## Provisions of the Supreme People's Court on Several Issues concerning the Application of Law in the Arrest and Auction of Ships

Announcement of the Supreme People's Court

The Provisions of the Supreme People's Court on Several Issues concerning the Application of Law in the Arrest and Auction of Ships, as adopted at the 1,631st meeting of the Judicial Committee of the Supreme People's Court on December 8, 2014, are hereby issued, and shall come into force on March 1, 2015.

Supreme People's Court

February 28, 2015

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(Interpretation No. 6 [2015] of the Supreme People's Court, adopted at the 1,631st meeting of the Judicial Committee of the Supreme People's Court on December 8, 2014 and to come into force on March 1, 2015)

In order to regulate the arrest and auction of ships in maritime actions, these Provisions are developed in accordance with the [Civil Procedure Law of the People's Republic of China](https://pkulaw.com/en_law/183386.html#0) , the [Special Maritime Procedure Law of the People's Republic of China](https://pkulaw.com/en_law/24093.html#0) (hereinafter referred to as the “Special Maritime Procedure Law”), and other relevant laws and in light of the judicial practice.

**Article 1** Where a maritime claimant applies for taking such preservation measures as restraint on the disposition of a ship or mortgage of the ship, the maritime court may, in accordance with the relevant provisions of the [Civil Procedure Law](https://pkulaw.com/en_law/183386.html#0) , render a ruling to approve the application and notify the ship registration authority of assisting in enforcement.

The “preservation measures” as mentioned in the preceding paragraph may not affect the application of other maritime claimants for the arrest of the ship.

**Article 2** Upon applications of various maritime claimants, the maritime court may take the arrest measure against a ship that has been arrested by it or other maritime courts.

Where the maritime claimant that first applies for the arrest of the ship does not apply for the auction thereof, the maritime claimant that applies for the arrest of the ship afterwards may, in accordance with the provisions of [Article 29](https://pkulaw.com/en_law/24093.html#29) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) , file an application for the auction of the ship with the maritime court approving its ship arrest application.

**Article 3** Where a ship is arrested because the bareboat charterer is liable for the maritime claim, if the maritime claimant applies for the auction of the ship for the purpose of paying off the relevant debts arising from the operation of the ship by the bareboat charterer in accordance with the provisions of [Article 29](https://pkulaw.com/en_law/24093.html#29) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) , the maritime court shall approve such application.

**Article 4** Where the maritime claimant applies for the arrest of a ship, the maritime court shall order the maritime claimant to provide guarantee; however, if the maritime claimant applies for the arrest of the ship due to disputes over the service contracts of seamen or the personal injury compensation on the sea and in sea waters, and both the facts and the rights and obligations of the parties are clear, the maritime claimant is allowed to not provide guarantee.

**Article 5** The specific amount of the guarantee provided by a maritime claimant as prescribed in paragraph 2 of [Article 76](https://pkulaw.com/en_law/24093.html#76) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) shall be equal to various maintenance costs and expenses that are possibly incurred during the period of ship arrest, the losses of sailing period incurred from the ship arrest, and the expenses paid by the person against whom the claim is brought for releasing the ship from arrest.

Where, after the arrest of the ship, the guarantee provided by the maritime claimant is insufficient to compensate for the harm to the person against whom the claim is brought, the maritime court shall order the maritime claimant to provide additional guarantee.

**Article 6** After the final judgment of the case, where the maritime claimant applies for the return of the guarantee it has provided, the maritime court shall notify the person against whom the claim is brought of the maritime claimant's application. If the person against whom the claim is brought does not bring any relevant action for damages within 30 days, the maritime court may approve the maritime claimant's application for the return of the guarantee.

Where the person against whom the claim is brought agrees to the return of the guarantee, or it is determined in the effective legal document that the person against whom the claim is brought is liable and the amount of compensation or payment is approximately equal to the amount of the guarantee the maritime claimant requires the person against whom the claim is brought to provide, the maritime court may directly approve the maritime claimant's application for the return of the guarantee.

**Article 7** During the period of ship arrest, the ship shall be managed by the ship owner or the bareboat charterer.

Where the ship owner or the bareboat charterer fails to perform their ship management responsibilities, the maritime court may authorize a third party or the maritime claimant to manage the ship and the expenses incurred therefrom shall be assumed by the ship owner or the bareboat charterer or shall be preferentially appropriated from the proceeds arising from the ship auction.

**Article 8** After the arrest of a ship, where the maritime claimant brings an action in other maritime courts having jurisdiction over the claim in accordance with the provisions of [Article 19](https://pkulaw.com/en_law/24093.html#19) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) , the maritime court that has arrested the ship may continue to implement the preservation measures.

**Article 9** Where, before the enforcement of the ruling on ship arrest, the maritime claimant withdraws its application for the arrest of the ship, the maritime court shall render a ruling to approve the withdrawal and terminate the enforcement of the ruling on ship arrest.

Where the ruling on ship arrest fails to be enforced due to objective reasons, the maritime court shall render a ruling to terminate the enforcement.

**Article 10** Where no deal is made at the auction of a ship and another auction is required, the provisions of [Article 45](https://pkulaw.com/en_law/54994.html#45) of the [Action Law](https://pkulaw.com/en_law/54994.html#0) that “the auctioneer shall announce the opening of an action seven days prior to the date of auction” shall apply.

**Article 11** The auction of a ship shall be implemented by the Committee of Ship Auction and the maritime court does not separately authorize any auction agency to auction the ship.

**Article 12** To auction a ship, the maritime court shall determine the reserve price based on the appraised price. The reserve price may not be disclosed.

In the first auction, the reserve price may not be lower than 80% of the appraised price; where it is necessary to hold another auction due to the abortive one, the reserve price may be reduced in consideration of the actual circumstances; however, the reduced amount may not exceed 20% of the previous reserve price.

**Article 13** Where a ship fails to be auctioned in two abortive auctions, it may be sold and the selling price may not be lower than 50% of the appraised price.

**Article 14** Where the ship still fails to be auctioned in accordance with Article 13 of these Provisions, upon consent of the creditors with more than two-thirds of the creditor's rights whose registration has been accepted, the ship may be sold at a price lower than 50% of the appraised price. If the ship still fails to be sold, the maritime court may release the arrest of the ship.

**Article 15** After a ship is auctioned or sold by the maritime court, the effectiveness of other preservation measures taken against it shall terminate.

**Article 16** The expiration date of the period of application for the registration of the creditor's rights as prescribed in [Article 111](https://pkulaw.com/en_law/24093.html#111) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) shall be the 60th day after the date when the last announcement on the arrest of a ship is issued.

The term “announcement” as mentioned in the preceding paragraph refers to the announcement on the arrest of a ship issued in the first auction.

**Article 17** After accepting an application for the registration of the creditor's rights, the maritime court shall, after the ship is auctioned or sold, render a ruling on whether to approve the application in accordance with the provisions of [Article 114](https://pkulaw.com/en_law/24093.html#114) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) .

**Article 18** Where, without registration of the creditor's rights, the maritime claimant that applies for the auction of a ship directly requires participation in the distribution of proceeds arising from the auction of the ship, the maritime court shall approve such application.

**Article 19** Where the maritime court renders a ruling to terminate the auction of a ship, it shall, at the same time, render a ruling to terminate the procedure for the registration of the creditor's rights and the repayment of debts and the application fees for the registration of the creditor's rights that have been paid by the parties shall be refunded.

**Article 20** Where, before the registration of the creditor's rights, any party has brought an action regarding the relevant creditor's rights, the provisions of paragraph 2 of [Article 116](https://pkulaw.com/en_law/24093.html#116) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) shall not apply and the party may appeal against the judgment or ruling as rendered by the maritime court according to the law.

**Article 21** Where, after a creditor brings an action for confirming rights in accordance with the provisions of paragraph 1 of [Article 116](https://pkulaw.com/en_law/24093.html#116) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) , it is necessary to determine the proportions of fault in the ship collision, the parties may appeal against the judgment or ruling as rendered by the maritime court according to the law.

**Article 22** The proceeds arising from the auction or sale of a ship by the maritime court and the interests thereof shall be legally distributed in the following sequence after the expenses as prescribed in paragraph 2 of [Article 119](https://pkulaw.com/en_law/24093.html#119) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) are preferentially appropriated:

(1) the maritime claim that is entitled to maritime lien;

(2) the maritime claim that is guaranteed by maritime lien;

(3) the maritime claim that is guaranteed by maritime mortgage; and

(4) other maritime claims related to the ship that is auctioned or sold.

Where the maritime claimant that applies for the arrest of a ship in accordance with the provisions of paragraph 2 of [Article 23](https://pkulaw.com/en_law/24093.html#23) of the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) applies for the auction of the ship, the maritime claimant shall participate in the distribution of proceeds of the ship after the payment of the maritime claim as prescribed in the preceding paragraph.

The balance after the distribution of proceeds as prescribed in the preceding paragraph shall be governed by the [Civil Procedure Law](https://pkulaw.com/en_law/183386.html#0) and the relevant judicial interpretations.

**Article 23** Where any party applies for the auction of a ship to realize the security interest of the arrested ship in accordance with the provisions of Section 7, Chapter 15 of the [Civil Procedure Law](https://pkulaw.com/en_law/183386.html#0) , the application shall be under the jurisdiction of the maritime court at the place where the ship is located or at the place where the port of registry is located and shall be handled in accordance with the [Special Maritime Procedure Law](https://pkulaw.com/en_law/24093.html#0) and the provisions of these Provisions on the procedure for the repayment of debts in the auction of the ship.

**Article 24** Where the superior people's court of the maritime court arrests and auctions a ship, these Provisions shall apply.

Where, in the enforcement procedure, the arrested ship is auctioned for paying debts, these Provisions shall apply.

**Article 25** Where a ship has been arrested and auctioned before the implementation of these Provisions and the parties apply for reconsideration after the implementation of these Provisions, these Provisions shall not apply.

After these Provisions come into force, the [Provisions on the Auction of an Arrested Ship by the Maritime Court for Repaying Debts](https://pkulaw.com/en_law/9598.html#0) (No.14[1994], Supreme People's Court) as developed on July 6, 1994 by the Supreme People's Court shall be repealed concurrently. Where the judicial interpretations and regulatory documents as previously issued by the Supreme People's Court are inconsistent with these Provisions, these Provisions shall prevail.