



Supreme Court of Victoria

Practice Note SC CC 4

Admiralty List

1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to describe the procedures to be followed in the Admiralty List.

2. COMMENCEMENT

- 2.1 This Practice Note was reissued on 28 May 2021 and replaced the earlier version of this Practice Note which was issued on 30 January 2017 and applies to all proceedings commenced in the Admiralty List on or after that date.

3. DEFINITIONS

- 3.1 In this Practice Note:
Commonwealth Act means the *Admiralty Act 1988* (Cth)
Commonwealth Rules means the *Admiralty Rules 1988* (Cth)
Chapter VII Rules means the *Supreme Court (Admiralty) Rules 2019*
List means the Admiralty List
Judge in Admiralty means the Judge in Charge of the List.

4. PROCEEDINGS TO BE MANAGED IN THE LIST

- 4.1 Admiralty proceedings to be entered into the List for management by the Judge in Admiralty comprise:
 - (a) Commonwealth Proceedings, that is, proceedings in the Court to which the Commonwealth Act and the Commonwealth Rules apply; and
 - (b) Other admiralty proceedings in the Court of a kind specified in r.1.06 of the Chapter VII Rules (**other admiralty proceedings**).
- 4.2 Practitioners are advised that the Chapter VII Rules came into operation on 28 April 2020. For the purposes of r.4 of the Commonwealth Rules:

- (a) The Prothonotary and the Deputy Prothonotaries located in the Commercial Court Registry are, subject to paragraphs (b) and (c) below, authorised by r.2.04(1) of the Chapter VII Rules to exercise the powers and functions and to perform the duties conferred or imposed on the Registrar by the Commonwealth Rules;
 - (b) An Associate Judge is authorised by r.2.04(3) of the Chapter VII Rules to exercise the powers and functions and to perform the duties of Registrar conferred or imposed by rr.51 and 56 and Part IX and Rule 78B of the Commonwealth Rules;
 - (c) The Sheriff and the Deputy Sheriff by r.2.05 of the Chapter VII Rules are persons appointed by the Court to be a Marshal for the purpose of exercising the powers and functions and performing the duties conferred or imposed on the Marshal by Commonwealth Rule 4(3)(a)(ii).
- 4.3 Commonwealth Proceedings will be entered in the List and conducted under the management of the Judge in Admiralty in accordance with the Commonwealth Rules and the forms contained in the schedule to those Rules and, subject to the Commonwealth Act and the Commonwealth Rules, in accordance with the Chapter VII Rules, including r.3.06 of the Chapter VII Rules.
- 4.4 Other originating process in an admiralty proceeding may be entered in the List at the option of the Plaintiff in accordance with r.3.02(3) of the Chapter VII Rules by order of the Judge in Admiralty pursuant to r.3.02(4) of the Chapter VII Rules or in circumstances where it appears to the Court that it is more appropriate for a particular case to be managed and determined in the List as opposed to another list or Division of the Court.
- 4.5 Documents filed in the List shall be marked in the top left hand corner of the title page "Admiralty List".
- 4.6 Admiralty proceedings will be managed upon summons for directions returnable before the Judge in Admiralty. An appointment for the return of summonses for directions or for the hearing of any application in an admiralty proceeding may be obtained from the Associate to the Judge in Admiralty.
- 4.7 Practitioners in a managed list should expect their proceeding to be actively managed by the Judge in Admiralty. Nevertheless, they are encouraged to agree upon directions which they consider appropriate. Where consent directions are sought, practitioners should submit by email to the Associate to the Judge in Admiralty a note of the proposed order and, where appropriate, the reason for it, and do so at least one clear day before the appointed directions hearing. Practitioners will be advised whether the proposed order will be made "on the papers" or whether an appearance in Court will be required. Practitioners are reminded that such consent orders may not be made by the Commercial Court Registry (see r.59.06(8) of the Chapter I Rules).

5. INSURANCE OF PROPERTY ARRESTED UNDER THE COMMONWEALTH ACT

- 5.1 The Commonwealth Act provides for the arrest of property (including vessels) by the Marshal in actions in rem. The Marshal will obtain indemnity insurance for the period the vessel is in the custody of the Marshal. The cost of that insurance will be an expense incurred by the Marshal payable by the party issuing the writ for the arrest of the vessel. The Court may require that a party pay the cost of that insurance at the time the writ is issued.
- 5.2 The Marshal does not at any time during the period of arrest hold commercial insurance for the benefit of any person who has an interest in the arrested property including cargo. Persons with an interest in the arrested property and their lawyers may wish to consider the question of insuring the amount of their interest against consequential risk, including risks occasioned by any movement of the vessel.

6. ADMIRALTY LIST USERS' GROUP

- 6.1 The Judge in Admiralty meets from time to time with members of an Admiralty List Users' Group representing legal and other practitioners concerned with admiralty matters. The purpose of these meetings is to provide a forum for discussing suggestions which may improve the management and disposition of admiralty cases in the Court and other matters of relevance to admiralty. Practitioners wishing to raise concerns or suggestions concerning List business are encouraged to do so.

7. FURTHER INFORMATION AND ENQUIRIES

- 7.1 General and procedural enquiries regarding the List, including urgent enquiries, may be directed to the Associate to the Judge in Admiralty. A party wishing to make an urgent application outside normal business hours or in circumstances where the Judge in Admiralty is unavailable may also refer to Practice Note SC CC 1 or visit the Commercial Court section of the Supreme Court website. Urgent applications with respect to an admiralty proceeding will in the first instance be referred to the Associate to the Judge in Admiralty.

(Telephone: (03) 8600 2523 or 8600 2524 or email chambers.connock@supcourt.vic.gov.au).

AMENDMENT HISTORY

28 May 2021: This Practice Note was reissued on 28 May 2021 and replaced the earlier version of this Practice Note which was issued on 30 January 2017.

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28 May 2021