

SCHEDULE 5

Arrest

61.5.—(1) In a claim in rem—

- (a) a claimant; and
- (b) a judgment creditor

may apply to have the property proceeded against arrested.

(2) The practice direction sets out the procedure for applying for arrest.

(3) A party making an application for arrest must—

- (a) request a search to be made in the Register before the warrant is issued to determine whether there is a caution against arrest in force with respect to that property; and
- (b) file a declaration in the form set out in the practice direction.

(4) A warrant of arrest may not be issued as of right in the case of property in respect of which the beneficial ownership, as a result of a sale or disposal by any court in any jurisdiction exercising admiralty jurisdiction in rem, has changed since the claim form was issued.

(5) A warrant of arrest may not be issued against a ship owned by a State where by any convention or treaty, the United Kingdom has undertaken to minimise the possibility of arrest of ships of that State until—

- (a) notice in the form set out in the practice direction 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 arrest the ship; and
- (b) a copy of that notice is attached to any declaration under paragraph (3)(b).

(6) Except—

- (a) with the permission of the court; or
- (b) where notice has been given under paragraph (5),

a warrant of arrest may not be issued in a claim in rem against a foreign ship belonging to a port of a State in respect of which an order in council has been made under section 4 of the Consular Relations Act 1968⁽¹⁾, until the expiration of 2 weeks from appropriate notice to the consul.

(7) A warrant of arrest is valid for 12 months but may only be executed if the claim form—

- (a) has been served; or
- (b) remains valid for service at the date of execution.

(8) Property may only be arrested by the Marshal or his substitute.

(9) Property under arrest—

- (a) may not be moved unless the court orders otherwise; and
- (b) may be immobilised or prevented from sailing in such manner as the Marshal may consider appropriate.

(10) Where an in rem claim form has been issued and security sought, any person who has filed an acknowledgment of service may apply for an order specifying the amount and form of security to be provided.

(1) 1968 c. 18.