



SEMAPHORE

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Annual Admiralty Proceedings Filed in New Zealand

New Zealand's maritime lawyers know that they are not rushing to arrest vessels every day of the week, but just how often is the admiralty jurisdiction used? Figures provided by the District and High Courts for the years 2009 to 2013 confirm the answer a practitioner would likely give: it happens, but not an awful lot.

The figures disclose an average of 23 proceedings a year filed in admiralty across New Zealand's various High Court registries over the period.



Bevan Marten

The District Court, on the other hand, had a total of just 1 proceeding in five years (the Invercargill 2011 case *Warmflow South Limited v The Ship "Pacific Jem"*), and even that was transferred there having been commenced in the High Court.

This is perhaps unsurprising given that under section 3 of the Admiralty Act 1973 New Zealand's District Courts have only in personam jurisdiction in admiralty. With none of the advantages of the High Court's in rem jurisdiction, notably vessel arrest, why would anyone complicate their life by filing in the District Court in admiralty? In a 2004 report for MLAANZ on the admiralty jurisdiction Paul Myburgh argued that the District Court should either be given in rem jurisdiction within its usual monetary limits, or have it removed altogether. These figures provide further evidence that the halfway measure adopted in 1973 has been ineffective.

Some astute observations on the arrest figures are also put forward by Auckland-based maritime lawyer Michael McCarthy.

"Admiralty/shipping law is an active area and the figures for admiralty proceedings issued in the High Court are interesting both as to what they show and what they don't show," he says.

"The number of admiralty proceedings per year tends to change to reflect the wider economic conditions where in difficult financial times there are more arrests and less so when economies are doing well.

"Also, particularly with regard to cargo claims, the ship insurers (P&I Clubs) may provide a letter of undertaking as security for a claim in appropriate circumstance which means there is no need to commence admiralty proceedings so keeping the number of proceedings down. The admiralty jurisdiction remains an important part of the Court system."

Bevan Marten

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