

## Request for costing and liability information concerning the grounding of the MV Rena

<b>Legislation</b>	Official Information Act 1982, s 9(2)(j)
<b>Agency</b>	Minister of Transport
<b>Ombudsman</b>	David McGee
<b>Case number(s)</b>	323046
<b>Date</b>	February 2013

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*Release of information about costs incurred in responding to the grounding would give advance notice of the Crown's negotiating position—s 9(2)(j) applies but not to information that was known to both parties and in the public domain*

The Minister of Transport refused a request for information about the grounding of the *MV Rena*, and the requester complained to the Ombudsman. The Minister withheld information about:

- the costs of responding to the grounding; and
- the limits on liability for the grounding;

under section 9(2)(j). The Ombudsman concluded that ground applied to the former, but not the latter.

### Costs of responding to the grounding

At the time, the Crown was negotiating with Costamare (the owner of the *MV Rena*) for compensation for the costs incurred by the Government in its response to the grounding. Information about the costs was therefore a crucial aspect of the negotiations. Release of the costs would have prejudiced or disadvantaged the Crown in carrying on the negotiations by giving Costamare advance notice of its negotiating position.

The Ombudsman acknowledged a strong public interest in release of information about costs incurred in responding to the grounding of the *MV Rena*. However, while the negotiations were ongoing, the public interest in release of the costs did not outweigh the interest in withholding them to enable the Crown to continue the negotiations without prejudice or disadvantage.

### **Limits on liability for the grounding**

This information related to the limitation of liability, as per the Limitation of Liability for Maritime Claims Convention 1976, and the Convention on Limitation of Liability for Maritime Claims 1996 protocol. The Ombudsman noted that these matters were public knowledge at the time, as they had already been reported in the media. He therefore could not see that release would have prejudiced or disadvantaged the Crown in its negotiations with Costamare. The Minister's assertion that release of information already known to both parties to the negotiations and reported by the media would prejudice the Crown in its negotiations with Costamare was not credible.

The Ombudsman recommended this information be disclosed.

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