

The Unbreakable Link:
Connecting the Claim Ship to the Arrest Ship

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Hooking the right ship to arrest – The ‘Connection Test’. It dictates that the ship to which a claim relates under s 20(2) of the Senior Courts Act 1981 must be the same ship targeted for the *in rem* action under s 21(4). This article unpacks this unbreakable link by analysing three key authorities that have strictly applied the test through a narrow interpretation of s 21(4)(a).

Section 20(2) of the Senior Courts Act 1981 lists 18 limbs of admiralty claim. To arrest a ship upon a statutory claim *in rem*, s 21(4)(a) and (b) requires the claim to arise “*in connection with a ship*” and that the person liable *in personam* on the claim (called “*the relevant person*”) was, at the time the cause of action arose, owned, chartered, possessed or controlled “*the ship*”.

Authorities have established that the ship referred to in s 21(4) must be the same ship in connection with the admiralty jurisdiction is invoked under a limb (or limbs) of s 20(2).

The Eschersheim [1976] 1 All ER 920 (UK HL)

The first was *The Eschersheim* [1976] 1 All ER 920 (UK HL). In this case, The Erkowit and a German vessel collided with one another. The Erkowit engaged the salvage tug The Rotesand to rescue The Erkowit and the cargo on board her. The salvage contract was on the Lloyd’s Open Form, signed by the master on behalf the vessel

and the cargo. Both The Erkowit and the cargo on board her was lost. The Erkowit and the cargo claimed that that was the result of negligence of The Rotessand. They arrested The Jade, a [sister vessel](#) to The Rotesand under the then equivalent provisions to ss 20(2)(h) (“*claim arising out of any agreement relating ... to the use or hire of a ship*”), s 20(2)(e) (“*claim for damage done by a ship*”), s 20(2)(d) (“*claim for damage received by a ship*”), and s 20(2)(g) (“*claim for loss of or damage to goods carried in a ship*”).

The House of Lords held, to found the admiralty jurisdiction *in rem* in respect of a statutory claim *in rem*, the ship to which the s 20(2) limb relied on relates to must be the same as the ship referred to in s 21(4)(a) and (b) – the s 20(2) limb and s 21(4)(a) “connection” test. In this case, the salvage agreement between the The Erkowit/cargo owners and The Rotesand was for the use/hire of The Rotesand; hence the “ship” referred in s 20(2)(h) was The Rotesand. That was the same ship in connection with which the claim arose, thus satisfying s 21(4)(a). The person liable in personam for the actions were her owners, thus satisfying s 21(4)(b) too. The connection test was satisfied.

In relation to s 20(2)(e), the House was ultimately satisfied that the connection test was met, because the ship which caused the damage was Rotesand.

As to s 20(2)(d), the House held that the reference to the ship that received the damage was to The Erkowit, while the reference in s 21(4)(a) to “a ship” in connection with which the claim arises was the ship to be arrested in that case, that is The Rotesand. The connection was not established; hence s 20(2)(d) claim failed.

Finally, on s 20(2)(g) claim, the ship referred to there was the ship carrying the cargo, which was The Erkowit, while the ship in connection with which the claim arose, for purposes of s 21(4)(a) was The Rotesand. The connection was not there, and the s 20(2)(g) claim failed.

The Alexandria [2002] SGHC 82

The second was *The Alexandria* [2002] SGHC 82. In this case, the plaintiff supplied bunkers to The Front Melody. The bunkers were allegedly contaminated and caused damage to The Front Melody. The plaintiff procured, in a chain of contracts, the bunkers from The Alexandria. The plaintiff arrested The Alexandria under the Singapore's equivalent to s 20(2)(m) ("*claim in respect of goods or materials supplied to a ship for her operation or maintenance*"). The Alexandria applied to set aside the arrest on the ground that the Singapore equivalent to s 21(4)(a) was not satisfied. The court held that the ship referred to in s 20(2)(m) was The Front Melody to which the goods were supplied for her operation or maintenance. The subject ship – the liable ship – for the purpose of s 21(4) was The Alexandria. The connection was not established; hence the arrest was set aside.

Marina Developments Ltd v SY Explorer [2024] EWHC 3531

The "connection" test established in *The Eschersheim* and *The Alexandria* was applied to an interesting matrix of facts in the recent case of *Marina Developments Ltd v SY Explorer* [2024] EWHC 3531 (Almly).

In this case, the Mr McIntyre dealt with the Marina regarding the berthing arrangement of a flotilla participating in the 2023 Ocean Globe Race. He was the founder and chairman of the race. Fourteen yachts, which participated in the race and berthed at the Marina, did not pay the berthing fee in sum of £25,830. One of the 14 yachts, the SY Explorer, belonged Mr McIntyre, and the amount outstanding on the account of this yacht was £2,171. Arguably, Mr McIntyre was the person liable in personam for the entire debt of £25,830. The Marina arrested the SY Explore for the entire debt under s 20(2)(n) (“*any claim ... in respect of dock charges or dues*”). Mr McIntyre applied to strike out the claim *in rem* on the ground that “connection” was not there.

The Admiralty Registrar Davison, applying *The Eschersheim* and *The Alexandra*, held that the ships in connection with which the jurisdiction under s 20(2)(n) was invoked were the 14 yachts. The subject ship – liable ship – under s 21(4) was the SY Explorer. The connection was not there save in respect of the SY Explorer for the outstanding sum of £2,171. Accordingly, he limited the security to be provided to this sum.

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