

The Indian Admiralty Act, 2017- an overview
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Finally the much awaited Act on maritime jurisdiction has come into force on 1st April, 2018. The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act 2017 was passed by the parliament paving way for welcoming changes in the Indian maritime regime. The new Act has replaced the Colonial legislations which were followed hitherto by Courts in exercising admiralty jurisdiction. The Act has repealed the archaic laws of the British period including The Admiralty Court Act, 1861; The Colonial Courts of Admiralty Act, 1890; The Colonial Courts of Admiralty (India) Act, 1891 and provisions of Letters Patent, 1865 in so far as it relates to admiralty jurisdiction of three Chartered High Courts and also seeks to consolidate the existing laws on civil matters of admiralty jurisdiction of Courts, admiralty proceedings on maritime claims and arrest of vessels.

Under the Colonial Courts of Admiralty Act, only the Chartered High Courts were vested with admiralty jurisdiction. It is by virtue of the decision rendered by the Hon'ble Supreme Court in M.V.Elizabeth case (AIR 1992 SC 1018) that the other Coastal High Courts in the Country could exercise admiralty jurisdiction for arrest of ships based on maritime claims. Under the new Act, 8 High Courts namely, Calcutta; Bombay; Madras; Karnataka; Gujarat; Orissa; Kerala; Hyderabad for the State of Telangana and the State of Andhra Pradesh could now invoke admiralty jurisdiction.

Section 3 of the Act specifies that the jurisdiction in respect of all maritime claims shall vest in the respective High Courts and be exercisable up to the territorial waters of their respective jurisdictions. However, the right to extend the admiralty jurisdiction up to Exclusive Economic Zone (EEZ) or any other maritime zone is reserved by the Union government. The Act has categorised the claims which come within the ambit of maritime claims, which alone will be subject to exercise of admiralty jurisdiction.

Further, the power of exercise of ship arrest is confined to the territorial limits of the respective High Courts thus preventing the arrest of vessels which are outside the territorial limits. The Act has provided safeguard against wrongful arrest in Section 11 by bringing in a provision for counter security from the claimant if the arrest is found to be wrongful or unjustified or excessive security having been demanded.

The Act has given a wider definition of a vessel under sub section (l) of section 2 to include 'off-shore industry mobile unit' which could include Oil rigs. It is also made applicable to all vessels irrespective of their flag, registration etc except naval vessels or those owned and operated by Central or State government for any non commercial purpose. Thus any vessel whether foreign or Indian to the exclusion of state owned ones could be arrested.

As far as *in personam* proceedings are concerned, it is interesting to note that proceedings may be instituted only if the cause of action arise either wholly or in part in

India, or the defendant 'actually and voluntarily resides or carries on business or personally works for gain in India'. Further the Act specifically restricts *in personam* proceedings if the same issues between the same parties are pending before any Court outside India. The Act also provides for the order of priority of maritime claims.

The conferring of admiralty jurisdiction to the 8 High Courts is a welcome change, in as much as the claimants could move the respective High Court where the cause of action has arisen or based on the domicile of party. The Act seeks to build an admiralty law in line with the modern trends in the maritime sector and in uniformity with prevalent international practices. The jurisdiction of High Courts are thus increased providing for speedy disposal of admiralty related proceedings. A welcome change in the maritime regime in India.