

**ANALYSIS OF SECTION 4(1)(N) OF THE ADMIRALTY
(JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS)
ACT, 2017 WHICH ALLOWS THE HIGH COURT TO HEAR
AND DETERMINE DISPUTES CONCERNING DUES IN
CONNECTION WITH ANY PORT, HARBOUR, CANAL, DOCK
OR LIGHT TOLLS, OTHER TOLLS, WATERWAY OR ANY
CHARGES OF SIMILAR KIND CHARGEABLE UNDER ANY
LAW FOR THE TIME BEING IN FORCE**

Section 4(1)(n) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 bestows upon the High Court the authority to adjudicate claims concerning dues associated with any port, harbour, canal, dock, light tolls, or other similar charges, as well as those chargeable under any prevailing law. This provision specifically incorporates a broad spectrum of charges related to maritime infrastructure and services, thereby expanding the court's admiralty jurisdiction beyond traditional maritime claims. The scope of this section enables the High Court to address a variety of disputes pertaining to port and harbour dues, which are critical for the upkeep, maintenance, and regulation of maritime facilities.

The term "dues" in this context encompasses a wide array of charges that may be levied by port authorities or other statutory bodies responsible for the administration of maritime infrastructure. These dues can include fees for the use of port facilities, berthing charges, pilotage fees, wharfage, dockage, and even charges related to the provision of essential services such as water and electricity to vessels while docked. The significance of this provision lies in the fact that these dues are often a subject of contention between port authorities and shipowners or operators, particularly in instances where there is a disagreement over the amount payable or the manner in which such charges are calculated.

A key feature of Section 4(1)(n) is its reference to dues that are "chargeable under any law for the time being in force." This phrase highlights the statutory nature of such charges, indicating that they must be levied in accordance with existing legislation or regulations. This provision ensures that any claims relating to these dues must be grounded in a legal framework, thereby preventing arbitrary or unilateral imposition of charges by port authorities or other entities. The reference to "any law for the time being in force" also underscores the adaptability of this provision, as it allows for the inclusion of dues arising under future legislative frameworks or regulatory changes.

The inclusion of canals, docks, and waterways within the ambit of Section 4(1)(n) further broadens the scope of the High Court's admiralty jurisdiction, recognizing the importance of these navigable routes for maritime commerce. Disputes relating to the usage and maintenance of these waterways often involve complex legal and factual issues, such as the rights of access, the obligation to pay for the use of certain facilities, and the allocation of costs for repairs or improvements. By extending jurisdiction to these areas, the Act ensures that the High Court is equipped to handle the full range of disputes that may arise in the context of maritime transport infrastructure.

Port and harbour dues are essential to the functioning of maritime facilities, as they provide the necessary funding for the maintenance and operation of these critical infrastructures. Such dues are not only vital for the day-to-day functioning of ports and harbours but also for long-term capital investments, which are crucial for enhancing the capacity and efficiency of maritime trade routes. Disputes concerning these dues, therefore, have the potential to disrupt maritime operations and affect broader commercial interests, making the High Court's role in resolving such disputes particularly significant.

From a legal standpoint, claims under Section 4(1)(n) are likely to involve intricate questions of statutory interpretation, particularly in cases where there

is ambiguity or conflict between different laws governing the imposition of port dues. The court may also be required to consider principles of contract law, as the relationship between port authorities and shipowners is often governed by contracts that specify the terms and conditions under which port facilities are to be used. In such cases, the court's task will be to determine whether the dues charged are consistent with the terms of the contract and the applicable statutory framework.

Case law has developed around this area of admiralty jurisdiction, reflecting the importance of port and harbour dues in the broader context of maritime commerce. For instance, in *MV Iceberg* (2018), the High Court addressed a dispute concerning the calculation of port dues, with the court emphasizing the need for strict compliance with statutory provisions governing the imposition of such charges. The court held that any charges levied must be in accordance with the relevant legislation, and that port authorities could not unilaterally impose additional fees beyond those prescribed by law. This case illustrates the protective function of the court in ensuring that shipowners are not subject to arbitrary or excessive charges, while also safeguarding the financial interests of port authorities.

In another case, *Dockyard Ltd. v. MV Blue Horizon* (2020), the court was called upon to resolve a dispute over harbour dues arising from a vessel's prolonged stay in a port due to technical difficulties. The court had to determine whether the port authority was entitled to charge additional fees for the extended use of its facilities, taking into account the statutory framework governing such dues. The court's decision reaffirmed the principle that port dues must be proportionate to the services rendered and that any deviation from the standard charges must be clearly authorized by law.

The interplay between statutory and contractual obligations is a recurring theme in disputes under Section 4(1)(n). In *Maritime Services Ltd. v. MV White Pearl* (2021), the court addressed a claim for unpaid port dues, where

the shipowner argued that the port authority had failed to provide the services stipulated in the contract, thereby justifying non-payment. The court, however, held that the statutory obligation to pay port dues existed independently of the contractual relationship, and that the shipowner was liable for the charges regardless of the alleged breach of contract by the port authority. This case underscores the court's tendency to prioritize statutory obligations in the context of maritime claims, reflecting the importance of maintaining the financial viability of port operations.

The inclusion of tolls and similar charges within Section 4(1)(n) further reflects the legislature's intent to provide a comprehensive framework for resolving disputes related to maritime infrastructure. Tolls, whether levied for the use of canals, locks, or other waterways, are often a source of conflict between shipowners and the authorities responsible for maintaining these facilities. Such disputes may involve questions of jurisdiction, as different authorities may have overlapping responsibilities for different segments of a waterway, as well as issues of proportionality, where shipowners argue that the tolls charged are excessive in relation to the services provided. By granting the High Court jurisdiction over such disputes, the Act ensures that there is a clear legal forum for resolving these issues.

It is also important to note that the phrase "charges of similar kind" in Section 4(1)(n) introduces a degree of flexibility into the scope of the High Court's jurisdiction. This phrase allows the court to hear claims relating to other types of maritime charges that may not be explicitly mentioned in the section but are nonetheless analogous to those listed. This could include, for example, charges for the use of specialized equipment, such as cranes or tugboats, or fees for environmental services, such as waste disposal or ballast water treatment. The inclusion of this phrase ensures that the Act can accommodate the evolving nature of maritime commerce and the increasing complexity of the services provided by modern ports and harbours.

The broad language of Section 4(1)(n) ensures that the High Court's jurisdiction covers not only traditional port dues but also a wide range of ancillary charges that are essential to the operation of maritime transport infrastructure. This is particularly important in the context of modern shipping, where the demands placed on ports and harbours have increased significantly due to the growth in global trade and the advent of larger, more complex vessels. The ability of the High Court to resolve disputes concerning these charges is, therefore, crucial for maintaining the smooth functioning of maritime commerce.

Section 4(1)(n) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 plays a pivotal role in the High Court's exercise of admiralty jurisdiction, allowing it to adjudicate a wide range of disputes concerning dues and charges related to maritime infrastructure. The provision's broad scope, which encompasses port, harbour, canal, dock, and toll dues, as well as other similar charges, ensures that the court is well-equipped to address the diverse legal and commercial issues that arise in the context of maritime transport. Through its application, the court has developed a body of case law that reinforces the importance of statutory compliance and contractual integrity in the imposition of maritime dues, while also providing a forum for resolving complex disputes that have significant implications for the maritime industry.