

# Bill Summary

## The Admiralty Bill, 2005

- The Admiralty Bill, 2005 was introduced in the Lok Sabha on May 11, 2005. The Standing Committee on Transport, Tourism and Culture (Chairperson: Nilotpal Basu) submitted its report on March 21, 2006.
- The Bill seeks to (a) consolidate and amend existing laws relating to admiralty jurisdiction (i.e. jurisdiction of laws relating to shipping), (b) vest civil jurisdiction with High Courts, (c) lay down the scope of admiralty jurisdiction.
- The Bill seeks to repeal the (a) Admiralty Offences (Colonial) Act, 1849, (b) Admiralty Jurisdiction (India) Act, 1860, (c) Admiralty Court Act, 1861, (d) Colonial Courts of Admiralty Act, 1890, (e) Colonial Courts of Admiralty (India) Act, 1891, and (f) the provisions of the Letters Patent, 1865 applicable to the admiralty jurisdiction of the Bombay, Calcutta and Madras High Courts.
- Admiralty jurisdiction will rest with the concerned High Court. The High Court may, after consulting with the Chief Justice of India, confer jurisdiction to the principal civil courts of the state if there are too many cases filed. The Supreme Court may transfer proceedings from one High Court to another.
- Jurisdiction of the Court includes
  - Claim regarding possession or ownership of ship, employment or earnings, claim in respect of a registered mortgage, any claim for forfeiture of ship or goods, claim for right of admiralty jurisdiction
  - Claim for damage caused to a ship or by a ship, loss of life or injury due to defect in ship or operation as a consequence of neglect of owners, master or crew of the ship, loss or damage of goods carried on board.
  - Claim arising out of agreements relating to carriage of goods, claim regarding compensation for services rendered while saving life or in preserving the ship, cargo, equipment of the ship or wreck, claims regarding towage and pilotage, and claims relating to supplies or services rendered to the ship for her operation or maintenance, claim relating to port dues, fees or other charges to Port Authorities, claim of master or crew for wages etc.
- The Bill specifies when the court can proceed *in personam* (i.e. against a person rather than property for enforcing a liability). To invoke action *in personam* in collision and similar cases, the damage, loss of life or injury due to collision should have been in India (including inland and territorial waters and port limits) and the defendant should reside or work in India.
- Admiralty jurisdiction can be invoked by an action *in rem* (i.e., against the ship or property rather than a person) if (a) the ship is in Indian territorial or inland waters at the time of commencement of proceedings, (b) for an Indian ship, a notice is sent six days in advance to the owner or master of the ship, and (c) it is not a case of a breach of contract or a claim that is enforced by an action *in personam* under the Act.
- In an action *in rem*, if the court has ordered the property to be sold, a notice shall be given in an international and national newspaper and the parties named in the notice can apply to the court for an order determining priority of claims.
- The Bill clearly specifies the order of priority in settling claims in admiralty proceedings. It also lays down the principles that shall apply while determining the priority of claims.
- The ship or its property can be used to settle claims for compensation for services rendered while saving life or the ship, wages due to master or crew of the ship, claim for loss of life or injury due to operation of ship, pilotage dues, port, canal or other waterway dues, claim arising out of physical damage caused by ship. It cannot be used to settle claims arising out of (a) damage in connection with carriage of oil or other hazardous substances (b) radioactive and other hazardous properties.
- If the ship proceeded against is a foreign ship, notice shall be served to the concerned Consulate.

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