



Gibraltar Ship Arrest

Gibraltar

The history and the present: *All in your favour.*

- At the gates to the Mediterranean
- Strategically located
- Shipping tradition



Political & Legal System

Reliable and Prestigious:

- Autonomous Jurisdiction
- Experienced Judges
- English Court of Appeal



Legal Regime for Arresting Ships

A comprehensive body of law: *At work for you*

- Colonial Courts of Admiralty Act 1890
- Admiralty Jurisdiction (Gibraltar) Order 1987
- Equivalent to High Court Jurisdiction in UK
- English Senior Court Rules apply
- Actions in Personam
- Actions in Rem



Actions in Personam

Personal Claims : No claim on the asset

- In Personam claims do not give rise to arrest powers
- In Personam claims may run alongside In Rem ones
- Variety of potential claims

Actions in Rem

Claims on the Vessel: The Gibraltar advantage

- Claims made against the Vessel
- Arrest proceedings arise

Actions in Rem

The Types of Claim: [A brief synopsis](#)

- Ownership disputes
- Mortgages
- Maritime Lien
- Loss of Life & personal injury
- Loss of or damage to goods
- Carriage of Goods disputes
- Charters
- Salvage, Towage, Pilotage
- Goods supplied
- Construction or Repair
- Wages
- Disbursements
- General Average Act
- Bottomry
- Forfeiture or Condemnation



Actions in Rem – Maritime Liens

The maritime lien: [further detail](#)

- A limited number of claims fall within the definition
- ‘The Bold Buccleugh’ establishes four categories
 - Damage done by a ship
 - Salvage
 - Seamen’s wages; and
 - Bottomry and Respondentia
- One further statutory category:
 - Master’s wages and disbursements

Arresting a Ship

Security for your claim: [What you need to do](#)

- Claim Form
- Short particulars
- Request for service of the Claim Form
- Request for Warrant to Arrest
- Undertaking to pay Admiralty Marshal's costs
- Affidavit /Declaration to lead to warrant

Arresting a Ship II

Stating your Claim and the Warrant: [Mirrors UK procedures](#)

- Claim Form as per the Civil Procedure Rules
- Brief particulars set out in the Claim Form; or
- Full Particulars of Claims
- Request (praecipe) for Warrant to Arrest
- Drafted by lawyer for arresting party
- Used by Admiralty Marshal for arrest of ship

Arresting a Ship III

Affidavit/Declaration to lead to warrant: the requirements

- Nature of Claim
- Name and Port of Registry of ship
- Confirmation that Ship is the relevant ship
- Attestation of Deponent as to the following:
 - Establishing the Person liable
 - That the person liable was the owner/charterer/in possession
 - That the person liable was the beneficial owner at the time or a charterer by demise



Arresting a Ship IV

Admiralty Marshal's costs: **undertakings required**

- Deposit required to cover the following:
 - Costs of the arrest
 - Provision of Ship keepers
 - Water and fuel for the ship and maintenance of the crew
 - Other costs incurred by the Admiralty Marshal
- Deposit required usually £20,000

Arresting a Ship V

Arresting in Gibraltar: [The upper hand](#)

- If requirements met, arrest can be carried out within hours
- Admiralty Marshal is on call 24hrs a day, 365 days a year
- In urgent cases, a ship may be arrested at any time

Arresting a Ship V

Arresting in Gibraltar: **The upper hand**

- Arrest carried out usually without a formal hearing
 - No power of attorney required – arrest can be carried out on the basis of electronic documents
 - No counter security is necessary

Arresting a Ship V

Arresting in Gibraltar: **The upper hand**

- Advantage over most other Mediterranean jurisdictions
- An arrest can also be lifted in short order
- Judgment in default

Arresting a Ship VI

Sale of the vessel: Option available

- A sale of a vessel can be done in one of two ways
- Public Auction
 - 4 week timeframe
- Private Treaty
 - Could be completed in less than a week
 - There should be a buyer available willing to pay at least market value
 - Two valuations obtained – sold on 'as is, where is' basis
- Caveats may also be entered by third parties on arrest
- Third parties would be notified upon intended release



Wrongful Arrest

The Claim fails: [What are the options?](#)

- Defendant may bring claim on arresting party
 - Must show mala fides or gross negligence
- Rare in practice
- Where bona fide claim is brought and fails, no claim for damages will stand

Gibraltar

A friendly jurisdiction: Quick, efficient, dynamic

- Both Claimant and Owner Friendly
- Quick Arrest
- Quick Release
- Admiralty Claims given priority by the Supreme Court
- Brussels and Lugano conventions implemented in Gibraltar
- Ability to arrest as security for an arbitration award



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