

**THE REPUBLIC OF
THE MARSHALL ISLANDS**



THE MARITIME ACT

1990

AS AMENDED

OFFICE OF THE MARITIME ADMINISTRATOR

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Worldwide Court
Reporters, Inc.

PART II - RIGHTS AND DUTIES OF THE MASTER

§ 810. Termination of employment.

Any contractual provision to the contrary notwithstanding, the shipowner, with or without good cause, may at any time terminate the employment of and dismiss the Master. *[P.L. 1990-92, § 155.]*

§ 811. Duties of the Master.

The Master shall, among others, have the following duties:

- (a) to enter into Shipping Articles with seafarers as hereinafter provided;
- (b) to maintain discipline on board the vessel and to take all such steps as are necessary and appropriate in connection therewith;
- (c) to assume responsibility for the receipt of cargo by the vessel, stowage of cargo on board the vessel insofar as such stowage affects the safety or navigability of the vessel, and for the discharge of cargo from the vessel;
- (d) to assume full responsibility for the safety of the members of the crew and passengers, if any, and to take all necessary and appropriate steps in connection therewith;
- (e) to assume full responsibility for the navigation of the vessel at all times;
- (f) to assume full responsibility for the vessel's funds and the disbursement thereof;
- (g) to see that the vessel's log books are properly and accurately kept;
- (h) to keep in his custody all of the vessel's documents;
- (i) to make all reports required by laws or Regulation of the Republic or by the regulations of any port at which the vessel may call;
- (j) to render assistance in the saving of life and property at sea; and
- (k) to protect the health of seafarers and ensure their prompt access to medical care onboard and ashore.. *[P.L. 1990-92, § 156; P.L. 2001-27 § 811; P.L. 2009-16 § 811]*

§ 812. Special powers of Masters.

When a vessel is at sea, the Master is authorized to:

- (a) marry passengers or other persons aboard;
- (b) issue birth certificates for children born at sea; and
- (c) bury persons who have died on board the vessel while at sea. *[P.L. 1990-92, § 157.]*

§ 813. Certain seafarer's rights provided for Master.

Except as otherwise provided, the Master of a vessel of the Republic shall enjoy the same rights and shall have the same liens upon the vessel in respect of wages, maintenance and cure and repatriation as are provided for seafarers. *[P.L. 1990-92, § 158.]*

§ 814. Master's wrongful death.

The personal representative of the Master of a vessel of the Republic shall enjoy the same rights and shall have the same liens upon the vessel in case of the Master's wrongful death as are provided in respect of seafarers. *[P.L. 1990-92, § 159.]*

§§ 815-819. Reserved.

PART III - RIGHTS AND DUTIES OF SEAFARERS

§ 820. Shipping Articles required.

Before the Master of any vessel of the Republic engaged in foreign trade shall sail from any port, there shall be in force Shipping Articles (sometimes referred to as Articles) with every seafarer on board his vessel, except with persons who are apprenticed to, or servants of, himself or the vessel's owner. The Shipping Articles shall be written or printed and shall be subscribed by every seafarer shipping on the vessel and shall state the period of engagement or voyage or voyages and the term or terms for which each seafarer shall be shipped, and the rate of pay for each, and such other items as may be required by Regulation. *[P.L. 1990-92, § 160; P.L. 2001-27, § 820.]*

§ 821. Penalty for alteration of Shipping Articles.

If any person fraudulently alters or makes false entry in any Shipping Articles, and if any person aids in committing or procures to be committed any such offense, he shall, in respect of each offense, be liable for a fine not exceeding five hundred (US\$500). *[P.L. 1990-92, § 161.]*

§ 822. Penalty for shipment without Shipping Articles.

If any person shall be carried to sea as an officer or one of the crew on board any vessel making a voyage as hereinbefore specified, without entering into Shipping Articles with the Master of such vessel in the form and manner and at the place and times in such cases required, the vessel shall be held liable for such offense to a penalty of not more than two hundred dollars (US\$200). But the vessel shall not be held liable for any person carried to sea, who shall have secretly stowed himself away without the knowledge of the Master, mate or of any of the officers of the vessel, or who shall have falsely personated himself to the Master or officers of the vessel, for the purpose of being carried to sea. *[P.L. 1990-92, § 162.]*

§ 823. Duration and extension of Shipping Articles.

(1) Shipping Articles for the duration of a single voyage terminate as soon as unloading of the cargo is completed at the last port of destination, or, if the vessel carries ballast only, upon the arrival at the last port of destination.

(2) Shipping Articles for the duration of a round voyage terminate as soon as unloading of any cargo is completed at the port where the seafarers were engaged.

(3) If the voyage is extended to a port other than that port designated in the Shipping Articles as the end of the voyage, the Articles shall be extended and the wages shall be continued accordingly. If the voyage be shortened, the wages shall be paid to the date of termination of the voyage.

(4) Where Shipping Articles are not for a stated period they shall be deemed to be for a period of not less than one year and shall terminate at the expiration of the one year period, provided that at least five (5) days prior notice has been given. In the absence of such notice the agreement shall continue but shall be terminable thereafter upon at least five (5) days notice by either party. Nothing in this Subsection (4) shall apply to or preclude Shipping Articles for a stated period of time.

(5) When Shipping Articles expire while the voyage is still incomplete, they shall be extended until the vessel arrives at the port of her destination, and the wages shall be continued accordingly. [P.L. 1990-92, § 163.]

§ 824. Termination of Shipping Articles.

Where the Shipping Articles have terminated because of:

- (a) transfer of registry;
- (b) transfer of ownership;
- (c) abandonment of vessel; or
- (d) loss of vessel,

the seafarer shall be entitled to compensation equal to fifteen (15) days base wages, or the base wages until the expiration of the period for which he was engaged, whichever shall be least; provided however that the seafarer is not employed as a seafarer during such period and provided further that during such period the seafarer has not refused substantially equivalent seagoing employment. [P.L. 1990-92, § 164.]

§ 825. Required documents for seafarers.

(1) The Maritime Administrator shall by Regulation require identification books, sea service records, medical fitness certificates, certificates of proficiency or competence, or other official certification and documentation to be obtained and carried on board vessels of the Republic subject to compliance with the requirements of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time.

(2) If any seafarer forges or fraudulently alters or procures the forgery or fraudulent alteration of any such official document he shall forfeit to his employer all wages above the amount payable to an ordinary seafarer for the period during which he was employed in reliance upon such forged or altered document and shall be subject to the penalties provided for in Section 806 of this Chapter. [P.L. 1990-92, § 165; P.L. 2001-27, § 825.]

§ 826. Minimum age at sea.

(1) Notwithstanding any other provision of this Chapter, persons under the age of sixteen (16) years shall not be employed or work on vessels of the Republic registered under this Title.

(2) Persons under the age of eighteen (18) years shall not be employed or work on coal-burning vessels as trimmers or stokers. [P.L. 1990-92, § 166; P.L. 2009-16 § 826]

§ 827. Payment of wages.

(1) Wages shall commence on the day specified and agreed to in the Shipping Articles or at the time of presence on board the vessel for the purpose of commencing work, whichever first occurs, and shall terminate on the day of discharge or termination of the Articles.

(2) In the absence of any agreement to the contrary the shipowner or the Master of the vessel shall pay to every seafarer his wages within two (2) days after the termination of the Articles, or at the time when the seafarer is discharged, whichever is first.

(3) A seafarer is entitled to receive in local currency, on demand, from the Master one-half of his wages actually earned and payable at every intermediate port where the vessel shall load or deliver cargo before the voyage is ended, but not more than once in any ten (10) day period. In case of wrongful failure to pay a seafarer wages on demand, the seafarer becomes entitled to a payment of full wages earned.

(4) Every Master shall deliver to the seafarer, before paying off, a full and true account of his wages and all deductions to be made therefrom on any account whatsoever, and in default shall, for each offense, be liable to a penalty of not more than twenty-five dollars (US\$25).

(5) In lieu of Subsections (1) through (4) above, the shipowner may implement a fixed salary plan which establishes a practical, modern salary system that will ensure a regular monthly income to the seafarer whilst on active service and during leave periods. For the purpose of the penalty provision in the preceding Section 827(4), it shall be deemed that no default has occurred provided that such arrangements are agreed between the Master and the seafarer and are reflected as an addendum to the Articles of Agreement between the Master and seafarers. *[P.L. 1990-92, § 167; P.L. 2001-27, § 827. Provision to accommodate modern payroll systems.]*

§ 828. Wages for unjustifiable discharge.

Any seafarer who has signed Shipping Articles and is afterward discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without consent, shall be entitled to receive in addition to his earned wages a sum equal in amount to one month's wages as compensation. *[P.L. 1990-92, § 168.]*

§ 829. Stowaway entitled to wages, if there is an agreement.

A stowaway signing the vessel's Articles is entitled to wages, but not to maintenance and cure as herein provided. The Master shall discharge him at the first convenient port of call. Nothing in this Section shall require a stowaway to be signed on Shipping Articles. *[P.L. 1990-92, § 169.]*

§ 830. Grounds for discharge.

The Master may discharge a seafarer for justifiable cause, including any of the following grounds:

- (a) unjustified failure to report on board at such times and dates as may be specified by the Master;
- (b) incompetence to perform duties for which the seafarer has represented himself as qualified;
- (c) theft, embezzlement or willful destruction of any part of the vessel, its cargo or stores;
- (d) serious insubordination or willful disobedience or willful refusal to perform assigned duties;
- (e) mutiny or desertion;

- (f) habitual intoxication, quarreling or fighting;
- (g) possession of dangerous weapons, narcotics or contraband articles;
- (h) intentional concealment from the shipowner or Master at or prior to engagement under the Shipping Articles of a condition which resulted in sickness or injury;
- (i) assistance to stowaways; and
- (j) willful violation of the laws of the Republic or applicable local criminal laws. *[P.L. 1990-92, § 170.]*

§ 831. Advances and allotment of wages.

(1) It shall be unlawful to pay any seafarer wages in advance of the time when they are actually earned, or to pay such advance wages or make any order or note or other evidence of the indebtedness therefor to any other person, or to pay to any person for the shipment of any seafarer when payment is deducted or to be deducted from a seafarer's wages. Any person violating any of the provisions of this Section shall be punished with a fine of not more than fifty dollars (US\$50).

(2) It shall be lawful for the Master and any seafarer to agree that an allotment of a portion of the seafarer's earnings may be payable to a spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seafarer.

(3) The provisions of this Section shall not apply to, or render unlawful:

- (a) deductions from the wages of a seafarer pursuant to the laws of the country at whose port the seafarer signed on or of which he is a national;
- (b) requirements of a labor organization of which the seafarer is a member if such deductions represent dues or other obligations to a labor organization of which the seafarer is a member and are remitted to such organization; or
- (c) the written consent of the seafarer, if such deductions are paid into a fund established for the exclusive benefit to seafarers and their families and dependents or for the purpose of providing medical or hospital care, pensions on retirement or death of the seafarer, life insurance, unemployment benefits or compensation for illness or injuries. *[P.L. 1990-92, § 171.]*

§ 832. Wages and clothing exempt from attachment.

The wages and clothing of a seafarer shall not be subject to attachment or arrestment from any Court; and any assignment or sale of wages or of salvage made prior to the accruing thereof shall not bind the seafarer, except for allotments. *[P.L. 1990-92, § 172.]*

§ 833. Vacation allowance and holidays.

(1) Every Master and seafarer shall be entitled to receive an annual vacation allowance equivalent to not less than 2.5 calendar days per month of employment.

(2) Every seafarer shall be entitled to a minimum of five (5) paid holidays per year. *[P.L. 1990-92, § 173. Modification made to Subsection (1)(a) and (b); P.L. 2009-16 § 833.]*

§ 834. Agreements as to loss of lien or right to wages.

No seafarer shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for recovery of his wages to which he would otherwise have been entitled; and every stipulation by which any seafarer consents to abandon his right to his wages in the case of the loss of the ship or to abandon any right which he may have obtained in the nature of salvage, shall be wholly void and inoperative. [P.L. 1990-92, § 174.]

§ 835. Wages not dependent on freight earned.

No right to wages on the part of any seafarer shall be dependent on the earning of freight by the vessel. Nothing in this Section, however, shall be construed to prevent any profit-sharing plan by which the officers and crew are to be compensated with profits in addition to their established wages. [P.L. 1990-92, § 175; P.L. 2001-27, § 835.]

§ 836. Wages, maintenance and cure for sick and injured seafarer.

(1) In the event of disabling sickness or injury, while a seafarer is on board a vessel under signed Shipping Articles, or off the vessel pursuant to an actual mission assigned to him by, or by the authority of the Master, the seafarer shall be entitled to:

- (a) full wages, as long as he is sick or injured and remains on board the vessel;
- (b) medical and surgical treatment and supply of proper and sufficient medicines and therapeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than thirty (30) weeks from the day of the injury or commencement of the sickness;
- (c) an amount equal to board and lodging up to a maximum period of thirty (30) weeks, and one-third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of sixteen (16) weeks commencing from the day of injury or commencement of the sickness; and
- (d) repatriation as provided in Section 843 including, in addition, all charges for his transportation, accommodation and food during the journey and maintenance up to the time fixed for his departure.

(2) The shipowner or his representative shall take adequate measures for safeguarding property left on board by a sick, injured or deceased seafarer.

(3) The seafarer shall not be entitled to any of the foregoing benefits:

- (a) if such sickness or injury resulted from his willful act, default or misconduct;
- (b) if such sickness or injury developed from a condition which was intentionally concealed from the employer at or prior to his engagement under the Articles;
- (c) if he refuses medical treatment for such sickness or injury or is denied such treatment because of misconduct or default; or
- (d) if at the time of his engagement he refused to be medically examined.

(4) The seafarer shall have a maritime against the vessel for any wages due him under this Section. [P.L. 1990-92, § 176.]

§ 837. Benefit of compensation for loss of life.

In addition to wages, maintenance and cure under Section 836 of this Chapter, and in addition to any liability for wrongful death under Section 836 of this Chapter, a seafarer on board a vessel under signed Shipping Articles or off the vessel pursuant to an actual mission assigned to him by, or by the authority of the Master, shall be entitled as provided by Regulation to the benefit of a direct compensation for loss of life, payable to his designated beneficiary or beneficiaries. It shall be the shipowner's obligation to provide such benefit free of any charge to the seafarer. *[P.L. 1990-92, § 177.]*

§ 838. Wrongful death.

Notwithstanding any provision of law to the contrary, whenever the death of a seafarer, resulting from an injury, shall be caused by wrongful act, omission, neglect or default occurring on board a vessel, the personal representative of the deceased seafarer may maintain a suit for damages, for the exclusive benefit of the deceased's wife, husband, parent, child or dependent relative, against the vessel, person or corporation which would have been liable if death had not ensued. *[P.L. 1990-92, § 178.]*

§ 839. Death on board.

In the event of a death on board a vessel, an entry shall be made into the vessel's logbook by the Master and one of his officers. He shall also report the death to the authorities at the first port of arrival and shall submit a statement signed by him to the Maritime Administrator for vessels engaged in foreign trade; or to the Minister of Transport and Communications for vessels engaged in domestic commerce pursuant to Chapter 9 of this Title. The logbook entry and statement shall contain the first and last name, sex, nationality, year and place of birth of the deceased person, the cause of death, place of death (latitude, longitude), date and time of death and the names of next-of-kin, if known, and name of the vessel. If the deceased person is a seafarer, the entry and statement shall contain, in addition, his rank or rating, place and address of his residence or domicile and the number of his license with date of issuance. The statement submitted by the Master shall be countersigned by any attending physician aboard, otherwise by one of the ship's officers. A list of personal effects and amounts of money left on board the vessel shall be attached. *[P.L. 1990-92, § 179; P.L. 2001-27, § 839.]*

§ 840. Issuance of death certificate.

Upon the request of anyone having a legal interest, and where a death has been reported in accordance with the requirements of the preceding Section, the Maritime Administrator or the Minister of Transport and Communications, as the case may be, shall issue a death certificate containing the particulars set forth in the preceding Section. Where the deceased was a citizen or a resident of the Republic said certificate shall be recorded in the Republic as required by law. *[P.L. 1990-92, § 180; P.L. 2001-27, § 840.]*

§ 841. Burial expenses.

In the case of death of a seafarer occurring on board the vessel or in case of his death occurring on shore, if at the time he was entitled to medical care and maintenance at the shipowner's expense, the shipowner shall be liable to defray reasonable local funeral expenses and make payment of the base wages of the deceased seafarer up to the end of the month in which the death occurs. *[P.L. 1990-92, § 181.]*

§ 842. Working hours, rest hours and overtime.

In relation to members of the crew on a vessel engaged in foreign trade:

- (a) the normal hours of work in port and at sea shall be eight per day;

(b) work performed over and above the eight-hour period shall be considered as overtime and shall be compensated for at overtime rates;

(c) a sufficient number of men shall be employed to promote safety of life at sea and to avoid excessive overtime;

(d) whenever the Master of any vessel shall fail to comply with this Section, he shall be liable to a penalty not exceeding one hundred dollars (US\$100). [P.L. 1990-92, § 182; P.L. 2001-27, § 842.]

§ 843. Repatriation.

(1) Nothing contained herein shall be deemed to abridge or diminish a seafarer's right to repatriation under generally accepted international rules and agreements, including those administered by the International Labor Organization (ILO).

(2) Any seafarer who is put ashore at a port other than the one where he signed the Shipping Articles and who is put ashore for reasons for which he is not responsible, shall be returned as a crew member or otherwise, but without expense to him:

(a) at the shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port of the seafarer's own country; or

(b) to another port, agreed upon between the seafarer and the shipowner or the Master.

However, in the event that the seafarer's contract period of service has not expired, the shipowner shall have the right to transfer him to another of the shipowner's vessels to serve thereon for the balance of the contract period of service.

(3) Any seafarer whose period of employment is terminated by reason of completion of the voyage for which he was engaged, by the termination of the seafarer's employment agreement by the seafarer for justified reasons or by the shipowner, by reason of the seafarer no longer being able to carry out his or her duties under his or her employment agreement or the seafarer cannot be expected to carry them out in the specific circumstances, or by expiration of his or her contract period of employment shall be entitled to repatriation, at no expense to him or her, to the port at which he or she was engaged or to such other port as may be agreed upon. [P.L. 1990-92, § 183; P.L. 2001-27, § 843; P.L. 2009-16 § 843. *Provision to assure repatriation rights of crew.*]

§ 844. Loss of right of repatriation.

A seafarer shall forfeit his right of repatriation in case of:

(a) desertion;

(b) entering into a new agreement with the same owner after his discharge;

(c) entering into a new agreement with another owner within one week after his discharge;

(d) criminal offenses under Sections 847, 849, and 850 of this Chapter; or

(e) unjustifiable repudiation of the Shipping Articles.

(f) failure of the seafarer to request repatriation within one week from the time that he is in condition to be repatriated. [P.L. 1990-92, § 184; P.L. 2001-27, § 844.]

§ 845. Offenses against the internal order of the vessel.

(1) Any seafarer on a vessel of the Republic who commits any of the following offenses may, in addition to any criminal penalties provided herein, be punished by the Master as follows:

(a) for neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within 24 hours of the vessel's sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time, without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than two (2) days wages or the amount sufficient to defray any expenses which shall have been properly incurred in hiring a substitute;

(b) for quitting the vessel without leave before she is placed in security, by forfeiture from his wages of not more than one month's wages;

(c) for intoxication or willful disobedience to any lawful command by being placed in restraint until such intoxication or disobedience shall cease, and by forfeiture from his wages of not more than four (4) days wages;

(d) for continued intoxication or willful disobedience to any lawful command or continued willful neglect of duty being placed in restraint until such intoxication, disobedience or neglect shall cease, and by forfeiture, for every 24 hours' continuance of such intoxication, disobedience or neglect, of a sum of not more than twelve (12) days wages;

(e) for willfully damaging the vessel or embezzling or willfully damaging any part of the stores or cargo, whether on board the vessel, in boats or ashore, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained;

(f) for any act of smuggling, whereby loss or damage is occasioned to the Master or shipowner, by payment to such Master or shipowner of such a sum as is sufficient to reimburse the Master or shipowner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability;

(g) for assaulting any Master, pilot or officer, by forfeiture from his wages of not more than three (3) months pay; or

(h) for mutiny or desertion, by forfeiture of all accrued wages.

(2) All earnings forfeited as a result of penalties imposed by the Master pursuant to this Section shall be applied to reimburse the Master or shipowner for any loss or damage resulting from the act for which the forfeiture was imposed; and any balance, with an accounting thereof, shall thereupon be forwarded to the Maritime Administrator. *[P.L. 1990-92, § 185.]*

§ 846. Prohibition of corporal punishment.

Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel. *[P.L. 1990-92, § 186.]*

§ 847. Barratry; drunkenness; neglect of duty.

Whoever, being a Master, seafarer, or other person on any vessel, by willful breach of duty or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel or her cargo, or tending immediately to endanger the life or limb of any person belonging to or on board such vessel, or by willful breach of duty or by neglect of duty or by reason of drunkenness refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel and her cargo from immediate loss, destruction or serious damage or for preserving any person on such vessel from immediate danger to life or limb, shall be subject to imprisonment and a fine of not more than two thousand five hundred dollars (US\$2,500). [P.L. 1990-92, § 187.]

§ 848. Desertion.

(1) Any seafarer who deserts from his vessel with the intention of not returning to duty and who remains unlawfully in a foreign country shall be guilty of desertion and shall be liable to answer for any damages or losses suffered by the shipowner as a consequence of such desertion.

(2) The Master shall make an entry of all desertions in the logbook and file a report with the Maritime Administrator. The local authorities of the port shall be notified and requested to apprehend and deliver the deserter. [P.L. 1990-92, § 188.]

§ 849. Incitement of seafarer to revolt or mutiny.

Whoever, being of the crew of a vessel of the Republic, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires or confederates with any other person on board to make such revolt or mutiny, or solicits, incites or stirs up any other of the crew to disobey or resist the lawful orders of the Master or other officers of such vessel, or to refuse or neglect his proper duty on board thereof, or betray his proper trust, or assemble with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the Master or other commanding officer thereof, shall be fined not more than one thousand dollars (US\$1,000) or imprisoned for not more than five (5) years, or both. [P.L. 1990-92, § 189.]

§ 850. Revolt or mutiny of seafarer.

Whoever, being of the crew of a vessel of the Republic, unlawfully and with force, or by fraud or intimidation, usurps the command of such vessel from the Master or other lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny and shall be fined not more than two thousand dollars (US\$2,000) or imprisoned for not more than ten (10) years or both. [P.L. 1990-92, § 190.]

§ 851. Entry of offenses in Log Book.

Upon the commission of any offense, an entry thereof shall be made in the official Log Book of the vessel of the day on which the offense was committed, and any penalty or fine imposed, and shall be signed by the Master and by the mate or one of the crew; and the offender, if still on the vessel, shall, before her next arrival at any port or, if she is at the time in port, before her departure therefrom, be furnished with a copy of such entry and have the same read over distinctly and audibly to him, and may thereupon make such a reply thereto as he thinks fit; and a statement that a copy of the entry has been so furnished or the same has been so read over, together with his reply, if any, made by the offender, shall likewise be entered and signed in the same manner. [P.L. 1990-92, § 191.]

§ 852. Abandonment of seafarer.

(1) Whoever, being Master or in charge of a vessel of the Republic, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the Articles any member of the crew of such vessel, in condition and willing to proceed when the Master is ready to proceed, shall be fined not more than five thousand dollars (US\$5,000).

(2) The abandoned seafarer shall retain his right to repatriation. *[P.L. 1990-92, § 192; P.L. 2001-27, § 852. Penalty provisions increased.]*

§ 853. Contracts for seafaring labor.

(1) The following clause shall appear, or be by force of law included, in all contracts for seafaring labor on board vessels of the Republic:

“The parties to this contract hereby stipulate that the terms and conditions laid down herein shall be subject to the applicable provisions of the Maritime Law and Regulations of the Republic of the Marshall Islands. Any dispute as to the terms and conditions of this contract shall be resolved in accordance with the Maritime Law and Regulations of the Republic of the Marshall Islands.”

(2) All contracts relating to service aboard a vessel registered under this Title shall be governed in interpretation and application by the Laws of the Republic, including this Chapter and any Regulations thereunder. *[P.L. 1990-92, § 193.]*

§ 854. Freedom of association.

Seafarers and their employers, without distinction whatsoever, shall have the right to establish, and to become members of, organizations of their choosing, always subject to jurisdiction of the Republic. *[P.L. 1990-92, § 194.]*

§ 855. Protection of freedom of association.

It shall be unlawful for any employer, employer organization or labor organization to coerce any seafarer in the exercise of his choice whether to establish, become a member of or participate in any labor organization, provided that any provision in a labor contract entered into pursuant to Section 857 of this Chapter shall not be deemed to be violative of this Section. *[P.L. 1990-92, § 195.]*

§ 856. Bargaining and execution of labor contract.

(1) It shall be lawful for any employer or employer organization and any labor organization representing seafarers to bargain and enter into a labor contract concerning wages and other terms and conditions of employment; provided, that no labor contract provisions may be contrary to the laws of the Republic or deprive the Republic of any jurisdiction over labor relations.

(2) A copy of any labor contract between the employer and an organization representing seafarers employed on a vessel shall be placed on board the said vessel and shall be made available to maritime or judicial authorities when requested. *[P.L. 1990-92, § 196.]*

§ 857. Provisions authorized in labor contracts.

It shall be lawful for any employer or employer organization and any labor organization to agree to be bound by any provisions in entering into a labor contract, provided that such provisions are not prohibited by the Laws or Regulations of the Republic. *[P.L. 1990-92, § 197.]*

§ 858. Provisions prohibited in labor contracts.

It shall be unlawful for any employer or employer organization or employee or labor organization to attempt to bargain for, or to enter into, any labor contract containing any provision which attempts to set aside the application of or is inconsistent with or is violative of the laws of the Republic, or which prescribes terms or conditions of employment less favorable to seafarers than those set forth in this Chapter, or which discriminates as to terms and conditions of employment on the basis of race, color, gender or creed; and any such prohibited provisions shall be deemed null and void. *[P.L. 1990-92, § 198; P.L. 2001-27, § 858.]*

§ 859. Protection of labor contract.

Whenever an employer or employer organization and a labor organization have entered into a labor contract providing that such labor organization shall be sole bargaining representative of seafarers pursuant to Section 857 of this Chapter, it shall be unlawful:

- (a) for the employer or employer organization to bargain with or enter into a labor contract pertaining to such seafarers with any other labor organization; or
- (b) for any other labor organization to attempt to bargain with or enter into a labor contract pertaining to such seafarers with the employer or employer organization; prior to thirty (30) days before the termination of such agreement or before the expiration of three (3) years from the effective date of such agreement, whichever event shall first occur. *[P.L. 1990-92, § 199. Format was modified for consistency with the format and style of the Code.]*

§ 860. Strikes, picketing and like interference.

(1) It shall be unlawful for any person or labor organization to promote or to engage in any strike or picketing, or any boycott or like interference with the internal order or operation of a vessel, unless:

- (a) a majority of seafarers on the vessel involved have voted by secret ballot that such action be taken; and
- (b) at least thirty (30) days written notice of intention to take such action has been given to the employer or the Master; and
- (c) the procedures of conciliation, mediation and arbitration under Section 861 of this Chapter, have been followed to conclusion.

(2) Nothing contained in Subsection (1) hereof shall be deemed to permit any strike or picketing, or any boycott or like interference with the internal order or operation of a vessel contrary to the provisions in any existing labor contract or any contract for seafaring labor. *[P.L. 1990-92, § 200.]*

§ 861. Conciliation, mediation and arbitration of labor disputes, differences or grievances.

(1) It is declared to be the policy of the Republic to place upon employers and employer organizations and employees and labor organizations the primary responsibility for avoidance of any interruption in foreign or domestic maritime commerce.

(2) In the event that an agreed settlement between the parties to any dispute, difference or grievance is not effected, the following conciliation, mediation and arbitration procedures, as may be further implemented by Regulation, shall apply:

(a) if the dispute is not resolved, crew members shall present their case to the employer through the Master or his appointee, or, if the matter is to the prejudice of the Master, then directly to the employer. Crew members may be represented in the matter by a labor organization which is a party to a labor contract entered into pursuant to Section 856 of this Chapter, and which covers the crew members. Efforts shall be made to conciliate the matter and to find an agreeable solution thereto;

(b) if a conciliation acceptable to both parties cannot be made at this stage, either party may call upon the Maritime Administrator, or an agent appointed by the Maritime Administrator, to act as mediator to endeavor to find a solution to the matter satisfactory to the parties;

(c) in the event that the dispute cannot be resolved by conciliation or mediation, either party may submit the matter to an independent arbitrator or arbitrators for a final determination, as provided by Regulation. If the parties cannot agree upon a choice of arbitrator or arbitrators, the matter shall be finally determined by the Maritime Administrator or his appointed agent, acting as sole arbitrator.

(3) Any arbitration award may be enforced, if necessary, by any Court of competent jurisdiction. *[P.L. 1990-92, § 201; P.L. 2001-27, § 861.]*

§ 862. Time bar.

(1) Claims arising out of the Shipping Articles are subject to a one year's prescription.

(2) The following rights of action are subject to a two (2) year prescription;

(a) the right of action for death of a seafarer caused by wrongful act, neglect or default on the high seas;

(b) claims of the shipowner against the Master for acts committed during the performance of his duties; and

(c) all other tort claims.

(3) All other claims are subject to a three (3) year prescription.

(4) The period of prescription of the claims laid down in the preceding Subsections runs from the time when the right of action accrues. *[P.L. 1990-92, § 202. Subsection (1) was altered for style purposes.]*

§ 863. Accommodations.

(1) The Maritime Administrator may make Rules and Regulations with respect to the accommodations to be provided in vessels of the Republic taking into consideration the different types of vessels, dates of construction and seafarers of different stature and rank.

(2) If the provisions of any Rule or Regulation made under this section are contravened in the case of a ship, the owner or Master shall be subject to a penalty of not more than one thousand dollars (US\$1,000). [P.L. 2001-27, § 863.]

§ 864. Maritime Administrator to make rules and regulations.

The Maritime Administrator may make Rules and Regulations not contrary to the provisions of this Chapter relating to conditions and terms of employment, wages, vacations and leave, hours of work and rest, repatriation, minimum age, compensation for sickness, injury or death of masters, seafarers, and seagoing laborers employed on vessels engaged in foreign trade and documented under the laws of the Republic. [P.L. 1990-92, § 203; P.L. 2001-27, § 864.]

§ 865. Uniformity of application and construction.

In this Title unless the context otherwise requires:

(a) words in the singular number include the plural, and in the plural include the singular.

(b) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender. [P.L. 2000-8, effective March 22, 2000. P.L. 2001-27, § 865.]

CHAPTER 9

DOMESTIC WATERCRAFT

This Chapter 9 contains Parts I and II of old Title 34 MIRC 6 as amended by the Domestic Watercraft (Amendment) Act, P.L. 2000-7, governing the regulation, registration, inspection, and licensing of domestic commercial and pleasure watercraft operating within the waters of the Republic of the Marshall Islands.

Commencement: September 30, 1992

Source: P.L. 1992-26 P.L. 2000-7 P.L. 2001-27

PART I - PURPOSE AND APPLICATION

§ 901. Purpose.

(1) The Nitijela believes that it is in the best interest of the Republic to encourage and promote the safe operation of commercial and pleasure watercraft operated within the Republic; to preserve and protect the marine environment of the Republic affected by the operation of commercial and pleasure watercraft within its waters; and to regulate the orderly growth and development of a uniform national program of maritime safety, inspection and documentation of vessels operated within the territorial waters and exclusive economic zone of the Republic. *[P.L. 2001-27, § 901. New domestic watercraft chapter.]*

§ 902. Application; definition.

(1) This Chapter shall apply to any vessel operating exclusively within the waters of the Republic which is not duly and properly documented or registered elsewhere.

(2) The general provisions of Chapter 2, Parts I and II, and Chapter 3 of this Title may be applied, as deemed appropriate, to registrations under this Chapter.

(3) Vessels registered pursuant to this Chapter shall be known as Domestic Watercraft.

(4) For purposes of this Chapter, the term

(i) "Minister" means the Minister to whom the subject of Transportation and Communications has been assigned by the President, unless otherwise expressly stated;

(ii) "Maritime Administrator" means the Republic of the Marshall Islands Maritime Administrator appointed by Cabinet under Chapter 1 of the Title.

(iii) "Waters of the Republic" shall mean the Internal Waters, Territorial Waters, and Exclusive Economic Zone as defined in the Marine Zones (Declaration) Act 1984. *[P.L. 2001-27, § 902.]*

§ 903. Restrictions.

(1) Registration under this Chapter is valid only within the waters of the Republic. Anytime a vessel intends to leave the waters of the Republic, it must surrender all registration documents issued under this Chapter, and if applicable, re-register under the appropriate provisions of Chapters 1, 2 and 3 of this Title.

(2) All registration documents issued shall clearly state that they are valid only within the waters of the Republic.

(3) The Minister may, when necessary, issue a written waiver of the restrictions imposed by this Section. [P.L. 2001-27, § 903.]

§ 904. Administration; regulations.

(1) The Minister shall carry out the provisions of this Chapter and those of any other applicable Chapter of this Title if the provisions therein relate specifically to Domestic Watercraft.

(2) The Minister shall prepare for the approval of the Cabinet any and all Rules and Regulations necessary and proper to implement the numbering and documentation of domestic watercraft; ensure their safety and fitness; the safeguarding of the environment and the prevention of marine pollution by domestic watercraft; the certification and training of their crews; the formulation and enforcement of standards and rules for their crews and equipment; the supervision and maintenance of adequate safety and sanitary conditions on board; and other matters as may be required for the effective administration of this Chapter.

(3) The Minister shall consult with other Ministries and Authorities of the Government and the Maritime Administrator, as identified in Chapter 1 of this Title, to assure coordination of regulation and enforcement. Such regulations shall be subject to the Marshall Islands Administrative Procedures Act. [P.L. 2001-27, § 904.]

§ 905. Authority to issue licenses, certificates and seafarer identification books.

(1) The Minister is authorized to issue all such licenses, certificates and seafarer identification books for officers and ship's personnel on vessels involved solely in domestic commerce within the waters of the Republic pursuant to this Chapter, including the vessel types, characteristics and operation subjecting the ship's personnel to the provisions of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time.

(2) The Minister shall establish a Board of Marine Inspectors to determine the qualifications of all applicants for licensing, certification and seafarers' identification for those vessels which do not come under the provisions of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time.

(3) For the purposes of this Chapter, the Minister may delegate the Maritime Administrator to establish the qualifications of all applicants for licensing, certification and seafarers' identification for ship's personnel serving aboard vessels which are subject to the provisions of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time, including those vessels engaged solely in domestic commerce within the waters of the Republic.

(4) Ship's personnel serving on board the following categories of vessels shall be exempt from compliance with the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time, while remaining subject to the regulations promulgated by the Minister in fulfillment of the purposes of this Chapter:

(a) Fishing vessels;

(b) Government vessels engaged in non-commercial service (however, persons serving on board such ships must meet the requirements of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time, so far as is reasonable and practicable);

- (c) Ships which navigate exclusively in inland waters or closely adjacent to sheltered waters (e.g. lagoons);
- (d) Pleasure yachts not engaged in trade;
- (e) Wooden ships of primitive build;
- (f) Engineer officers and engine ratings serving on commercial vessels less than 750 kw propulsion power; and
- (g) Deck ratings serving on commercial vessels less than 500 gross tonnage.

(5) Ship's personnel serving on board the following categories of commercial vessels engaged in foreign trade shall be subject to the requirements of the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time, and the regulations promulgated by the Maritime Administrator:

- (a) Deck officers serving on commercial seagoing (near coastal voyage/oceangoing) vessels regardless of the gross tonnage of the vessels;
- (b) Engineer officers serving on commercial seagoing (near coastal voyage/oceangoing) vessels of 750 kw propulsion power or more;
- (c) Deck ratings serving on commercial seagoing (near coastal voyage/oceangoing) vessels of 500 gross tonnage or more; and
- (d) Government vessels engaged in commercial seagoing (near coastal voyage/oceangoing) service.

(6) For the purposes of this Chapter, the failure by an owner of a vessel of the Republic to ensure that each officer employed on the vessel is the holder of a valid license of competency issued by the Republic and all seafarers in general have a valid identification book shall subject the owner to a fine of \$750 per non-complying officer and \$250 per non-complying seafarer. However, such penalty shall be rescinded if the proper license and identification book is obtained within 30 days from notice of violation.

(7) The Minister shall, with Cabinet approval, promulgate all Rules and Regulations deemed necessary and proper for carrying out the purposes of this Section as it relates to ship's personnel exempted from compliance with the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time.

(8) The Maritime Administrator shall promulgate all Rules and Regulations deemed necessary and proper for carrying out the purposes of this Act as it relates to vessels of the Republic engaged in foreign trade ship's personnel subject to compliance with the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time. *[P.L. 2001-27, § 905.]*

§ 906. Inspectors and registrars.

The Minister shall be assisted in his duties under this Chapter by the Maritime Administrator and by such inspectors, registrars and their assistants as the Minister or the Maritime Administrator may from time to time appoint in order to effectively execute the provisions of this Chapter and the regulations promulgated pursuant thereto. *[P.L. 2001-27, § 906.]*

§ 907. Fees, fines and penalties.

The Minister, with the approval of the Cabinet, shall establish such appropriate fees for those services, documents, certificates and administrative functions performed under this Chapter and the Regulations duly promulgated hereunder, and to establish and levy fines and penalties for violation of any Section of this Chapter, or Regulation relating thereto. *[P.L. 2001-27, § 907.]*

§ 908. Authorization by Minister to act on his behalf.

The Minister may either generally or specifically, and in consultation with the Cabinet, authorize the Maritime Administrator to exercise, perform or discharge any power, authority, function (including the function to make Rules and Regulations and issue licenses, certificates and seafarer identification under Sections 904 and 905(1) and (7) of this Chapter) or duty vested in, or imposed or conferred upon, the Minister by or under this Chapter. *[P.L. 2001-27, § 908.]*

§ 909. Transition and effective date.

This Chapter shall be applicable to those vessels described in Section 902 on and after the effective date of this Chapter, which shall be the date of certification pursuant to Article IV, Section 21 of the Constitution (the "Effective Date") *[30 September 1992]*. As of the Effective Date, any vessel duly numbered or documented under current law shall be deemed to be duly enrolled under this Chapter. Every license, certificate, number or document issued, and every act taken, after the Effective Date with respect to a vessel described in Section 902 of this Chapter shall be in accordance with the terms and provisions of this Chapter and any regulations made pursuant to this Chapter. *[P.L. 2001-27, § 909.]*

§ 910. Repealer.

The Domestic Watercraft Act 1992, Title 34 Chapter 6 is hereby repealed. *[P.L. 2001-27, § 910.]*

[End]

