

**ENVIRONMENT; COST OR EXPENSES RELATING TO  
WRECKED, STRANDED, ABANDONED AND SUNKEN SHIP**

The costs and expenses relating to wrecked, stranded, abandoned, and sunken ships are significant issues within maritime law. These issues encompass the financial and legal responsibilities associated with raising, removing, recovering, destroying, or rendering harmless such vessels. The Admiralty Act of 2017 provides a legal framework for these matters, ensuring the protection of the marine environment and safe navigation. This discussion will delve into the relevant sections of the Admiralty Act, international conventions, and case laws that influence these aspects of maritime law.

Admiralty Act, 2017: Key Provisions

Section 4(1)(v)

Section 4(1)(v) of the Admiralty Act, 2017, specifically addresses claims related to the costs and expenses associated with dealing with vessels that are sunk, wrecked, stranded, or abandoned. This includes:

Raising, removal, recovery, destruction, or rendering harmless of such vessels.

Anything that has been on board such vessels.

Preservation of an abandoned vessel and maintenance of its crew.

Section 9(4)

Section 9(4) of the Admiralty Act outlines situations where maritime liens do not attach to a vessel. These include:

Claims arising from damage in connection with the carriage of oil or other hazardous or noxious substances by sea, where compensation is payable under existing laws.

Claims resulting from the radioactive properties of nuclear fuel or radioactive products or waste.

### Section 11(3)

Section 11(3) deals with the abandonment of vessels post-arrest. It mandates the High Court to auction the vessel and distribute the proceeds within 45 days, extendable by another 30 days for recorded reasons. This provision ensures a structured process for dealing with abandoned vessels and mitigating potential hazards.

### International Conventions

#### 1993 Maritime Liens and Mortgage Convention

The 1993 Maritime Liens and Mortgage Convention does not list wreck removal as a maritime lien. However, it stipulates that if removal is conducted by a public authority for safe navigation or environmental protection, the costs are prioritized in the sale proceeds of the vessel before other maritime lien claims. This ensures that environmental and navigational safety are given precedence.

### Case Laws

#### The Sea Empress Incident (1996)

In February 1996, the Sea Empress tanker ran aground near the coast of Wales, spilling 72,000 tonnes of crude oil. The cleanup operation was extensive and expensive, involving multiple public authorities and private contractors. The case highlighted the importance of having a

legal framework to handle such environmental disasters and the financial implications involved.

#### The Prestige Oil Spill (2002)

The Prestige, an oil tanker, sank off the coast of Spain in 2002, causing a massive oil spill. The incident led to significant environmental damage and incurred immense cleanup costs. Legal battles ensued regarding the responsibility for the costs, with various claims filed under international maritime conventions and national laws.

#### The Erika Case (1999)

The Erika, a tanker, broke apart off the coast of France in 1999, resulting in a major oil spill. The cleanup and environmental restoration efforts were substantial. The case resulted in legal actions under the International Convention on Civil Liability for Oil Pollution Damage and highlighted the complexities involved in apportioning costs and responsibilities for environmental damage.

#### Environmental and Financial Implications

##### Costs of Wreck Removal

The costs associated with wreck removal can be exorbitant. These costs include:

**Raising and Recovery:** Expenses related to the physical recovery of the vessel.

**Environmental Cleanup:** Costs of mitigating environmental damage caused by the wreck.

Legal and Administrative Fees: Costs incurred during legal proceedings and compliance with regulations.

Maintenance and Preservation: Expenses for preserving the abandoned vessel and maintaining its crew, as mandated by law.

#### Financial Responsibilities

The financial responsibility for these costs often lies with the shipowner. However, in cases where the owner is unable or unwilling to cover the costs, public authorities may intervene. The legal framework ensures that costs incurred by public authorities in the interest of safety and environmental protection are prioritized in the distribution of sale proceeds of the vessel.

The Admiralty Act, 2017, along with international conventions and case laws, provides a comprehensive legal framework for addressing the costs and expenses associated with wrecked, stranded, abandoned, and sunken ships. This framework ensures the protection of the marine environment and safe navigation while outlining the financial responsibilities and legal processes involved. As maritime activities continue to grow, the importance of these legal provisions becomes increasingly significant in managing the complex challenges associated with maritime incidents.

The fate of wrecked, stranded, abandoned, and sunken ships presents a complex web of legal and financial challenges within maritime law. The Admiralty Act (2017) serves as a cornerstone in India, outlining the framework for dealing with these situations. This includes critical aspects like cost allocation, environmental protection, and adherence to international conventions.

## Admiralty Act (2017): Provisions Decoded

Section 4(1)(v): This section takes center stage by explicitly addressing claims associated with the costs and expenses incurred in handling:

Wrecked, stranded, abandoned, or sunken vessels.

Anything on board these vessels, including cargo or equipment.

Preserving abandoned vessels and maintaining their crew (if applicable).

Removing, recovering, destroying, or rendering harmless such vessels in a way that minimizes environmental damage.

Section 9(4): This section clarifies scenarios where maritime liens (legal claims secured by the vessel itself) are not automatically attached. This includes:

Claims arising from oil spills or hazardous material spills covered by existing environmental laws.

Claims resulting from the radioactive properties of nuclear materials.

Section 11(3): This section focuses on abandoned vessels after arrest. It mandates the High Court to:

Auction the vessel within 45 days (extendable by 30 days with justification).

Distribute the sale proceeds in a designated manner.

This provision ensures a structured and timely process for dealing with abandoned vessels, mitigating potential hazards, and recouping costs.

## International Conventions: Aligning National and Global Efforts

1993 Maritime Liens and Mortgage Convention: While wreck removal isn't explicitly listed as a maritime lien under this convention, it prioritizes the costs incurred by public authorities for wreck removal in the following situations:

Safeguarding navigation.

Protecting the marine environment.

These prioritized costs are settled before other maritime lien claims during the sale of the vessel. This prioritization underscores the international community's commitment to environmental protection and safe navigation.

## Case Studies: Learning from Real-World Incidents

The Sea Empress Incident (1996): This incident involved a grounded tanker spilling a significant amount of crude oil near Wales. The extensive and expensive cleanup operation highlighted the need for a robust legal framework to address environmental disasters and manage their financial implications.

The Prestige Oil Spill (2002): This case saw a tanker sinking off the coast of Spain, leading to widespread environmental damage and substantial cleanup costs. The ensuing legal battles showcased the complexities of assigning responsibility and cost allocation in such incidents, often involving a combination of international conventions and national laws.

The Erika Case (1999): The Erika tanker breaking apart off the French coast resulted in a major oil spill. The case emphasized the challenges of apportioning financial burdens and legal responsibilities for

environmental restoration efforts, often relying on instruments like the International Convention on Civil Liability for Oil Pollution Damage.

#### Environmental and Financial Considerations

**Cost Components:** The financial burden of dealing with wrecked, stranded, abandoned, and sunken ships can be significant. Key cost factors include:

**Wreck Removal and Recovery:** The physical process of raising and recovering the vessel.

**Environmental Cleanup:** Mitigating the environmental damage caused by the incident.

**Legal and Administrative Fees:** Costs associated with legal proceedings and regulatory compliance.

**Vessel Preservation and Crew Maintenance (if applicable):** Expenses incurred as mandated by law.

**Financial Responsibility:** The primary financial responsibility typically falls on the shipowner. However, in cases where the owner is incapable or unwilling to bear the costs, public authorities might intervene. The legal framework ensures that public authorities' costs, incurred for safety or environmental protection reasons, are prioritized during the distribution of sale proceeds from the vessel.

#### A Collective Responsibility

The Admiralty Act (2017), along with international conventions and case law precedents, establishes a comprehensive framework for navigating the legal and financial complexities surrounding wrecked, stranded, abandoned, and sunken ships. This framework prioritizes

environmental protection, safe navigation, and financial accountability. As maritime activities continue to expand, these legal instruments become increasingly crucial for effectively managing the challenges associated with maritime incidents and fostering a culture of responsible maritime operations.

Environment; Cost or Expenses relating to Wrecked, Stranded, Abandoned and Sunken Ship

Section 4 (1) (v) of the Admiralty Act (2017) deals with the above subject claim on costs or expenses relating to raising, removal, recovery, destruction or the rendering harmless of a vessel which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such vessel, and costs or expenses relating to the preservation of an abandoned vessel and maintenance of its crew.

Section 9 (4) of the Admiralty Act (2017) reads as:

(4) No maritime lien shall attach to a vessel to secure a claim which arises out of or results from—

(a) damage in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimants pursuant to any law for the time being in force;

(b) the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive products or waste.

In the 1993 Maritime Liens and Mortgage Convention, wreck removal is no longer included in the list of maritime liens but, to the extent that the removal is effected by a public authority in the interest of safe navigation or the protection of the marine environment, the costs of



such removal are paid out of the proceeds of sale before all other claims secured by a maritime lien on the vessel (article 12(4)). Within the above limits, therefore, the costs of the removal had to be qualified as a maritime claim. It appeared, however, reasonable to qualify all costs of removal as a maritime claim, irrespective of their priority in the distribution of the proceeds of sale.

The concept of abandonment is not the same in all cases; the abandoned ship is the ship abandoned by the crew, which therefore, may become a danger to other ships; the same conclusion cannot hold, since reference is also made to the maintenance of the crew of the abandoned ship. It follows that this time the intention is to refer to a ship abandoned by its owners.

Section 11 (3) of the Admiralty Act (2017) reads as

If the owner or demise charterer abandons the vessel after its arrest, the High Court shall cause the vessel to be auctioned and the proceeds appropriated and dealt with in such manner as the court may deem fit within a period of forty-five days from the date of arrest or abandonment. Provided that the High Court shall, for reasons to be recorded in writing, extend the period of auction of the vessel for a further period of thirty days.

The legal and financial management of wrecked, stranded, abandoned, and sunken ships involves a complex interplay of statutes, international conventions, and case law. This discussion explores these aspects under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter "Admiralty Act, 2017"), international conventions, and relevant case law.

## 1. Admiralty Act, 2017: Key Provisions

Section 4(1)(v) of the Admiralty Act, 2017 addresses the following:

**Claims for Costs Related to Vessel Handling:** This section covers costs associated with the raising, removal, recovery, destruction, or rendering harmless of vessels that are sunk, wrecked, stranded, or abandoned. It also includes costs related to anything that was on board such vessels, and preservation or maintenance of the crew if the vessel is abandoned.

**Preservation and Maintenance:** The section ensures that if a vessel is abandoned, there is a legal obligation for its preservation and the maintenance of its crew, if applicable.

Section 9(4) outlines scenarios where maritime liens do not attach to a vessel:

**Hazardous Substances:** Claims arising from damage caused by the carriage of oil or other hazardous substances, for which compensation is payable under existing laws.

**Radioactive Materials:** Claims related to the radioactive properties of nuclear fuel or radioactive products or waste.

Section 11(3) addresses the process for dealing with abandoned vessels post-arrest:

**Auction of Abandoned Vessels:** If the vessel is abandoned after its arrest, the High Court is mandated to auction the vessel and distribute the proceeds within 45 days, extendable by another 30 days with justification. This ensures timely and structured management of abandoned vessels.

## 2. International Conventions

### 1993 Maritime Liens and Mortgage Convention

Prioritization of Removal Costs: Under this convention, while wreck removal is not listed explicitly as a maritime lien, costs incurred by public authorities for removing wrecks to ensure safe navigation or protect the marine environment are prioritized. These costs are paid from the sale proceeds of the vessel before other maritime lien claims.

### 3. Case Law Analysis

#### The Sea Empress Incident (1996)

Facts: The Sea Empress, a tanker, ran aground near Wales, leading to a massive oil spill.

Legal Implications: The extensive cleanup operation highlighted the need for a comprehensive legal framework to manage environmental disasters. The case underscored the financial burden associated with wreck removal and the importance of having statutory provisions to address such issues.

#### The Prestige Oil Spill (2002)

Facts: The Prestige, an oil tanker, sank off the coast of Spain, causing significant environmental damage and incurring large cleanup costs.

Legal Implications: Legal battles over responsibility for the costs involved a mix of international maritime conventions and national laws. This case illustrated the complexities of cost allocation in maritime disasters and the necessity of a robust legal framework for addressing such situations.

#### The Erika Case (1999)

Facts: The Erika, a tanker, broke apart off the coast of France, resulting in a major oil spill.

Legal Implications: This case highlighted the challenges of allocating financial and legal responsibilities for environmental restoration. The legal framework relied on the International Convention on Civil Liability for Oil Pollution Damage, illustrating the intersection of international conventions with national legal systems in managing maritime incidents.

#### 4. Financial and Environmental Considerations

##### Cost Components

Wreck Removal and Recovery: The physical process of raising and recovering the vessel is often the most substantial cost component.

Environmental Cleanup: Mitigating the damage caused by the incident involves significant expenses for cleanup and restoration efforts.

Legal and Administrative Fees: Costs associated with legal proceedings, regulatory compliance, and administrative tasks.

Vessel Preservation and Crew Maintenance: Expenses related to preserving the abandoned vessel and maintaining the crew, as required by law.

##### Financial Responsibility

Shipowner Liability: Typically, the shipowner is financially responsible for the costs associated with wrecked or abandoned vessels. However, if the owner cannot meet these obligations, public authorities may step in.

Public Authority Costs: The legal framework ensures that costs incurred by public authorities for safety and environmental protection

are prioritized during the distribution of proceeds from the vessel's sale.

## 5. Legal Framework and Application

The Admiralty Act, 2017, in conjunction with international conventions and case law, provides a comprehensive legal framework for addressing the complexities of wrecked, stranded, abandoned, and sunken ships. This framework ensures environmental protection, navigational safety, and financial accountability.

**Statutory Provisions:** Sections 4(1)(v), 9(4), and 11(3) of the Admiralty Act, 2017 outline the legal responsibilities and procedures for managing such vessels.

**International Conventions:** The 1993 Maritime Liens and Mortgage Convention provides additional guidance on prioritizing removal costs.

**Case Law:** Cases like the Sea Empress, Prestige, and Erika provide practical insights into the application of legal principles in real-world scenarios, emphasizing the importance of a structured and effective legal framework.

The management of wrecked, stranded, abandoned, and sunken ships involves a complex interplay of legal, financial, and environmental considerations. The Admiralty Act, 2017, along with international conventions and case law, offers a structured approach to addressing these challenges, prioritizing environmental protection, safe navigation, and financial responsibility. As maritime activities continue to evolve, the legal framework must adapt to effectively manage the multifaceted issues associated with maritime incidents..