

**Reprint
as at 1 January 2004**



Admiralty Act 1973

Public Act 1973 No 119
Date of assent 23 November 1973
Commencement see section 1(2)

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Justice.

Schedule

12

**Enactments of the Parliament of England or of the
United Kingdom ceasing to have effect as part of the
law of New Zealand**

**An Act to make provision with respect to the jurisdiction in
admiralty of the High Court of New Zealand and of District
Courts, and the jurisdiction in prize of the High Court**

Title: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Title: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

1 Short Title and commencement

- (1) This Act may be cited as the Admiralty Act 1973.
- (2) This Act shall come into force on a date to be appointed by the Governor-General, by Order in Council.

Section 1(2): this Act brought into force, on 1 August 1976, by the Admiralty Act Commencement Order 1976 (SR 1976/194).

2 Interpretation

In this Act, unless the context otherwise requires,—

aircraft has the same meaning as in the Civil Aviation Act 1990

Collision Regulations has the same meaning as in section 168 of the Maritime Transport Act 1994

court means any court upon which jurisdiction is conferred by this Act

goods includes baggage

hovercraft means a machine designed to be supported in the atmosphere, wholly or partly by air expelled from the machine to form a cushion extending beneath the machine to the surface of any ground, water, or other part of the earth's surface

maritime lien, without derogating from the generality of the term, includes a lien in respect of bottomry, respondentia, salvage of property, seamen's wages, and damage

master, in relation to any ship, means any person (except a pilot) having command or charge of the ship

New Zealand territorial waters means all waters within the outer limits of the territorial sea of New Zealand (as defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977); and includes the waters of any lake, river, or stream

ship includes any description of vessel used in navigation; and includes a hovercraft

towage and pilotage, in relation to an aircraft, mean towage and pilotage while the aircraft is waterborne.

Section 2 **aircraft**: amended, on 1 September 1990, pursuant to section 101(1) of the Civil Aviation Act 1990 (1990 No 98).

Section 2 **Collision Regulations**: replaced, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 2 **New Zealand territorial waters**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2 **New Zealand territorial waters**: amended, on 1 October 1977, pursuant to section 33(2)(a) of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (1977 No 28).

3 Exercise of admiralty jurisdiction

- (1) The admiralty jurisdiction conferred by this Act—
 - (a) may be exercised by the High Court *in rem* and *in personam*; and
 - (b) may be exercised by a District Court *in personam* where the debt, demand, or damage or the value of the chattels claimed is not more than the amount specified in section 29 of the District Courts Act 1947; and it is hereby declared that a District Court shall not, for the purposes of this Act, have jurisdiction *in rem*.
- (2) In exercising the jurisdiction conferred by this Act, the court may exercise at the same time any of its other civil jurisdiction, whether statutory or otherwise, and all powers incidental thereto.
- (3) Nothing in this Act shall derogate from any common law or equitable jurisdiction of the High Court or the District Courts.

Section 3(1)(a): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 3(1)(b): amended, on 1 April 1980, pursuant to section 2(3) of the District Courts Amendment Act 1979 (1979 No 125).

Section 3(1)(b): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 3(2): replaced, on 9 October 1975, by section 2 of the Admiralty Amendment Act 1975 (1975 No 57).

Section 3(3): inserted, on 9 October 1975, by section 2 of the Admiralty Amendment Act 1975 (1975 No 57).

Section 3(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 3(3): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

4 Extent of admiralty jurisdiction

- (1) The court shall have jurisdiction in respect of the following questions or claims:
- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein:
 - (b) any question arising between the co-owners of a ship as to possession, employment, or earnings of that ship:
 - (c) any claim in respect of a mortgage of or charge on a ship or any share therein:
 - (d) any claim for damage done by a ship:
 - (e) any claim for damage received by a ship:
 - (f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or of the wrongful act, neglect, or default of the owners, charterers, or persons in possession or control of a ship or of the master or crew thereof or of any other person for whose wrongful acts, neglects, or defaults the owners, charterers, or persons in possession or control of a ship are responsible, being an act, neglect, or default in the navigation or management of the ship, in the loading, carriage, or discharge of goods on, in, or from the ship or in the embarkation, carriage, or disembarkation of persons on, in, or from the ship:
 - (g) any claim for loss of or damage to goods carried in a ship:
 - (h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship:

- (i) any claim in the nature of salvage (including claims for services rendered in saving life from a ship or an aircraft or in preserving its cargo, apparel, or wreck pursuant to the provisions of Part 17 of the Maritime Transport Act 1994 or any maritime rules made in relation to salvage):
 - (j) any claim in the nature of towage in respect of a ship or an aircraft:
 - (k) any claim in the nature of pilotage in respect of a ship or an aircraft:
 - (l) any claim in respect of goods, materials, or services (including stevedoring and lighterage services) supplied or to be supplied to a ship in its operation or maintenance:
 - (m) any claim in respect of the construction, repair, or equipment of a ship or for dock or port or harbour charges or dues:
 - (n) *[Repealed]*
 - (o) any claim by a master or member of the crew of a ship for wages, and any claim by or in respect of a master or member of the crew of a ship for any money or property which, under any of the provisions of the Maritime Transport Act 1994, is recoverable as wages or in the court and in the manner in which wages may be recovered:
 - (p) any claim by a master, shipper, charterer, or agent in respect of disbursements made on account of a ship:
 - (q) any claim arising out of an act which is or is claimed to be a general average act:
 - (r) any claim arising out of bottomry:
 - (s) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for *droits* of admiralty.
- (2) In addition to the jurisdiction specified in subsection (1), the High Court shall continue to have any other admiralty jurisdiction which was vested in it immediately before the commencement of this Act, and when exercising its admiralty jurisdiction shall also have any other jurisdiction connected with ships or aircraft which is vested in the court under any other Act.

- (3) The jurisdiction of the court under paragraph (b) of subsection (1) includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks fit.
- (4) The provisions of this section apply—
- (a) in relation to all ships or aircraft, whether New Zealand ships or aircraft or not, and whether registered or not, and whatever the nationality or residence or domicile of their owners may be:
 - (b) in relation to all claims, wheresoever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land):
 - (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not, and whether legal or equitable, and whether fixed or floating, including mortgages and charges created under the law of any other country:

provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Maritime Transport Act 1994.

Section 4(1)(i): amended, on 9 June 1999, by section 39 of the Maritime Transport Amendment Act 1999 (1999 No 68).

Section 4(1)(i): amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 4(1)(l): replaced, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 4(1)(n): repealed, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 4(1)(o): amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 4(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 4(4) proviso: amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

5 Actions *in rem*

- (1) In any case in which there is a maritime lien or other charge on any ship, aircraft, or other property for the amount claimed,

the admiralty jurisdiction of the High Court may be invoked by an action *in rem* against that ship, aircraft, or property.

- (2) In addition to the rights conferred by subsection (1), the admiralty jurisdiction of the High Court may be invoked by an action *in rem* in respect of all questions and claims specified in subsection (1) of section 4:

provided that—

- (a) in questions and claims specified in paragraphs (a), (b), (c), and (s) of subsection (1) of section 4 the admiralty jurisdiction *in rem* may be invoked against only the particular ship or property in respect of which the questions or claims arose;
- (b) in questions and claims specified in paragraphs (d) to (r) of subsection (1) of section 4 arising in connection with a ship where the person who would be liable on the claim in an action *in personam* was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship, the jurisdiction of the High Court may (whether the claim gives rise to a maritime lien on the ship or not) be invoked by an action *in rem* against—
 - (i) that ship if, at the time when the action is brought, it is beneficially owned as respects all the shares therein by, or is on charter by demise to, that person; or
 - (ii) any other ship which, at the time when the action is brought, is beneficially owned or on charter by demise as aforesaid.

- (3) Where in the exercise of its admiralty jurisdiction the court orders any ship or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.

Section 5(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 5(2): amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 5(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 5(2) proviso paragraph (b): amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

Section 5(2) proviso paragraph (b): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

6 Restrictions on proceedings

- (1) No claim *in personam* in respect of damage, loss of life, or personal injury arising out of—
 - (a) a collision between ships; or
 - (b) a manoeuvre or omission to carry out a manoeuvre by any ship to avoid a collision; or
 - (c) non-compliance with the Collision Regulations,—shall lie unless—
 - (d) the defendant ordinarily resides in New Zealand or has a place of business within New Zealand; or
 - (e) the cause of action arose within New Zealand territorial waters; or
 - (f) an action arising out of the same incident or series of incidents is proceeding in or has been heard and determined in the court.
- (2) No action *in personam* shall be brought in any court in New Zealand until any proceedings previously brought by the plaintiff against the defendant in any court outside New Zealand in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (3) This section shall not apply where the defendant submits or has agreed to submit to the jurisdiction of the court.

7 Actions for wages

Nothing in this Act shall be construed as limiting the jurisdiction of the court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a New Zealand ship.

Section 7: amended, on 1 February 1995, by section 203 of the Maritime Transport Act 1994 (1994 No 104).

8 Jurisdiction of High Court in prize

- (1) The High Court shall be a permanent Prize Court within the meaning of the Acts of the United Kingdom known as the Prize Acts 1864 to 1939, and those Acts shall continue in force as part of the law of New Zealand.

- (2) In the enactments mentioned in subsection (1) and in any rules or Orders in Council made thereunder, references to “the Admiralty” and “the Treasury” shall be read as references to the “Minister of Transport” and “the Minister of Finance”, respectively.
- (3) All *droits* of the Crown and forfeitures when condemned by the High Court in the exercise of its jurisdiction under this section shall be dealt with or disposed of in such manner as the Minister of Finance directs.

Section 8 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 8(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 8(3): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

9 Functions and powers of Registrar

- (1) Every Registrar of the High Court shall have and exercise the functions and powers of the Admiralty Registrar and Marshal for the purpose of this Act and any rules made hereunder.
- (2) The Registrar shall execute, by himself or by his appointed officers or agents, all instruments issued from the court which are addressed to him, and shall make returns thereof.

Section 9(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

10 Act to bind the Crown

Subject to section 28 of the Crown Proceedings Act 1950, relating to the exclusion of actions *in rem* against the Crown, this Act shall bind the Crown.

11 Rules of procedure and regulations as to fees

- (1) Rules for the practice and procedure of the High Court in its admiralty jurisdiction may be made in the same manner as is provided in the Judicature Act 1908 for the making of rules for practice and procedure in the High Court.
- (2) Rules for the practice and procedure of the District Courts in their admiralty jurisdiction may be made by the Governor-

General from time to time, by Order-in-Council, pursuant to section 122 of the District Courts Act 1947.

- (3) Without derogating from the provisions of subsections (1) and (2), rules may be made pursuant to those subsections for consolidation of actions, the appointment of court experts, or the giving of bail or other security to prevent the arrest of a ship or other *res*, or to obtain the release of the same after arrest.
- (4) The Governor-General may from time to time, by Order in Council, prescribe all fees payable under this Act.

Section 11(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 11(2): amended, on 1 April 1980, pursuant to section 2(3) of the District Courts Amendment Act 1979 (1979 No 125).

Section 11(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

12 Transfer of proceedings from or to admiralty jurisdiction

The court may, of its own motion or upon application, at any stage order that any proceedings be transferred from or to the court in its admiralty jurisdiction.

13 Appeals

- (1) A party to proceedings in a District Court in its admiralty jurisdiction may appeal to the High Court against any decision of the District Court.
- (1A) The High Court Rules and sections 73 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.
- (2) The provisions of the Judicature Act 1908 relating to appeals to the Court of Appeal against a decision of the High Court of New Zealand shall apply with respect to a decision of the High Court of New Zealand in its admiralty jurisdiction.

(3) [Repealed]

Section 13(1): replaced, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 13(1A): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 13(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 13(3): repealed, on 1 January 2004, by section 48(2) of the Supreme Court Act 2003 (2003 No 53).

14 Repeals and amendments

- (1) As from the commencement of this Act, the Acts of the Parliament of England or of the United Kingdom specified in the Schedule shall cease to have effect as part of the law of New Zealand.
- (2) The provisions of sections 20 and 21 of the Acts Interpretation Act 1924 shall apply with respect to the Acts specified in the Schedule as if they were Acts of the Parliament of New Zealand that had been repealed by this Act.
- (3) *Amendment(s) incorporated in the Act(s).*
- (4) *[Repealed]*

Section 14(2): amended, on 1 January 1987, pursuant to section 29(2) of the Constitution Act 1986 (1986 No 114).

Section 14(4): repealed, on 11 June 1985, by section 2(2) of the Legislature Amendment Act 1985 (1985 No 91).

Schedule

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**Enactments of the Parliament of England
or of the United Kingdom ceasing to have
effect as part of the law of New Zealand**

13 Ric 2, stat 1, c 5	Admiralty jurisdiction
15 Ric 2, c 3	Admiralty jurisdiction
8 Geo 1, c 24	Piracy Act 1721
9 Geo 4, c 83	Australian Courts Act 1828
3 & 4 Vict, c 65	Admiralty Court Act 1840
13 & 14 Vict, c 26	Piracy Act 1850: sections 2 and 3
24 & 25 Vict, c 10	Admiralty Court Act 1861
39 & 40 Vict, c 59	Appellate Jurisdiction Act 1876: section 23
53 & 54 Vict, c 27	Colonial Courts of Admiralty Act 1890

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Notes

1 General

This is a reprint of the Admiralty Act 1973. The reprint incorporates all the amendments to the Act as at 1 January 2004, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Supreme Court Act 2003 (2003 No 53): section 48(2)
District Courts Amendment Act 2002 (2002 No 63): section 4
Maritime Transport Amendment Act 1999 (1999 No 68): section 39
Territorial Sea and Exclusive Economic Zone Amendment Act 1996
(1996 No 74): section 5(4)
Maritime Transport Act 1994 (1994 No 104): section 203
Civil Aviation Act 1990 (1990 No 98): section 101(1)
Constitution Act 1986 (1986 No 114): section 29(2)
Legislature Amendment Act 1985 (1985 No 91): section 2(2)
District Courts Amendment Act 1979 (1979 No 125): sections 2(3), 18(2)
Judicature Amendment Act 1979 (1979 No 124): section 12
Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977
(1977 No 28): section 33(2)(a)

Admiralty Act Commencement Order 1976 (SR 1976/194)

Admiralty Amendment Act 1975 (1975 No 57)
