeds in Court, service of the writ or warrant may be made upon the custodian, person or Registrar as the case may be.

Appearance

Appearance in actions *in rem*.

13. In an Admiralty action *in rem* appearance may be entered by the "Owners of the ship", "Owners of the cargo" or as may be as collectively by such title, without naming them, and without the production of the authority required by Order 10 rule 5.

Appearance by intervener.

14. In an Admiralty action *in rem* any person not named in the writ may intervene and appear on filing an affidavit in the registry showing his interest in the *res* under arrest or in the fund in the Registry. The intervener shall forthwith deliver a copy of such appearance and affidavit on each party on the record.

Bail

Bail.

Form No. 4.

15.—(1) In Admiralty actions *in rem* bail may be given by executing, before the Registrar or a Notary Public, and filing in the Registry, one or more bail bonds with one or more sureties, in Form No. 4 in Part 1 of Appendix AA to these Rules.

Form No. 5.

(2) A bail bond shall not, except by consent, be filed until after the expiration of twenty-four hours from the time when a notice, in Form 5 in Part 1 of Appendix AA to these Rules, shall have been served on the adverse party and filed in the Registry with a return of service indorsed.

(3) A commission or fee paid to a person becoming surety to a bail bond or otherwise giving security may be recovered on taxation:

Provided that the amount of such commission or fee shall not in the aggregate exceed one per centum on the amount in which bail is given.

(4) Any objection to a surety shall be decided by the Registrar. If any party is dissatisfied the matter shall be forthwith referred to a Judge in Chambers for final decision in a summary manner.

(5) In every case the surety or sureties shall justify unless justification be waived in writing by the adverse party.

Default of Appearance

Hearing on default.

16.—(1) In Admiralty actions *in rem*, if the defendant does not appear within the time limited for appearance, upon the filing by the plaintiff of a statement of claim, a certificate of non-appearance and a request for hearing, the action shall, on the expiration of not less than twenty-one days from the service of the writ, be entered on the Bail Court List for hearing in accordance with the provisions of Order 11 rule 11.

(2) If, when the action comes before him, the Judge is satisfied that the plaintiff's claim is well founded, he may pronounce for the claim and may at the same time order the property to be appraised and sold with or without previous notice, and the proceeds to be paid into Court, or may make such order as he shall think just.

Pleadings

Pleadings.

17. In every Admiralty action other than a short cause there shall be pleadings unless the Judge shall otherwise order.

Preliminary Act

Preliminary Act.

18.—(1) In actions for damage by collision between vessels, unless the Court or Judge otherwise orders, the plaintiff shall within seven days after the commencement of the action, and the defendant shall, within seven days after appearance, file with the Registrar a Preliminary Act before any other pleading is delivered.

(2) The Preliminary Act shall contain a statement of the following particulars:—

(i) the names of the vessels which came into collision and the names of their masters;

(ii) the 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 and force of the tide;

(vii) the course and speed of the vessel when the other vessel was first seen or immediately before any measures were taken with reference to her presence, whichever was the earlier, and all subsequent alterations to the course or speed of the vessel up to the time of the collision;

(viii) the lights (if any) carried by the vessel;

(ix) the distance, bearing and approximate heading of the other vessel when first seen;

(x) the lights (if any) of the other vessel which were first seen;

(xi) whether any lights of the other vessel, other than those first seen, came into view before the collision;

(xii) what measures were taken, and when, to avoid the collision;

(xiii) the parts of each vessel which first came into contact and the approximate angle between the two vessels at the moment of contact;

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

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

In short causes in addition to the abovementioned particulars Preliminary Acts shall also contain—

(xvi) what acts of negligence, or what breach of any navigation rule, byelaw, or regulation, was committed by those in charge of the other vessel;

and, in the case of the defendant:

(xvii) the name of any vessel, other than the plaintiff's vessel, which the defendant alleges to have caused the collision or damage, or with reference to which those in charge of the defendant's vessel had to act.

(3) The Preliminary Acts shall be sealed up before they are filed, and, unless the Court or Judge otherwise order, shall not be opened until the pleadings are completed and a consent signed by the parties or their solicitors to the opening of the Preliminary Acts is filed with the Registrar.

(4) Where the Court or a Judge orders the Preliminary Acts to be opened, the Court or a Judge may, if it or he thinks fit, further order the evidence to be taken in the action without pleadings, but where an order is made that the evidence should be so taken, any party who intends to rely on the defence of compulsory pilotage shall give notice in writing of his intention to do so to the other parties within seven days from the opening of the Preliminary Acts.

Payment out of Court

Caveat against payment out.

19. A party desiring to prevent payment of money out of Court in an Admiralty action shall file a notice, and thereupon a caveat shall be entered in the Admiralty Caveat Book in the Registry and no payment out of Court shall take place thereafter except by order of the Court or a Judge or by consent in writing of the caveator.

Default of Pleading

Default of defence.

20. In Admiralty actions *in rem*, if the defendant makes default in delivering a defence, the plaintiff may, subject to the provisions of Order 25 rule 15, on filing a request for hearing, have the action entered on the Bail Court List for hearing in accordance with the provisions of Order 25 rule 9.

RELEASE

Authority for release.

21. Property arrested by warrant shall only be released under the authority of an instrument to be called a Release, issued from the Registry.

Withdrawal of warrant.

22. A party, at whose instance any property has been arrested, may, before an appearance has been entered, obtain the release thereof by filing a notice that he withdraws the warrant.

Release on payment in.

23.—(1) A party may obtain the release of any property by paying into the Registry the sum in respect of which the action has been commenced.

(2) Cargo, arrested for freight only, may be released by filing an affidavit as to the value of the freight and by paying the amount of the freight into the Registry, or by satisfying the Judge that it has already been paid.

Salvage action.

24. In an action of salvage, the value of the property under arrest shall be agreed, or an affidavit of value filed, before the property is released, unless the Court or a Judge shall otherwise order.

Release on filing bail bond, etc.

25. A party who shall have filed a bail bond in the sum in respect of which the action has been commenced, or paid such sum into the Registry, and, if the action be one of salvage, if the value be not agreed, shall have also filed an affidavit as to the value of the property arrested, shall be entitled to a release for the same, unless there be a caveat against the release thereof outstanding in the Admiralty Caveat Book.

Release to be left at Registry.

26. The release, when obtained, shall be left with a notice in the Registry by the solicitor taking out the same, who shall also at the same time pay all costs of all proceedings estimated down to judgment, and all charges, and expenses attending the care and custody of the property whilst under arrest; and the property shall thereupon be released.

Caveat against release.

27. A party desiring to prevent the release of any property under arrest shall file in the Registry a notice, and thereupon a caveat against the release of the property shall be entered in the Admiralty Caveat Book in the Registry.

Release in Sub-Registry.

28. Where an action is proceeding in a Sub-Registry, the Sub-Registrar shall, before authorising a release, ascertain by telegraph or otherwise, from the Registry whether or not any caveat has been entered there.

Delaying release.

29. A party, delaying the release of any property by the entry of a caveat, shall be liable to be condemned in costs and damages, unless he shall show to the satisfaction of the Court or a Judge good and sufficient reason for having so done.

Caveat against arrest.

30.—(1) A party desiring to prevent the arrest of any property may cause a caveat against the issue of a warrant for the arrest thereof to be entered in the Registry.

(2) The party shall cause to be filed in the Registry a notice, signed by himself or his solicitor, undertaking to enter an appearance in any action that may be commenced against the said property and to give bail in such action in a sum not exceeding an amount to be stated in the notice, or pay such sum into the Registry; and a caveat against the issue of a warrant for the arrest of the property shall thereupon be entered in the Admiralty Caveat Book in the Registry.

(3) Where an action is proceeding in a Sub-Registry, the Sub-Registrar (unless required to act under rule 32 of this Order) shall, before issuing a warrant for the arrest of the property, ascertain by telegraph, or otherwise, from the Registry, whether or not any caveat has been entered against the issue of a warrant for the arrest thereof.

Proceedings where caveat against arrest.

31.—(1) A party, commencing an action against any property in respect of which a caveat against arrest has been entered in the Admiralty Caveat Book, shall forthwith serve a certified copy of the writ upon the party on whose behalf the caveat has been entered, or upon his solicitor.

(2) Within three days from the service of the writ or copy thereof, the party on whose behalf the caveat has been entered shall, if the sum in respect of which the action is commenced does not exceed the amount for which he has undertaken, give bail in such sum, or pay the same into the Registry.

(3) After the expiration of seven days from the service of the writ or copy thereof if the party on whose behalf the caveat has been entered shall not have given bail in such sum, or paid the same into the Registry, the plaintiff may proceed with the action by default, and on filing his proofs by affidavits in the Registry under rule 35 may have the action placed in the Bail Court List for hearing.

(4) If, when the action comes before the Judge, he is satisfied that the claim is well founded, he may pronounce for the amount which appears to him to be due, and may enforce the payment thereof by attachment against the party on whose behalf the caveat has been entered, and by the arrest of the property, if it then be or thereafter come within the jurisdiction of the Court.

Arrest despite caveat.

32. Nothing in this Order shall prevent a party from taking out a warrant for the arrest of any property, notwithstanding the entry of a caveat against arrest in the Admiralty Caveat Book; but the party, at whose instance any property in respect of which a caveat is entered shall be arrested, shall be liable to have the warrant discharged and to be condemned in costs and damages, unless he shall show, to the satisfaction of the Judge, good and sufficient reason for having done so.

TRIAL

Early trial.

33. In Admiralty actions the Court or a Judge shall have power at any stage of the proceedings in any such action, upon a motion or summons by either party for an early trial to appoint that such trial shall take place on any day or within any time which the Court or Judge shall think fit; and for such purpose the Court or Judge shall have power to dispense with pleadings or with the giving of notice of hearing or any other notice, or to abridge the time or times appointed for giving such notice, or for the delivery of pleadings, or for doing any other act or taking any other proceedings in the action, upon such terms (if any) as the nature of the case may require.

Trials with Assessors.

34. Trials with assessors shall take place in such manner and upon such terms as the Court or a Judge shall direct.

Evidence by affidavit.

35. In default actions *in rem*, and in references in Admiralty actions, evidence may be given by affidavit.

SALES BY THE COURT

Sale of property.

36.—(1) The Court or Judge may either before or after final judgment order any property under the arrest of the Court to be appraised or to be sold with or without appraisement and either by public auction or by private contract.

(2) Where the property has been appraised it shall not be sold at less than three quarters of the appraised value unless a Court or Judge so orders.

(3) Every commission for the appraisement or sale of property under the order of the Court shall, unless the Court or Judge shall otherwise order, be executed by the Marshal and a party who takes out a commission for appraisement or sale shall file an undertaking to pay the fees and expenses of the Marshal if they are demanded.

37. The Marshal shall pay into Court the gross proceeds of any property which has been sold by him and shall bring into Court the account for sale with vouchers in support thereof for taxation by the Registrar. Payment into Court of gross proceeds.

38. Any person interested in the proceeds may be heard before the Registrar on the taxation of the Marshal's account of expenses, and an objection to the taxation shall be heard in the same manner as an objection to the taxation of a solicitor's bill of costs. Taxation of Marshal's expenses.

MOTIONS

39. In Admiralty actions notice of motion, together with the affidavits (if any) in support thereof, shall be filed in the Registry three days at least before the hearing of the motion, unless leave shall be given to the contrary; and on the day of filing a copy of the notice of motion and of the affidavits (if any) shall be served on the adverse solicitor. Time for filing.

CONSENTS

40. In Admiralty actions any agreement or consent in writing signed by the parties, may, if the Registrar thinks it reasonable and such as the Judge would under the circumstances allow, be filed, and shall thereupon become and have the same effect as an order of Court. Consent to be order of Court.

REFERENCES

41. The Court or a Judge, or the parties by agreement in writing filed in the Registry, may refer the assessment of damages or the taking of any account in respect of wages, necessaries, mortgages, bottomry bonds or otherwise, to the Registrar either alone or assisted by one or more merchants or other assessors. Reference to Registrar.

42. Within twenty-one days from the day when the order for the reference is made, or an agreement for a reference is filed, the claimant shall file the claim and vouchers and affidavits, if any, and, except in a limitation action, serve copies thereof on the opposite party; failing which the Court may, on the application of any other party, dismiss the claim. Filing of claim and affidavits.

43. The claimant shall, except for a limitation action, after the filing of the claim and vouchers, obtain a day for the reference either by summonses or by agreement; and when such day has been obtained he shall lodge in the Registry a notice praying to have the reference placed in the list for hearing. Day for reference.

44. In a limitation action the day for the reference will, after the expiration of the time limited by the Court for the filing of claims, be appointed by the Registrar; and upon receiving notice thereof, the plaintiff shall place the reference in the list for hearing by lodging a notice as mentioned in rule 43. Day for reference in limitation actions.

45. At the time appointed for the reference, if any party be present, the reference may be proceeded with, but the Registrar may adjourn the reference from time to time, as he may deem proper. Hearing of reference.

46. Evidence on a reference may be given *viva voce* or by affidavit or in such other manner as may be agreed upon and the evidence may, on the application of either party, but at the expense in the first instance of the party on whose behalf the application is made, be taken down by a shorthand writer appointed by the Court, and in such case a transcript of the shorthand writer's notes, certified by him to be correct, shall be admitted to prove the oral evidence of the witnesses on an objection to the Registrar's report. Evidence on reference.

47. Counsel may attend the hearing of a reference, but the expenses attending the employment of Counsel shall not be allowed on taxation, unless the taxing officer shall be of opinion that the attendance of Counsel was necessary. Attendance of Counsel.

Registrar's decision to be filed.

48. When the hearing of the reference has been concluded, the Registrar shall reduce to writing his decision on the questions arising in the reference, shall cause it to be filed and shall send to the parties to the reference notice that he has done so.

Costs and grounds of decision.

49. The said decision shall include such order as to the costs of the reference (so far as not already disposed of by the order or agreement under which the reference is held or otherwise) as the Registrar thinks fit, and shall also include such statement, if any, of the grounds of the decision as the Registrar thinks fit.

Objection to decision.

50. Any party may, by motion in objection, apply to a Judge in Court to set aside or vary the said decision: provided that notice of the motion, specifying the points of objection to the decision, must be filed within fourteen days of the date on which notice of the decision has been sent by the Registrar under rule 48.

No action on decision pending objection.

51. Unless the Registrar or the Judge otherwise directs, the said 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.

Decision to be final.

52. Subject to the provisions of rules 50 and 51 and to any order made on appeal from an order of the Judge under rule 50, the said decision shall be final, and shall not require the confirmation of the Court and shall have effect as from the filing thereof.

Direction under rule 51.

53. A direction shall not be given under rule 51 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 when reduced to writing under rule 48.

Time

Dispensing with delays in taking bail.

54. The delays required by these rules with respect to the taking of bail in Admiralty actions may be dispensed with by consent of the parties in the action.

Duration of caveat.

55. In Admiralty actions a caveat whether against the issue of a warrant, the release of property, or the payment of money out of the Registry, shall not remain in force for more than six months from the date thereof.

Service Generally

Issue of instrument.

56. Every instrument, under the seal of the Court, and prepared in the Admiralty Registry, shall be issued on a notice filed by the party applying for the same, and shall bear date on the day on which it is issued.

Service of instrument.

57. Every instrument shall be served within twelve months from the day on which it bears date, otherwise the service thereof shall not be valid.

Service by Marshal

58. Every warrant or other instrument required to be served or executed by the Marshal shall be left with the Marshal by the party at whose instance it is issued with written instructions for the service or execution thereof.

Return of service.

59. The Marshal shall make a return of service or execution of every instrument served or executed by him. The service or execution of any instrument by any other person shall be verified by affidavit.

Short Cause

Consent to Short Cause.

Form No. 6.

60. The parties in an Admiralty action may have the same dealt with, heard and determined in accordance with rules 61 to 68 inclusive of this Order, upon filing in the Registry or Sub-Registry a consent signed by the parties in Form No. 6 in Part II of Appendix AA to these Rules given below.

61. After such consent has been filed application may be made by any party to the Judge in Chambers to appoint a day for the hearing, and to give directions. Date of hearing.

62. There shall be no pleadings save the Preliminary Acts or as ordered by the Judge beyond the claim indorsed on the writ, but if there be a counterclaim notice thereof shall be filed and a copy served upon the other party before such consent as aforesaid is signed. No pleadings in short causes.

63. Lists of documents shall be exchanged and mutual inspection of documents given at or before a time appointed by the Judge on the hearing of the application aforesaid. Lists of documents.

64. At the hearing of an application under rule 61, unless it shall sufficiently appear from the writ or otherwise in writing, the plaintiff shall specify the cause or causes of action in respect of which the action is brought, and if practicable the amount actually claimed, and the defendant shall specify the grounds of defence on which he relies and in salvage claims the plaintiff and defendant respectively shall at the same time, or within such time as the Judge shall direct, state the value of their property and, if required, by affidavit. In the case of a counterclaim the cause or causes of action and the claim therein, and the grounds of defence thereto, shall be similarly stated. Particulars of claim and defence.

65. The Judge at the trial of a short cause shall be at liberty to receive, call for, and to act upon, such evidence, documentary or otherwise, whether legally admissible or not, as he may think fit. Evidence.

66. If in any action the sum awarded, or for which judgment is given, exceeds the sum, if any, tendered, the Judge may nevertheless exercise his discretion as to how and by whom the costs shall be borne. Costs.

67. There shall be no appeal from any order or judgment of the Judge, except on a question of law. Appeal.

68. In other respects the ordinary rules and practice shall apply so far as may be necessary. Notwithstanding anything in rules 60 to 67 inclusive the Judge may, if he thinks fit, make such orders as he might make under the ordinary rules and practice.

Arbitration

69. Where a submission to arbitration provides that the reference shall be to a Judge, the Judge to whom application is made shall hear and determine the matters agreed to be referred. The parties to any such submission shall have the matters referred dealt with in accordance with rules 60 to 68 inclusive. Arbitration.

General

70. Subject to the provisions for fees and costs specified in Part II of Appendix AA, the fees and costs set forth in the appendices to the Principal Rules shall be the scale of fees and costs allowable in respect of Admiralty actions. Fees and Costs.

(*b*) The insertion after Appendix Z of the following appendix—

APPENDIX AA

PART I

FORMS OF WRITS OF SUMMONS IN ADMIRALTY ACTIONS.

(Order 61, Rule 3).

No. 1.

WRIT OF SUMMONS IN REM.

19 No. Demerara (or Berbice).

In the Supreme Court of British Guiana,

Admiralty Jurisdiction.

Between A.B. Plaintiff,

and

or (*a*) The Ship.....

or (*b*) The Ship..... and freight.

or (*c*) The Ship..... her cargo and freight

or (*if the action is against cargo only*).

(*d*) The cargo ex the Ship (*state name of ship on board of which the cargo now is or lately was laden*).

or (*if the action is against the proceeds realised by the sale of the ship or cargo*).

(*e*) The proceeds of the Ship.....

or (*f*) The proceeds of the cargo *ex* the Ship..... *or as the case may be.*

Defendants.

Elizabeth the Second, by the Grace of God, of the United Kingdom of Great Britain, Northern Ireland, and of Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To the owners and parties interested in the ship or vessel of the port of (or cargo, etc., as the case may be).

We command you, that within eight days after the service of this writ, inclusive of the day of such service, you do cause an appearance to be entered for you in Our Vice-Admiralty Court of in an action at the suit of A.B., and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness The Honourable Chief Justice of British Guiana, the day of , in the year of Our Lord one thousand nine hundred and

(Memorandum to be subscribed on the writ)

(where writ is issued in Demerara)

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by solicitor at the Registry at Georgetown.

(where writ is issued in Berbice)

A defendant who resides or carries on business within the County of Berbice may appear hereto by entering an appearance either personally or by solicitor at the Registry at New Amsterdam.

A defendant who neither resides nor carries on business within the County of Berbice may enter appearance either at the Registry at New Amsterdam or at the Registry at Georgetown.

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

Indorsements to be made on the writ before issue thereof.

The plaintiff's claim is for etc. etc. etc.-

This writ is issued by G.H. of

whose address for service is

solicitor for the said plaintiff, who resides at

or

This writ was issued by J.K. of

whose address for service is

agent for of

solicitor for the said plaintiff, who resides at

Indorsements to be made on the writ after service thereof.

This writ was served by X.Y. (here state the mode in which service was effected, whether on the ship, cargo, or freight according to Order 61, rules 8, 9, 10 or 11 as the case may be)

on the day of 19 .

Indorsed the day of 19 .

(SIGNED) X.Y.

No. 2

WRIT OF SUMMONS IN PERSONAM

19 No. Demerara (or Berbice).

In the Supreme Court of British Guiana,

Admiralty Jurisdiction.

A. B. Plaintiff,

and

The Owners of the Ship.....(or as the case may be) Defendants.

Elizabeth the Second, by the Grace of God, of the United Kingdom of Great Britain, Northern Ireland, and of Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To C.D. of.....

and E.F. of.....

We command you, that within eight days after the service of this writ, inclusive of the day of such service, you do cause an appearance to be entered for you in Our Vice-Admiralty Court of

in an action at the suit of A.B., and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness The Honourable , Chief Justice of British Guiana, the day of , in the year of Our Lord one thousand nine hundred and

(Memorandum to be subscribed on the writ)

(where writ is issued in Demerara)

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by solicitor at the Registry at Georgetown.

(where writ is issued in Berbice)

A defendant who resides or carries on business within the County of Berbice may appear hereto by entering an appearance either personally or by solicitor at the Registry at New Amsterdam.

A defendant who neither resides nor carries on business within the County of Berbice may enter appearance either at the Registry at New Amsterdam or at the Registry at Georgetown.

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

Indorsements to be made on the writ before issue thereof.

The plaintiff's claim is for etc. etc. etc.

This writ is issued by G.H. of

whose address for service is

solicitor for the said plaintiff, who resides at

or

This writ was issued by J.K. of

whose address for service is

agent for of

solicitor for the said plaintiff, who resides at

Indorsements to be made on the writ after service thereof.

This writ was served by X.Y. (state mode of service)

on the day of 19 .

(SIGNED)

(ADDRESS)

WARRANT OF ARREST IN ADMIRALTY ACTION IN REM

(Order 61, rule 6).

19 No. Demerara (or Berbice)

In The Supreme Court of British Guiana,

Admiralty Jurisdiction.

Between A.B. Plaintiff

and

C.D. (and E.F.) Defendant(s)

Elizabeth the Second, by the Grace of God, of the United Kingdom of Great Britain, Northern Ireland, and of Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO The Marshal

We hereby command you to arrest the ship or vessel ("Mary Jane") of the port of ( ) (and the freight due for the transportation of the cargo now or lately laden therein, or and the cargo now or lately laden therein, together with the freight due for the transportation thereof), and to keep the same under safe arrest until you shall receive further orders from us.

Witness The Honourable ,
Chief Justice of British Guiana, the day of , in the year of Our Lord one thousand nine hundred and

Taken out by A.B.

Solicitor for the above-named plaintiffs.

No. 4

BAIL BOND IN ADMIRALTY ACTION IN REM

(Order 61, rule 15 (1)).

19 No. Demerara
(or Berbice)

In The Supreme Court of British Guiana,

Admiralty Jurisdiction.

WHEREAS an Action of (state nature of the action) is now pending in the Admiralty Jurisdiction of The Supreme Court of British Guiana,

BETWEEN ....., Plaintiffs,
and ....., Defendants,

NOW THEREFORE WE, A.B., of.....(shipowner),

and C.D., of.....(merchant),

hereby jointly and severally submit ourselves to the jurisdiction of the said Court, and consent that if they, the said defendants (or plaintiffs, if the bail is given to satisfy a counterclaim) shall not pay what may be adjudged against them in the said action, with costs, execution may issue forth against us, our heirs, executors and administrators, goods and chattels, for a sum not exceeding (state sum in letters) dollars.

This Bail Bond was signed by the said A.B. and C.D., the Sureties, the day of 19

Before me, J. K.
Registrar (or Notary Public).

(WE, the Sureties to the foregoing Bail Bond, hereby consent and agree that the same shall apply to any compromise or settlement between the parties of the subject-matter of the action or to an admission of liability therein and to any amount of salvage, damages, interest and costs agreed by the defendants (or plaintiffs) to be paid in the said action or assessed by the Registrar and Merchants after admission of liability or compromise, so that if the defendants (or plaintiffs) shall not pay such amounts we shall be liable for the same in the same manner as if they had been adjudged by the Court).

No. 5

NOTICE OF BAIL IN ADMIRALTY ACTION IN REM

(Order 61, rule 15 (2)).

19 No. Demerara
(or Berbice)

In The Supreme Court of British Guiana,

Admiralty Jurisdiction.

Take notice that bail has been given in the sum of $..... on behalf of the above-named defendants (or plaintiffs, if in respect of counterclaim) to answer judgment in this action by A.B., of..... ....., shipowner, and C.D., of ....., merchant, and that such bail has been taken before J.K., Registrar (or Notary Public).

Dated this day of 19 .

Solicitor for the Defendants
(or Plaintiffs).

TO G.H.,
Solicitor for the Plaintiffs (or Defendants).

No. 6

CONSENT TO TRIAL OF ACTION UNDER THE SHORT CAUSE RULES

(Order rule 60).

19 No. Demerara
(or Berbice)

In The Supreme Court of British Guiana,

Admiralty Jurisdiction.

A.B. Plaintiff
and
The Owners of the Ship.....
(or Title as in Form No. 2
or as the case may be).
Defendants.

We, the undersigned, respectively hereby agree that this cause shall be dealt with, heard and determined, according to rules 61 to 68 inclusive of Order of The Rules of The Supreme Court, 1955.

Dated this day of 19

(Signature) A.B.,
Solicitor for the Plaintiffs.

(Signature) C.D.,
Solicitor for the Defendants.

PART II

TABLE OF FEES AND COSTS
(ORDER 61, RULE 70).

BY THE REGISTRAR.

1. For Preparing Instruments, &c.

	$ c.
For preparing, certifying, sealing and issuing any warrant, release, commission, attachment, or other instrument, required to be sealed or any bail bond	5.00
For preparing a receivable order or a receipt for money to be paid out of court	2.50
For preparing and sending any notice	1.20
For preparing any other document for every folio ...	.75

Note: The fees for preparing shall include drawing and fair copying or engrossing.

II. BY THE ASSESSORS

For each nautical or other assessor, whether at the examination of witnesses or at the trial of an action or upon any assessment of damages, or taking of an account, according to the case, per day	From	10.00
	To	50.00

Note: The above fees shall be paid to the Registrar, for the assessors, and in the first instance by the party preferring the claim.

III. BY A COMMISSIONER TO TAKE BAIL

For attending the execution of any bail bond	2.00

IV. BY THE MARSHAL

For executing any warrant or attachment	10.00
For keeping possession of any ship, goods, or ship and goods (exclusive of any payments necessary for the safe custody thereof) for each day	1.50

Note: No fee shall be allowed to the marshal for the custody and possession of property under arrest if it consists of money in a bank, or of goods stored in a bonded warehouse, or if it is in the custody of a Customs House Officer or other authorised person.

On release of any ship, goods, or person from arrest ...	5.00
For attending the delivery of cargo for each day ...	10.00
For executing any commission or appraisement of sale, or appraisement and sale, exclusive of the fees, if any, paid to the appraiser and auctioneer	10.00
For executing any other commission or instrument ...	10.00
On the gross proceeds of any ship, or goods and etc. sold by order of the Court:—	
If not exceeding $500	10.00
For every additional $500 or part thereof	2.50

Note: If the marshal, being duly authorised, acts as auctioneer, he shall be allowed a double fee on the gross proceeds

Dated this 12th day of July 1962.

J. A. LUCKHOO,
Chief Justice.

W. A. DATE,
Puisne Judge.

R. S. MILLER,
Puisne Judge.

G. L. B. PERSAUD,
Puisne Judge.

S. L. Van B. STAFFORD,
CARLOS GOMES,
Members of the Rule Making Authority.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

In pursuance of section 7 of the Colonial Courts of Admiralty Act 1890 this Order approves rules of court regulating the procedure and practice of the Supreme Court of British Guiana in the exercise of the jurisdiction conferred by that Act.