

SHIP ARREST IN OMAN

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1. Please give an overview of ship arrest practice in your country.

The Omani Maritime Code (Royal Decree No. 19/2023) regulates the conservatory arrest of ships. The arrest application must be submitted to the Court of First Instance. The Court normally considers the application of arrest of a vessel on a prima facie basis and the arrest order is usually rendered ex-parte on the date of the filing of the application for arrest (or the earliest thereafter) provided that the claim is one of the maritime debts listed in the Omani Maritime Code (please see Question No. 5 below).

The arrest order may be challenged but this procedure is usually complex and lengthy, and the quickest way to lift the arrest is to put up security (please see Question No. 18 below).

After the execution of the arrest, the claimant has 15 days from the date of executing the seizure report to commence legal action on the merits (Article 71).

2. Which International Convention applies to arrest of ships in your country?

Oman is neither a party to the International Convention on the Arrest of Seagoing Ships of 1952 nor to the International Convention on the Arrest of Ships of 1999. Oman applies its domestic Maritime Code (Royal Decree No. 19/2023).

3. Is there any other way to arrest a ship in your jurisdiction?

Yes. A ship can be arrested in Oman through either:

- a) Precautionary (Conservatory) Arrest: The applicant is not required to have an execution deed against the ship. This is regulated by Articles 67-73 of the Maritime Code.
- b) Executive Seizure: Requires the applicant to possess an enforceable executive deed (such as a final court judgment or arbitral award) and is followed by judicial sale procedures. This is regulated by Articles 74-83 of the Maritime Code.

The main difference is that executive seizure requires a pre-existing executable title, while precautionary arrest does not.

4. Are there alternatives e.g. saisie conservatoire or freezing order?

There are no alternatives for the arrest of ships in Oman. The Maritime Code that regulates the arrest of ships prevents the applicant from relying on other laws in Oman for ship arrest purposes.

5. For which types of claims can you arrest a ship?

In order to arrest a vessel in the Omani territorial waters, the creditor must have a “maritime debt” against the ship. Article 67 of the Omani Maritime Code defines maritime debts as follows:

1. Port fees, sea lanes, navigational aids fees, royalties, and amounts owned by the ship
2. Damage caused by marine collision, pollution, or other marine accidents
3. Loss of human life or bodily injury caused by the ship or arising from its exploitation
4. Sea rescue operation
5. Joint Maritime Losses
6. Towage of the ship
7. Pilotage

8. Insurance on the ship
9. Contracts for the use of Chartering of the ship
10. Contracts for the carriage of goods under a lease, bill of lading, or other agreements
11. Supplying products, providing fuel to the ship, or furnishing necessary tools for operating, maintaining or preserving the ship at any location where the supply occurs
12. Construction, reconstruction, repair, or outfitting of the ship, including dry dock expenses
13. Salaries of the captain, officers, crew, and other personnel working onboard the ship under Maritime Employment Contracts, including expenses for repatriation
14. Damages arising from loss of or damage to goods and luggage carried by the ship, as well as damages for delays in the delivery of goods and luggage
15. Expenditures made by the captain, shippers, Charterers, or agents of the ship on behalf of the ship or its owner
16. Dispute relating to the ownership of the ship
17. Dispute relating to the joint ownership of the ship and the rights and profits resulting from its operation
18. Maritime mortgage
19. Expenses for salvaging the sunken ship or its wreckage, including any cargo or other items it contains, floating the stranded ship, or relocating it to another location
20. Costs relating to the maintenance of the abandoned ship and the support of its crew
21. Fees for maritime affairs services

6. Can you arrest a ship irrespective of her flag?

Yes. A ship anchored within the Omani territorial waters can be arrested irrespective of the flag she is flying.

7. Can you arrest a ship irrespective of the debtor?

Pursuant to Article 68 of the Omani Maritime Code, any creditor whose debt is qualified as a maritime debt may arrest the ship anchored in Omani territorial waters, subject to the ownership and control conditions stipulated under the Code.

8. What is the position as regards sister ships and ships in associated ownership?

The arrest of sister ships in Oman is possible as long as the sister ship was owned by the debtor at the time the maritime debt arose and the ship is under the management of the owner (Article 68). However, if the debt resulted from expenses incurred by the master, charterers, or agents (Art. 67/15), disputes over ownership of the ship (Art. 67/16), or co-ownership and rights/profits from exploitation (Art. 67/17), then the arrest is restricted to the specific ship concerned, and sister ships cannot be targeted.

Regarding ships under management by a party other than the owner (e.g., a charterer), Article 69 provides that the creditor may arrest the ship in question or any other ship owned by the responsible manager, but cannot arrest other ships owned by the actual owner of the vessel. This rule applies to all maritime debts relating to ships whose management is entrusted to someone other than the owner, thereby protecting the owner's other vessels from arrest.

9. What is the position as regards Bareboat and Time-Chartered vessels?

Under Article 69 of the Omani Maritime Code, the creditor of a charterer who was given control over the nautical navigation of the ship has the right to arrest the ship for a debt resulting from the charterer's actions. In addition, the creditor has the right to arrest any other ship owned by the charterer.

10. Do your Courts require counter-security in order to arrest a ship?

No counter-security is required in Oman to obtain a ship arrest order.

11. Is there any difference in respect to arresting a ship for a maritime claim and a maritime lien?

In practice, there is no difference between the arrest of a ship for a maritime claim and the arrest of ship for a maritime lien. Both follow the same procedural framework under the Maritime Code.

12. Does your country recognise maritime liens? Under which International Convention, if any?

Yes, Oman recognizes maritime liens. Maritime liens are specifically enumerated in Article 40 of the Omani Maritime Code under Part Three, "Rights in Rem Attaching to the Ship." Oman has not acceded to any international convention on maritime liens; therefore, domestic law governs.

According to Article 40, the holder of a maritime lien may pursue their claim against the ship, in the following order of priority:

1. Judicial and preservation expenses: Costs incurred for preserving and maintaining the ship, selling it, and distributing its proceeds, as well as port fees, pilotage fees, loading fees, taxes due to the state, compensation for damages to living aquatic resources, ports, basins, and navigational routes, and expenses for services provided to the ship and its crew.
2. Maritime employment rights: Claims arising from employment contracts of the master, seamen, and others bound by maritime employment contracts aboard the ship.
3. Salvage and general average contributions: Amounts due for salvage operations and the ship's share of contributions in general average losses.
4. Maritime accident compensations: Compensation arising from maritime accidents and for damages to persons, cargo, and baggage on board.
5. Contracts entered into by the master: Rights from contracts concluded by the master outside the ship's port of registration, necessary for the completion of the ship's voyage.

Maritime liens take precedence over all other rights attached to the ship, ensuring that holders of such liens are paid first according to the above order.

13. What lapse of time is required in order to arrest a ship from the moment the file arrives to your law firm?

Assuming that all forwarded documents have been translated into Arabic by a sworn translator in Oman, the ship can be arrested within 48 to 72 hours.

14. Do you need to provide a POA or any other documents of the claim to the Court?

A POA duly notarised and legalised either by an Apostille or through authentication by the Omani Embassy and the Ministry of Foreign Affairs in the country where the POA is executed, must be submitted to the competent Court along with the arrest application. In addition, all documentation supporting the claim against the ship must be attached to the arrest application. It should also be noted that the official language in Oman is Arabic, which means that all documents in a foreign language must be translated into Arabic by a sworn translator in Oman prior to submission.

15. What original documents are required, what documents can be filed electronically, what documents require notarisation and/or apostille, and when are they needed?

The documentation supporting the claim must be attached to the application in original or certified copies. Electronic filing is currently available for ship arrest applications in Oman.

As mentioned under Question 14 above, if these documents are in a foreign language they must be translated into Arabic by a sworn translator in Oman.

Only official documents must be legalised up to the Omani Embassy at the place of issuance and then legalised by the Ministry of Foreign Affairs in Oman.

16. Will your Courts accept jurisdiction over the substantive claim once a vessel has been arrested?

According to Article 8 of the Omani Maritime Code:

For Omani ships: The court where the registration office is situated has jurisdiction over legal proceedings related to the ship.

For foreign ships: Omani courts have jurisdiction over foreign ships located in Omani maritime areas.

However, the Omani courts will not accept jurisdiction over the substantive claim once the vessel has been arrested if the parties have validly agreed to give exclusive jurisdiction to a foreign court or arbitration tribunal.

In such cases, the arrest can still be executed as a conservatory measure pending resolution of the dispute in the agreed forum, but the Omani courts will not hear the merits of the underlying claim..

17. What is the procedure to release a ship from arrest?

There are two methods to release a ship from arrest.

A) Release by the Applicant (Claimant):

The ship may be released at the request of the applicant by submitting a simple memorandum (written request) to the competent court requesting the release of the vessel. Upon receipt of such request, the court will issue a decision ordering the release, which must then be served on the ship as well as on the harbor master or the coast guard.

B) Release by the Defendant (Ship Owner):

If the defendant wishes to secure the release of the ship, he must first deposit the security amount determined by the judge. Thereafter, the defendant shall submit a request to the judge for the release of the vessel. Once the court order for release is issued, the order must be served on the harbor master or the coast guard in order for the release to take effect.

18. What type of security needs to be placed for the release?

According to Article 73 of the Maritime Code, the precautionary arrest shall be lifted by order of the competent court if "adequate guarantee or assurance" is provided to satisfy the debt.

In practice, Omani courts typically accept:

- a) Bank guarantee issued by a locally-licensed bank in Oman, OR
- b) Cash deposit with the court

The new law's terminology "adequate guarantee or assurance" is broader than previous provisions and provides courts with discretion to accept other forms of security deemed sufficient. However, in practice, courts consistently require one of the two forms mentioned above.

19. Does security need to cover interest and costs?

The security needs to be equal to the amount included in the arrest order which will be assessed by the judge.

20. Are P&I LOUs accepted as sufficient to lift the arrest?

P&I Letters of Undertaking (LOUs) are generally not accepted by Omani courts for lifting ship arrests.

Important Note: This represents established judicial practice in Oman rather than an explicit statutory prohibition.

21. How long does it take to release the ship?

The release of the ship can be done within 48 to 72 hours.

22. Is there a procedure to contest the arrest?

Yes, the defendant in an arrest application may file a grievance (objection) before the court that issued the arrest order. The Maritime Law does not prescribe a specific time limit for filing a maritime grievance (however, it is preferable that the grievance be filed within seven (7) days from the date of issuance of the arrest order). After considering the grievance, the court may issue an order lifting the arrest, and such decision shall be enforceable through the usual legal channels. The time limit for appealing the judgment issued in the grievance is 15 days from the date of issuance of the judgment.

It is an important point that, if the arrest order relates to a maritime debt arising from maritime sale contracts, the time limit for filing the grievance shall be 7 days, in accordance with the provisions of the Investment and Commercial Court Law. In such cases, the judgment issued on the grievance shall be final and not subject to appeal.

23. What period of time will be granted by the Courts in order for the claimants to take legal action on the merits?

After the execution of the arrest, a period of 15 days from the date of executing the seizure report is granted for the claimant to take legal action on the merits.

If the claimant fails to commence legal proceedings within this period, the defendant may apply to the court to lift the arrest.

24. Do the Courts of your country acknowledge wrongful arrest?

There are no specific legal precedents establishing a dedicated cause of action for wrongful arrest of ships in Oman.

However, under the general principles of civil law in Oman, a claim for damages arising from wrongful arrest may succeed if the party claiming indemnification can prove:

- a) Bad faith of the arresting party (malicious intent or gross negligence)
- b) Actual losses arising from the arrest (demurrage, lost profits, etc.)
- c) Causation between the wrongful arrest and the damages

The burden of proof is on the party alleging wrongful arrest, and such claims are evaluated under general tort principles rather than specialized maritime law provisions.

25. Do the Courts of your country acknowledge the piercing and lifting of the corporate veil?

This concept is not explicitly recognized in Omani maritime law or general commercial law as it exists in common law jurisdictions.

Omani law generally respects the separate legal personality of corporate entities. However, in exceptional cases involving fraud, abuse of corporate form, or where corporate structures are used to evade legal obligations, Omani courts may consider the economic reality behind corporate structures.

Such cases are rare and highly fact-specific, and there is no established doctrine or clear legal framework for "piercing the corporate veil" as understood in common law systems.

26. Is it possible to have a ship sold *pendente lite*; if so how long does it take?

Such a sale could be authorized only if the ship is under the risk of a quick deterioration and in a situation that endangers third parties.

**In 2008 Omar joined the Transport & Insurance department at Al Tamimi & Company and currently is the head of the department covering 9 countries.*

Ranked by both Legal 500 and Chambers and Partners, Omar's experience as a marine lawyer and advocate covers almost all aspects of the industry. He has dealt with and represented major P&I Clubs regarding claims. He has represented many clients in marine disputes through arbitration in London, Dubai, Kuwait and Jordan. He regularly advises in cargo, container, marine agency, shortages, groundings, bunker, collisions, salvage, seaworthiness and insurance claims. He has also advised on many vessel sale and purchases, which includes drafting, reviewing and advising on related legal and finance documents. He also has drafted and advised on different types of maritime documents such as recaps, charter parties, B/L, LOIs, Agency Agreements, Insurance and P&I cover. Omar's experience includes mergers and acquisitions advice and structuring and set up advice for marine companies and other entities in jurisdictions such as Cyprus, Egypt, Germany, Jordan, Malta, Panama, Sudan, UAE (including the free zones) and UK.

Omar is an author of the UAE Vessel Registration and Mortgage Section in the Kluwer International Maritime Law Handbook. He is currently heading the EMAC team to establish the first Maritime Arbitration Centre in the UAE and the region.