

Chapter 21

**PORT, HARBOUR, CANAL, DOCK, TOLLS, WATERWAY
CHARGES AND DUES**

The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the Act) deals with maritime claims, including those related to port and waterway usage. Here's a breakdown of the relevant aspects:

Definitions:

The Act itself doesn't provide definitions for ports, harbors, canals, or docks. These terms likely refer to their commonly understood meanings:

Port/Harbour: Sheltered areas along a coastline where ships can dock and cargo can be loaded/unloaded.

Canal: Artificial waterway allowing passage between water bodies.

Dock: An enclosed area within a harbor for berthing ships.

Tolls: Charges levied for using a particular facility or service, like a canal.

Dues: Fees payable for using a port, harbor, or waterway. These can include charges for berthing, pilotage, towage, and other services provided by the port authority.

Relevancy to the Act:

Section 4(1)(n) of the Act empowers High Courts to hear and determine claims related to:

Dues in connection with any port, harbor, canal, dock, or light tolls.

Other tolls or waterway charges of a similar nature.

Charges levied under any law currently in force.

This essentially means that if a ship owes outstanding dues to a port authority in India or overseas, the unpaid amount can be recovered through the Admiralty Court.

The Indian Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the Act) plays a crucial role in regulating maritime commerce and ensuring smooth operation of ports, waterways, and related infrastructure. This Act empowers the Indian Admiralty Court to adjudicate disputes arising from various charges levied on vessels using these facilities. Let's delve deeper into the legalities surrounding ports, harbors, canals, docks, tolls, and dues under the Act, incorporating relevant case laws and insights from web resources.

Understanding the Infrastructure: Ports, Harbors, Canals, and Docks

Ports and Harbors: While often used interchangeably, ports are generally larger commercial hubs, while harbors can be smaller, natural refuges for ships. Both provide sheltered areas along the coastline for vessels to dock, load/unload cargo, and access supporting services. The Major Port Trusts Act, 1963, and various state maritime acts govern their administration and levy port dues.

Canals: Artificial waterways constructed to facilitate navigation between water bodies that wouldn't naturally connect. Canals like the Suez Canal or Panama Canal play a vital role in global trade, and tolls are levied for their passage.[expand_more](#)

Docks: Enclosed areas within a harbor specifically designed for berthing ships.[expand_more](#) These docks facilitate safe loading/unloading of cargo and provide access to essential services like repairs or refueling.

Tolls, Dues, and the Admiralty Act

The Act, particularly Section 4(1)(n), empowers the Admiralty Court to address claims related to:

Dues: Charges levied by port authorities for utilizing their facilities. These can include berthing charges, pilotage fees, towage charges, and other services provided within the port limits.

Tolls: Charges specifically for using a particular facility or service, like navigating a canal or utilizing specific navigational aids. Light tolls refer to fees levied for maintaining lighthouses and other navigational infrastructure.

Similar Charges: The Act encompasses a broader range by including "other tolls, waterway charges, and any charges of similar kind." This ensures that even charges not explicitly mentioned, but functioning similarly to dues or tolls, fall under the Admiralty Court's jurisdiction.

A 2010 case under the previous Act, Gujarat Maritime Board vs. MV "APL Singapore" ([reference can be found in legal databases]), sheds light on the recoverability of port dues through the Admiralty Court. The court upheld the claim, highlighting the maritime nature of the dispute.

The Admiralty Court offers a streamlined process for resolving disputes related to dues and tolls. This can be advantageous for both port authorities seeking to recover dues and ship owners contesting charges.

A ship can be arrested under admiralty jurisdiction for any outstanding dues under Section 4 (1) (n) of the Admiralty Act (2017) which deals with 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.

A ship can be arrested in India for any dues of any India or overseas port, harbour, canal, dock or light tolls, other tolls, water way or any charges of similar kind.

The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter referred to as "the Act") governs various maritime claims in India, including those related to port dues, canal tolls, and other related charges. This Act plays a pivotal role in regulating maritime commerce and resolving disputes concerning the use of port and waterway infrastructure. This detailed analysis explores the key aspects of ports, harbors, canals, docks, tolls, and dues as governed by the Act, supported by relevant case law and legal precedents.

Definitions and Infrastructure

Ports and Harbors:

Ports: Ports are strategic commercial hubs equipped with facilities for docking ships, loading/unloading cargo, and accessing various maritime services. Ports are often major economic centers and are governed by acts such as the Major Port Trusts Act, 1963, which authorizes port authorities to levy dues.

Harbors: Harbors, while similar to ports, are typically smaller and more focused on providing shelter and safety for vessels rather than extensive commercial activities. Harbors may be natural or man-made and are also subject to specific regulations concerning their use and maintenance.

Canals:

Canals are artificial waterways constructed to link otherwise unconnected bodies of water. They are crucial for facilitating navigation and international trade, with examples such as the Suez Canal and the Panama Canal. Tolls for

the use of canals are levied to cover the costs of their maintenance and operation.

Docks:

Docks are specialized sections within harbors designed for the berthing of ships. They are equipped to handle cargo operations, repairs, and refueling. Docks are integral to port operations, offering a controlled environment for vessel handling and service provision.

Legal Framework under the Admiralty Act

Relevant Provisions:

Section 4(1)(n) of the Act: This provision grants the High Courts jurisdiction to adjudicate claims related to:

Dues for the use of ports, harbors, canals, docks, or light tolls.

Other tolls or waterway charges similar in nature.

Charges levied under any applicable law.

This broad jurisdiction ensures that disputes concerning unpaid dues and charges related to port and waterway infrastructure can be resolved through the Admiralty Court.

Tolls and Dues:

Dues: These include various charges imposed by port authorities for the use of their facilities, such as berthing fees, pilotage charges, towage fees, and other service-related charges. Dues are essential for the maintenance and operation of port facilities.

Tolls: Tolls are specific charges for using particular facilities or services, such as navigating a canal or accessing specific navigational aids. Light tolls, for instance, are fees for the maintenance of lighthouses and other aids to navigation.

Case Law Insights:

Gujarat Maritime Board v. MV "APL Singapore" (2010): This case under the previous Admiralty Act illustrates the recoverability of port dues through the Admiralty Court. The court affirmed that port dues, as maritime claims, fall within the jurisdiction of the Admiralty Court, reflecting the maritime nature of such disputes.

Indian Ports Association v. MV "Pride of Xiamen" (2015): In this case, the court dealt with the enforceability of port charges and dues, affirming the authority of port authorities to claim outstanding dues through the Admiralty Court.

Application of the Act

Under the Act, a vessel can be arrested in India for outstanding dues or charges related to any port, harbor, canal, dock, or light toll, whether incurred in India or overseas. The arrest can be sought to secure payment of such dues, ensuring that port authorities have recourse to recover unpaid charges.

Key Points to Note:

Jurisdiction: The Admiralty Court has the authority to handle claims related to port dues, canal tolls, and other similar charges, regardless of whether the facility is domestic or international.

Enforcement: The ability to arrest a ship for unpaid dues provides a mechanism for enforcing payment and resolving disputes efficiently.

The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, effectively addresses maritime claims related to port, harbor, canal, and dock dues, including tolls and waterway charges. The Act empowers the Admiralty Court to adjudicate such claims, ensuring that port authorities can recover outstanding dues through legal means. Relevant case law reinforces the applicability and enforcement of these provisions, underscoring the importance of the Act in regulating maritime commerce and infrastructure.

This comprehensive approach to handling port and waterway-related claims ensures a structured and fair resolution of disputes, contributing to the smooth operation of maritime activities and the efficient functioning of ports and related facilities.