

SECURITY FOR CLAIMS AND POINTS ON ARREST AND RELEASE FROM ARREST

Security for claims is generally agreed informally. Club letters of undertaking are generally, but not always, accepted. Security is normally granted for 150% of the value of the claim to cover uplift for interest and costs, subject to the value of the arrested property as a maximum.

Security, known formally as "bail", recognized by the Court is limited to bank guarantees, which must be on a Canadian Schedule 1 or 2 bank, a bond of a surety company licensed to do business in Canada or a bailbond in the Court approved Form 486A. Cash in the amount of the claim or up to the appraised value of the property arrested paid into court will also obtain release of the ship from an arrest.

A Club letter of undertaking is acceptable only with the agreement of the claimant. A claimant has an absolute right to insist on formal bail if it wishes.

Once bail (or security) has been given and the ship has been released from arrest, the seizing party may under certain circumstances re-arrest the ship for additional bail if it is established to the satisfaction

of the court that the original bail was insufficient.

A ship can be arrested to provide security for a claim in arbitration.

The effect of an arrest of a ship remains even if the owner of the ship subsequently goes into bankruptcy.

An affidavit to lead warrant filed to support a request for a Warrant of Arrest may include statements based on information and belief. However, there is no threshold "hearing" to determine whether or not a Warrant should be issued. As long as the affidavit sets out the technical requirements, a Warrant is issued. The requirements are assertions as to:

- Name and address of claimant.
- Nature of claim as qualifying for arrest jurisdiction.
- The claim not having been satisfied.
- The nature of the property to be arrested.
- In the case of sister-ship arrest, justification for same.