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## Indian Parliament passes the Admiralty (Jurisdiction & Settlement of Maritime Claims) Bill 2016



### Introduction

Though India is a leading maritime nation, the country has long been struggling under the legal chaos and judicial uncertainty flowing from the archaic maritime laws enacted during the British era. The need for reformation in the maritime law in India was emphasized by the Supreme Court in its landmark judgment in the case of M.V. Elizabeth & Ors v Harwan Investing Trading Pvt. Ltd. in 1992. There has also been pressure from the maritime industry to update India's admiralty laws so as to be responsive to the needs of the industry and to ensure that maritime disputes are disposed off expeditiously and effectively. Based on the Supreme Court's directives, Admiralty jurisdiction was examined by the Law Commission of India in 1992 and it had submitted a draft bill for enactment by the legislative. It is after an exceedingly prolonged period of 24 years that finally the Admiralty (Jurisdiction and Settlement of Maritime Claims) Bill 2016 was passed by the Lower House of the Parliament on March, 2017.

The bill seeks to consolidate the existing laws on civil matters of admiralty jurisdiction of courts,

proceedings on maritime claims and arrest of ships. The Bill repeals five obsolete British statutes on admiralty jurisdiction in civil matters, namely, (a) Admiralty Court Act, 1840 (b) Admiralty Court Act, 1861, (c) Colonial Courts of Admiralty Act, 1890, (d) Colonial Courts of Admiralty (India) Act, 1891, and (e) the provisions of the Letters Patent, 1865, applicable to the admiralty jurisdiction of the Bombay, Calcutta and Madras High Courts.

### Salient Features of the Bill

The Bill vide section 3 proposes to abolish the present imbalanced exercise of Admiralty Jurisdiction by different High Courts, by limiting it to their respective territorial waters. The Bill confers admiralty jurisdiction on High Courts located in all coastal states and this jurisdiction extends up to the territorial waters. The Union Government is conferred with the power to further extend the jurisdiction of the High Courts to the exclusive economic zone (EEZ) or any other maritime zone or islands constituting part of India.

Section 1 of the Act makes the Bill applicable to every vessel, irrespective of the place of domicile or



*"Freedom is never dear at any price. It is the breath of life. What would a man not pay for living?"*

-Mahatma Gandhi



residence of owner. However, it does not apply to naval auxiliary, warships and vessels used for non-commercial purposes. Inland vessels and vessels under construction are excluded from its application. But it empowers Union Government to make it applicable to these vessels by a notification.

The Bill lists the jurisdiction for adjudicating on a set of maritime claims. A vessel can be arrested in certain circumstances in order to ensure

security against a maritime claim. The liability in respect of selected maritime claims on a vessel passes on to its new owners by way of maritime lien subject to a stipulated time limit. In respect of aspects on which provisions are not laid down in the Bill, the Civil Procedure Code, 1908 is applicable. Under the provisions of the Bill, the Courts now have a discretion to call from the plaintiff, at the time of obtaining the arrest/ to maintain the arrest, an undertaking to pay

damages/ a counter security for any loss that the ship-owner may suffer as a result of the arrest.

#### **Conclusion**

The Admiralty Bill 2016 has been in the making for more than 20 years. This long awaited Admiralty Legislation is first of its kind for an area of such commercial importance. The Bill seems promising taking into consideration the present legal uncertainty in maritime law and practice in India.

# The new insolvency code- Challenges before the NCLT



The Insolvency and Bankruptcy Code, 2016 (Insolvency Code) replaces a multiple overlapping legal frameworks and adjudicating forums dealing with financial failure and insolvency of companies and individuals in India.

Earlier, such cases were dealt with under various laws and forums. With the formulation of the Insolvency Code, all these were streamlined and the National Company Law Tribunal (NCLT) has been notified as the adjudicating authority for the corporate insolvency and bankruptcy cases.

The NCLT currently has only 10 benches apart from the Principal Bench. It currently has 14 judicial members and 6 technical members. In

addition to the cases under the Insolvency Code, NCLT has to deal with matters earlier dealt with by the Company Law Board under the Companies Act 2013. Moreover, the winding up cases on account of inability to pay debts pending before the High Courts of different states on 15/12/2016 and in which notices have not been served on the respondent have to be transferred to the respective bench of the NCLT exercising jurisdiction over the concerned State.

But, given its limited capacity, the challenges before the NCLT are manifold. Unless its capacity is enhanced, NCLT will fail to hear and dispose cases in a timely manner. The

Insolvency Code is an important reform and its success depends on meticulous transition planning. The capability of NCLT needs to be developed with adequate planning. Adequate institutional capacity should be ensured to implement the objectives of the Code, which is to provide resolution in a time bound manner.

Perhaps, the Insolvency Code has brought far too many changes at the same time, which has caused apprehensions. But, leaving aside all apprehensions, there is no doubt that once the Code is fully implemented, it is going to be one of the best initiatives by the legislature and a boon to the Indian economy in the broader sense.



# TIPS & HOT NEWS

8 Business Travel Packing Hacks according to Quora user Jeffrey Davis who is a frequent flier as a Senior VP and General Manager at Evonik

➤ **Ditch the colors**

Black is your friend," he writes. "It matches everything. Johnny Cash was a visionary. I've yet to hear the compelling logic for any sock color other than black. One pair of black jeans, two black t-shirts, and business attire will get you through a long trip."

➤ **Never check your bag. Ever**

"I NEVER check my bags, even if I'm going to China for four weeks," says Davis. "I travel with a Hartmann roll-aboard that fits in the overhead. The reduced hassle of never having to wait for bags, being the first guy through customs, and never dealing with the nightmare of lost luggage will make you a believer. A suit is a suit: two is enough. Wear one on the plane with a t-shirt or casual shirt, and pack the other. Also find a pair of workout shoes which can be casual walking and touring attire."

If you're concerned about packing the second suit, Quora user Martin Roell says to turn the jacket inside-out (sleeves get pushed through), and wrap it around softer items like t-shirts and underwear. "This prevents it from getting creases."

➤ **Don't bother with Ziploc bags. Store your liquids in tiny**

"Transfer contact solution into an old Visine bottle or a 2 oz. sampler contact solution bottle," Davis writes. "Unless you are a chronic alcoholic or have some kind of medical condition, question the need to take any liquid that can't make it through the x-ray unannounced. Save space and snag the mini toothpastes they put in your room every night."

➤ **Splurge on laundry**

"Look at your travel agenda and make sure you are staying at least two

nights in a row in the same hotel at least once in every seven-day window," he says. "Even though it's expensive, hotel laundry will get you through. You can get by on 'Five of Each' (five pairs of socks, five undershirts, five pairs of underwear, etc.) almost indefinitely if you buy into the Hotel Laundry doctrine."

➤ **Use back-saving luggage**

"A roll-aboard with a hook that holds your briefcase counterbalanced so that you can literally cruise a mile through ORD [Chicago O'Hare International Airport] or DTW [Detroit Metro Airport] with only fingertip pressure is a back and shoulder saver. Don't knock it until you've tried it," Davis says.

➤ **Test your batteries - in everything**

"Know the capacity of your batteries in your rechargeables (shavers, cameras, iPods, etc.)," he writes. "You may be surprised by how long of a trip you can make without bringing the charger if you leave home with a full charge."

➤ **Always bring backups**

"Have a high resolution scan of your driver's license, passport, visas, and credit cards on the SD card of your smartphone or on your computer HD," Davis advises. "It's a lifesaver if you ever lose anything."

➤ **Reduce, reduce, reduce**

"Once every three months, take EVERYTHING out of your briefcase. Challenge everything. When was the last time you touched it or used it on a trip? Throw it away or leave it at home if you will not need it overseas," he says.

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