

**The Admiralty (Jurisdiction
and Settlement of Maritime
Claims) Act, 2017**



In the age of globalised trade and commerce, it is unfeasible to sit as a silent spectator to the international dialogue on the laws pertaining to admiralty, shipping, carriage by sea and maritime matters. For long, there's been a need for India to replace its archaic British laws governing maritime claims in India. The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter "the Admiralty Act") aims to consolidate the laws relating to admiralty jurisdiction, legal proceedings in connection with vessels, their arrest, detention, sale and other connected matters.

Repeals

Until the enactment of the new Act, the Admiralty Court Act, 1840, the Admiralty Court Act, 1861, read with the Colonial Courts of Admiralty Act, 1890, the Colonial Courts of Admiralty (India) Act, 1891 and the provisions of the Letters Patent, 1865, formed the corpus of admiralty law. These have been repealed and replaced now by the Admiralty Act.¹

Applicability

The Admiralty Act applies to every vessel in Indian territorial waters.² The definition of "vessel" under the Act is now wider and clearer, including any ship, boat, sailing vessel or other description of vessel used or constructed for use in navigation by water, whether propelled or not. A vessel that has sunk or is stranded or abandoned and the remains of such a vessel would also be accepted, so long as it can be put to use for navigation.³

The exceptions for applicability are "inland vessels"⁴ and vessels under construction that have not been launched. Further, the Act doesn't apply to vessels owned or operated by the Government for any non-commercial purpose, e.g.: defence. Even foreign vessels with a non-commercial purpose are exempted from the Act.

¹ S. 17, Admiralty Act 2017

² S. 1(2), Admiralty Act 2017

³ S. 2(1)(l), Admiralty Act 2017

⁴ S. 2(1)(a), Inland Vessels Act 1917



Admiralty Jurisdiction

In addition to the jurisdiction vested by the British laws on the High Courts of Bombay, Calcutta and Madras, the Admiralty Act now extends admiralty jurisdiction to the High Courts of Karnataka, Gujarat, Orissa, Kerala and Hyderabad.⁵ The Act permits the Central Government to extend the jurisdiction to any other High Court by notification. Each court has jurisdiction only over territorial waters of its respective state jurisdiction. However there is lack of clarity as to the limits of the territorial waters of a state, and this is an issue that will need to be addressed by the Courts at a later point in time.

Maritime Claims

The Admiralty Act sets out a list of maritime claims similar to Article 1 of the International Convention on the Arrest of Ships, 1999. The High Courts may exercise jurisdiction on maritime claims arising out of conditions including vessel possession or ownership, co-owners disputes about employment or earnings of the vessel, mortgages or charges on a vessel, construction, repair, or conversion of the vessel, environmental loss or damage caused by the vessel, salvage services, etc.⁶

While the Act does not categorically include damage to a vessel as a maritime claim, it could fall within some other category of claims. We expect this aspect to be clarified in upcoming judgments if it is a subject matter of dispute in any case.

Maritime Lien

A maritime lien is a type of claim against the owner of a vessel that continues to exist regardless of any change of ownership, registration or flag, for a period of one year after the change. Maritime liens do not exist on vessels that have been sold by an order of the Court.⁷

The Act lists the categories of maritime liens and their priorities⁸ which are broadly: i) wages for employment (including repatriation and social insurance contributions), claim for which

⁵ S.3 r/w S.2(1)(e), Admiralty Act 2017

⁶ S.4(1), Admiralty Act 2017

⁷ S. 9(2) r/w S.2(1)(g), Admiralty Act 2017

⁸ S.9(1), Admiralty Act 2017

extinguishes after two years; ii) loss of life or personal injury claims; iii) reward for salvage services; iv) port, canal, and other waterways dues, pilotage and statutory dues; and v) tort claims for loss or damage due to operation of the vessel (other than for loss or damage to the cargo and containers carried on the vessel).

Actions in rem and in personam

Action *in rem* involves bringing a claim against a ship or cargo or freight, whereas action *in personam* would involve taking action against an individual or company that may be the beneficial owner of the ship. There was no clear demarcation as to matters suitable for actions *in rem* or matters suited for actions *in personam*. The Admiralty Act has now specified for boundaries for admiralty actions.

As an action *in rem*, admiralty courts can order arrest of any vessel within its jurisdiction as security against a claim in certain circumstances,⁹ or direct the sale of the vessel¹⁰, among other action. Under the new Act an *in personam* claim exists for most maritime claims, with a few exceptions.¹¹

Concluding Remarks

This has been a much-awaited piece of legislation bringing clarity to various deadlocks in Indian jurisprudence, and now providing a reference point to admiralty courts that have so far been interpreting out-dated colonial provisions. It will be interesting to observe how the Courts will interpret the new Act and resolve any difficulties or contradictions that surface in deciding cases. All the same, the Central Government has been conferred with the power to remove any difficulties that arise in giving effect to the provisions of the Act, for a period up to three years from the date of commencement.¹²

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⁹ S.5, Admiralty Act 2017

¹⁰ S.8, Admiralty Act 2017

¹¹ S.6 r/w S.7, Admiralty Act 2017

¹² S. 18, Admiralty Act 2017