

**REPUBLIC OF  
THE MARSHALL ISLANDS**



**THE MARITIME ACT**

**1990**

**MARITIME ADMINISTRATOR**

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The Chapters in this Title were originally codified in 34 MIRC 3. Pursuant to the Second Supplement to the Marshall Islands Revised Code, June 1995, the Chapters in this Title have been recodified and renumbered for ease of use and to conform to the style of the Code. No substantive changes were made in the recodification.

**REPUBLIC**

**OF THE**

**MARSHALL ISLANDS**

**MARITIME ACT**

**1990**

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## TITLE 47, MARITIME

An Act to provide for a comprehensive modernization of the maritime laws of the Republic of the Marshall Islands.

### CHAPTER 1

#### MARITIME ADMINISTRATION

This Chapter 1 contains Parts I, VI, VII, VIII and XI of old 34 MIRC 3.

Commencement: September 13, 1990

Source:	P.L. 1990-92	P.L. 1993-76	P.L. 2001-27
	P.L. 1990-94	P.L. 1997-33	P.L. 2005-36
	P.L. 1992-32	P.L. 1999-91	P.L. 2006-53
	P.L. 2009-16	P.L. 2012-4	P.L. 2013-5
	P.L. 2013-7	P.L. 2013-8	P.L. 2013-9
	P.L. 2013-14		

#### PART I - GENERAL

##### § 101. Short title.

This Chapter shall be known and may be cited as the Maritime Administration Act. *[P.L. 1990-92, § 1. Short title changed by Reviser to reflect the recodification of the original Act into separate chapters of this Title.]*

##### § 102. Statement of policy; application.

(1) This Title is intended, and shall be construed, to encourage and foster the growth and development of the foreign and domestic commerce; to promote and protect the national defense and security of the Republic of the Marshall Islands (hereinafter sometimes referred to as “the Republic”); to preserve and protect the marine environment; and to regulate a uniform national program of marine safety, inspection and documentation.

(2) Vessels engaged in foreign trade and vessels under construction not exclusively owned by natural persons who are citizens or nationals of the Republic shall be registered solely under Chapters 1 through 8 of this Title.

(3) Chapter 9 of this Title shall apply to any vessel operating exclusively within the waters of the Republic which is not duly and properly documented or registered elsewhere.

(4) All matters affecting the internal order and economy of vessels registered under the laws of the Republic engaged in foreign trade and domestic commerce, including labor relations, shall be governed by this Title. *[P.L. 1990-92, § 2; amended by P.L. 4, § 2(1), which repealed Subsection (4) of this Section; P.L. 2001-27, § 102, which outlines the amalgamation of Title 34, Chapter 6 into Title 47; P.L. 2012-4, § 102(2).]*

##### § 103. Administration of the law; Maritime Administrator - Rules and Regulations.

There is hereby created the Republic of the Marshall Islands Maritime Administrator (hereinafter sometimes referred to as “the Maritime Administrator”) which shall be appointed by the Cabinet. In addition to the authority conferred upon the Maritime Administrator under the Maritime Act, and subject to the provisions of this Title, the Minister of Transport and Communications, with the approval of Cabinet, may by a written instrument generally or specifically delegate his authority, power, and/or functions under this Title to the Maritime Administrator to administer all matters pertaining to vessels of

the Republic that are subject to the provisions of this Title; promulgate Rules and Regulations to carry out the provisions of this Title; ensure the seaworthiness and proper manning conditions of such ships, yachts, and fishing vessels registered under the laws of the Republic. [P.L. 1990-92, § 3; P.L. 2001-27, § 103.]

**§ 104. Commissioner of Maritime Affairs.**

There shall be a Commissioner of Maritime Affairs (hereinafter sometimes referred to as “the Commissioner”) who shall be appointed by the Maritime Administrator and who shall have such authority as may be conferred upon him by the Maritime Administrator and/or this Title. [P.L. 1990-92, § 4.]

**§ 105. Deputy Commissioners of Maritime Affairs.**

There shall be Deputy Commissioners of Maritime Affairs (hereinafter sometimes referred to as “Deputy Commissioners”) who shall be appointed by the Maritime Administrator and who shall have such authority as may be conferred upon them by the Maritime Administrator and/or this Title. [P.L. 1990-92, § 5.]

**§ 106. Special Agents.**

The Maritime Administrator, the Commissioner or any Deputy Commissioner may from time to time appoint one or more special agents (hereinafter sometimes referred to as “the Special Agents”) to act on its or his behalf in connection with the registration and documentation of vessels, the formation and maintenance of corporations or other entities and the recordation of instruments in relation thereto. The signature of the Special Agents will have the same status as a notarial act or acknowledgement. The Special Agents acknowledgment shall be admissible as evidence in the High Court of the Republic. [P.L. 1990-92, § 6, P.L. 2005-36, § 2.]

**§ 107. Records relating to vessels.**

There shall be maintained at the central office of the Maritime Administrator in the United States of America a public register consisting of appropriate indexes where there shall be recorded or filed, in properly allocated and accessible form, all documents of the following nature:

- (a) bills of sale and other instruments of conveyance of vessels;
- (b) mortgages of vessels;
- (c) assignments of mortgages;
- (d) certificates of permanent and provisional registry and construction certificates of registry;
- (e) licenses and certificates of officers and members of ship’s crew;
- (f) all other documents relating to vessels and which are entitled to recordation. [P.L. 1990-92, § 7; repealed and replaced by P.L. 1992-32, § 4(7); P.L. 2012-4, § 107(d).]

**§ 108. Authority to administer oaths and take acknowledgments.**

The Commissioner, each Deputy Commissioner and each Special Agent is authorized to administer all oaths, take all acknowledgments and make all proofs of due execution required by this Title either in or outside of the Republic. [P.L. 1990-92, § 8.]

**§ 109. Authority to issue licenses, certificates and other documents.**

(1) The Commissioner, each Deputy Commissioner, or any duly appointed and authorized agent on behalf of the Maritime Administrator, are authorized to issue all such licenses, certificates, or other documents for officers and ship's personnel on vessels of the Republic engaged in foreign trade that are subject to the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time (STCW Convention), that are necessary or proper for carrying out the purposes of this Title, or any Rule or Regulation promulgated in furtherance hereof or of any International Convention, Code, or Agreement to which the Republic is a party.

(2) In aid of licensing, certificating and up-grading of ship's officers and personnel, the Maritime Administrator shall, from time to time, establish such standards, Rules and Regulations as shall be deemed by it to be necessary and appropriate to carry out such purposes and maintain the high standards of the Merchant Marine of the Republic.

(3) Failure of an owner of a vessel of the Republic to file any required report relating to officers and other ship's personnel employed on the vessel shall result in an automatic fine of one thousand five hundred US dollars (US\$1,500) for each offense, and, until paid, such fine shall constitute a maritime lien on the vessel.

(4) Failure of an owner of a vessel, other than a vessel under construction, of the Republic to ensure that each officer employed on the vessel is the holder of a valid license of competence of the Republic to fill the position held by him shall subject the owner to a fine of one thousand five hundred US dollars (US\$1,500) for each officer so employed who is not the holder of such license of the Republic. If, however, a proper license of the Republic for each such officer is obtained within thirty (30) days of notice from the Maritime Administrator, the fine with respect thereto may be waived by the Maritime Administrator. Until paid, each fine shall constitute a maritime lien on the vessel. [*P.L. 1990-92, § 10; P.L. 2001-27, § 109; P.L. 2012-4, § 109.*]

**§ 110. Suspension and revocation proceedings.**

The Maritime Administrator shall have power to suspend or to revoke any licenses, certificates, permits or documents issued under the provisions of this Title, and it may from time to time make such Rules and Regulations as are deemed by it necessary and appropriate to the conduct of suspension and revocation proceedings. [*P.L. 1990-92, § 11.*]

**§ 111. Fees.**

The Maritime Administrator is authorized to establish by Regulation all necessary and proper fees, except in cases where the fee is already provided for in this Title. [*P.L.1990-92, § 12.*]

**§ 112. Definitions.**

(1) The word "builder", as used throughout this Title, shall mean one who is building or has contracted to build a vessel under construction.

(2) The words "commercial yacht(s)", as used throughout this Title, shall mean a yacht engaged in trade, commerce or on charter for hire.

(3) The words "construction contract", as used throughout this Title, shall mean a contract for the building, construction, or other fabrication of a vessel

(4) The words "document" and "enroll" or any of their derivatives, as used throughout this Title,

shall have the same meaning as the word “register” or its derivatives.

(5) The words “documented owner”, as used throughout this Title, with respect to a vessel means the person identified as the owner of a documented vessel in the application for documentation filed for the vessel with the Commissioner or any Deputy Commissioner. A person who retains only legal title to a vessel may be a documented owner, notwithstanding any transfer by such person of all or any part of its equitable or beneficial ownership interest in such vessel.

(6) The words “finance charterer”, as used throughout this Title, shall mean a person identified in a financing charter as the charterer of a vessel.

(7) The words “financing charter”, as used throughout this Title, shall mean a contract in the form of a demise or bareboat charter, regardless of duration, between the documented owner and the finance charterer of the entire vessel, which contract is agreed by the parties to be or is determined in judicial or arbitral proceedings to create in favor of the documented owner a security interest in the vessel granted by the finance charterer.

(8) The word “owner”, for the purposes of sections 208 and 214 shall include any person who at least holds title in a vessel.

(9) The words “private yacht(s)”, as used throughout this Title, shall mean any yacht not for hire, not engaged in trade or commerce, and used solely for private use, pleasure or recreational purposes by its owner.

(10) The words “vessel of the Republic engaged in foreign trade”, as used throughout this Title, shall mean any vessel not exclusively operated or engaged in coastwise trade or transportation between atolls, islands and/or ports within the waters of the Republic.

(11) The words “vessel under construction”, as used throughout this Title, shall mean a hull or one or more other structures, assemblies, components, modules, or other property on which physical construction or assembly work has begun or commenced pursuant to a construction contract to which the applicant for registration is a party as evidenced by the laying of the keel or similar act as may be determined in Rules and Regulations promulgated by the Maritime Administrator, which hull, structure(s), assembly(ies), component(s), modules, or other property is or are designed and intended cumulatively to become and be, upon completion, one single vessel, and shall also mean and include all materials, parts, components, equipment, or other property (1) incorporated therein or attached thereto, or (2) in the possession or control of the builder and either (i) identified thereto or to the vessel construction contract by markings, physical segregation, records, or otherwise, or (ii) otherwise intended to be incorporated in or attached to the completed vessel pursuant to the terms of the vessel construction contract collectively comprising the whole of the vessel.

(12) The words “waters of the Republic”, as used throughout this Title, shall mean the Exclusive Economic Zone, territorial waters and internal waters of the Republic as defined in the Marine Zones (Declaration) Act 1984. [*P.L. 1990-92, § 13; P.L. 2001-27, § 112; P.L. 2012-4, § 112; P.L. 2013-5, §112; P.L. 2013-14, §112.*]

### **§ 113. Adoption of American general maritime law.**

Insofar as it does not conflict with any other provisions of this Title or any other law of the Republic, the non-statutory general maritime law of the United States of America is hereby declared to be and is hereby adopted as the general maritime law of the Republic. [*P.L. 1990-92, § 14.*]



#### **§ 114. Separability.**

If any provision of this Title, or the application of any such provision to any circumstances or persons, natural or corporate, shall be held invalid, the validity of the remainder of this Title and the applicability of such provisions to other circumstances, or to persons individual or corporate, shall not be affected thereby. *[P.L. 1990-92, § 15.]*

#### **§ 115. General penalty for violation.**

(1) Any person who is in violation of any of the provisions of this Title or of any Rule or Regulation promulgated in accordance with this Title, shall, unless specified elsewhere in this Title or in any Rule or Regulation promulgated in accordance with this Title, be subject to a fine not exceeding one million US dollars (US\$1,000,000).

(2) Any person upon conviction by the High Court of the Republic for a knowing and willing violation of section 154, 216, 804, 843, 846, 849, 850, or 855 of this Title shall, unless specified elsewhere in this Title, or in any Rule or Regulation promulgated in accordance with this Title, be subject to a penalty not exceeding one million US dollars (US \$1,000,000), imprisonment for a term not exceeding ten (10) years, or both.

(3) The following factors may be considered, among others, by the Maritime Administrator or by the High Court of the Republic when determining the proper penalty for a violation of any provision of this Title, or of any Rule or Regulation promulgated in accordance with this Title:

- (a) the nature and seriousness of the offence, including the risk of harm to human life and the environment;
- (b) timely, voluntary, and complete disclosure of wrongdoing, including a willingness to cooperate in any subsequent investigation(s);
- (c) the existence and effectiveness of a pre-existing compliance program;
- (d) remedial actions, including any efforts to implement an effective compliance program or to improve an existing one;
- (e) the pervasiveness of wrongdoing, including the complicity in, or the condoning of, the wrongdoing by the Master, seafarer, crewing agent, vessel owner, vessel operator, vessel manager, or any other party;
- (f) history of similar misconduct or any prior criminal, civil, or regulatory enforcement actions. *[P.L.1990-92, § 16. Penalty provision modified to be consistent with the format and style of the Code. P.L. 2001-27, § 115; P.L. 2013-7, §115.]*

#### **§ 116. Jurisdiction.**

All causes of action arising out of, or under, this Title are hereby declared to and shall be cognizable before the High Court of the Republic, sitting in Admiralty; but, except as otherwise specifically provided in this Title, the provisions of this Section shall not be deemed to deprive other Courts, of the Republic or elsewhere, of jurisdiction to enforce such causes of action. *[P.L. 1990-92, § 17.]*

#### **§ 117. Appeal from Commissioner's, Deputy Commissioner's or Special Agent's decision.**

Appeal from any decision of the Commissioner or any Deputy Commissioner or any Special Agent pursuant to any section of this Title or any Rules and Regulations thereunder, may be taken to the Maritime Administrator. Upon exhaustion of administrative remedies, appeal may be taken to the High Court of the Republic, sitting in Admiralty. *[P.L. 1990-92, § 18.]*

**§ 118. Immunity from liability and suit.**

In the performance of their duties, the Maritime Administrator, any Commissioner, Deputy Commissioner, and/or any agent appointed, authorized, recognized, and/or designated by the Maritime Administrator, or any Commissioner, Deputy Commissioner, Special Agent, or by any person acting on their behalf for the administration of the provisions of this Title or any Regulation promulgated pursuant to § 109 of this Chapter or for the performance of statutory certification or classification services together with any affiliate of any such agent, their stockholders, members, directors, officers and employees, wherever located, shall have full immunity from liability and from suit with respect to any act or omission or thing done by any of them in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed upon any of them under or in connection with this Title or any Regulation, as amended, or any other law or rule applicable to the performance of any of their said duties.

The immunity provided by this Section shall only apply to those acts or omissions of agents and or employees of the Maritime Administrator done by them in the course of and in connection with the administration of the Republic of the Marshall Islands Maritime Program. *[P.L. 1997-33, Section 10A; P.L. 2001-27, § 118.]*

**§§ 119-129. Reserved.**

**PART II - RADIO AUTHORITY**

**§ 130. Authority to issue radio station licenses.**

The Commissioner, each Deputy Commissioner and their duly authorized agents on behalf of the Maritime Administrator are authorized to issue ship radio station licenses in respect of radio transmitting apparatus located on board ships and fishing vessels engaged in foreign trade and yachts registered under the laws of the Republic. The Maritime Administrator may, from time to time, make such Rules and Regulations as are deemed by him necessary and appropriate to implement this provision. *[P.L. 1990-92, § 9; P.L. 2001-27, § 130.]*

**§ 131. Regulations.**

The Maritime Administrator may, from time to time, make such Rules and Regulations as may be deemed necessary and appropriate to the efficient administration of maritime mobile radio stations. *[P.L. 1990-92, § 133; P.L. 2001-27, § 131.]*

**§ 132. Point of Service Activation.**

The Maritime Administrator through its duly authorized agents shall be the sole provider of Point of Service Activation (PSA) for all Inmarsat maritime mobile stations established on vessels registered under the laws of the Republic. *[P.L. 2001-27, § 132. Authorization established for satellite communications control.]*

**§§ 133-139. Reserved.**

### **PART III - VESSEL INSPECTION**

#### **§ 140. Marine safety inspection.**

In order to promote the safety of life and property at sea, vessels registered under this Act shall be required to undergo inspection and shall at all times carry on board such proof of inspection as may be required by Law or Regulation. *[P.L. 1990-92, § 134.]*

#### **§ 141. Regulations.**

The Maritime Administrator shall, from time to time, make such Rules and Regulations as may be deemed necessary and appropriate to the efficient administration of inspections on board vessels registered under the laws of the Republic. *[P.L. 1990-92, § 135; P.L. 2001-27, § 141.]*

#### **§§ 142-149. Reserved.**

### **PART IV - RULES OF NAVIGATION**

#### **§ 150. Regulations for preventing collisions.**

The International Regulations for Preventing Collisions at Sea, 1972, as amended, and such changes therein as in the future shall be made by any International Convention to which the Republic of Marshall Islands becomes a State Party, shall be followed by all vessels and seaplanes navigating all harbors, rivers, and inland waters of the Republic; and shall be followed by all vessels of the Republic and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels except as provided in Rule 1 of the foregoing Regulations; and the foregoing Regulations, as may be amended from time to time, shall have effect as if specifically enacted by statute and fully set forth herein. *[P.L. 1990-92, § 136; P.L. 2001-27, § 150.]*

#### **§ 151. Vessel under oars.**

The term “vessel under oars” as set forth in Rule 25 of the foregoing Regulations shall be interpreted to include canoes and various nondescript local craft. *[P.L. 1990-92, § 137.]*

#### **§ 152. Penalty for violation of rules by pilot, engineer, mate or Master.**

Every pilot, engineer, mate, Master, or other person in charge of any vessel, yacht, boat, canoe, or nondescript local craft who neglects or refuses to observe the provisions of this Part shall be subject to a penalty of not more than ten thousand US dollars (US\$10,000) and for all damages sustained by any passenger in his person or baggage resulting from such neglect or refusal, provided, that nothing herein shall relieve any vessel, owner, corporation, or other person from any liability incurred by reason of such neglect or refusal. *[P.L. 1990-92, § 138; P.L. 2001-27, § 152, penalty provisions increased; P.L. 2013-7, §152.]*

#### **§ 153. Penalty for violation by vessel.**

Every vessel that shall be navigated without complying with the provisions of this Part shall be subject to a monetary penalty as prescribed under section 115(1) of this Title, for which sum the vessel so navigated shall be liable and may be seized and proceeded against before any Court of competent jurisdiction in this Republic, and, until paid, such fine shall constitute a maritime lien on the vessel. *[P.L. 1990-92, § 139; P.L. 2001-27, § 15, penalty provisions increased; P.L. 2013-7, §153.]*

#### **§ 154. Assistance in case of collision.**

In every case of collision between two vessels it shall be the duty of the Master or person in charge of each vessel, if and insofar as he can do so without serious danger to his own vessel, crew, and passengers (if any), to stand by the other vessel until he has ascertained that it needs no further assistance; to render to the other vessel, and to its Master, crew, or passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision; and to report to the Master or person in charge of the other vessel the name of his own vessel, its port of registry or the port to which it belongs, and the names of the ports from which and to which it is bound. If he fails to do so without reasonable cause for such failure, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default. *[P.L. 1990-92, § 140.]*

## **PART V - INTERNATIONAL CONVENTIONS AND AGREEMENTS**

### **§ 155. Implementation and Compliance.**

The international conventions and agreements to which the Republic is or may become a State Party, shall be complied with by all vessels documented under the laws of the Republic which are engaged in foreign trade and, to the extent determined applicable, to domestic watercraft as defined in Chapter 9 of this Title, fishing vessels and yachts. The foregoing international conventions and agreements, as may be amended, shall have effect as if specifically enacted by statute and fully set forth herein. *[P.L. 2001-27, § 155; P.L. 2009-16, § 155.]*

### **§ 156. Publication of international laws.**

In accordance with § 155, the Maritime Administrator shall cause to be published and periodically updated a list of all applicable international treaties, conventions, protocols, codes, regulations, and agreements that have come into force and to which the Republic is a Party or have been established and declared by the Maritime Administrator to be a National Standard by which vessels documented under the laws of the Republic shall be governed. *[P.L. 2009-16, § 156.]*

### **§157. Publication of policies and goals.**

The Maritime Administrator shall cause to be published and periodically updated the policies, goals, and measures to be taken in keeping with §102 of this Act, for the Marshall Islands Maritime Program as it relates to the implementation and enforcement of the International Maritime Organization (IMO) Resolution A.973 (24), the “Code for the Implementation of Mandatory IMO Instruments,” as may be amended from time to time. *[P.L. 2009-16, § 157.]*

### **§§ 158-159. Reserved.**

## **PART VI - TRANSITION AND EFFECTIVE DATE**

### **§ 160. Transition and effective date.**

The Maritime Act 1987 is hereby repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Title, which date shall be upon the certification of this Act pursuant to Article IV, Section 21 of the Constitution (the “Effective Date”). A vessel duly registered under the laws of the Republic on the Effective Date shall be deemed to be duly registered hereunder. Nothing contained herein shall impair or otherwise affect the status, including but not limited to, the validity and enforceability of any instrument or document issued, filed or recorded or any act taken prior to the date hereof in respect of a vessel duly registered under the laws of the Republic on the Effective Date. Every instrument or document so issued, filed or recorded shall have the same status hereunder as it had immediately prior to the Effective Date hereof, i.e., a vessel mortgage

which was a Preferred Mortgage under the laws of the Republic in effect immediately prior to the Effective Date shall be deemed a Preferred Mortgage hereunder. Every instrument or document issued, filed or recorded and every act taken after the Effective Date in respect of a vessel duly registered under the laws of the Republic shall be in accordance with the terms and provisions of this Title. *[P.L. 1990-92, § 204; amended by P.L. 1990-94, 2(2), which changed the effective date from thirty calendar days from the date of enactment, to the date of certification.]*

## CHAPTER 2

### DOCUMENTATION AND IDENTIFICATION OF VESSELS

Commencement: September 13, 1990

Source:	P.L. 1990-92	P.L. 2000-8	P.L. 1992-32
	P.L. 2001-27	P.L. 2009-16	P.L. 2012-4
	P.L. 2013-7	P.L. 2013-8	P.L. 2016-14

### PART I - VESSEL REGISTRATION

#### § 201. Short title.

This Chapter may be cited as the Documentation and Identification of Vessels Act. *[Short title supplied by Reviser during recodification of the original Act.]*

#### § 202. General provisions.

No vessel engaged in foreign trade shall be documented under the laws of the Republic or be accorded the rights and privileges of a vessel of the Republic unless such vessel shall be registered in accordance with the provisions of this Part. The home port of every vessel so registered shall be Majuro, with the exception of fishing vessels, which shall have a home port of Jaluit, and yachts which shall have the home port of Jaluit or Bikini, and the name of the home port shall be shown on the Certificate of Registry. *[P.L. 1990-92, § 19; P.L. 2001-27, § 202; P.L. 2003-95, § 202.]*

#### § 203. Vessels eligible to be documented and re-documented.

Vessels of the following classes are eligible to be documented or re-documented under the provisions of this Chapter:

- (a) any sea-going vessel engaged in foreign trade, wherever built, owned by a citizen or national of the Republic, or a foreign maritime entity qualified in the Republic.
- (b) any decked commercial fishing vessel of 24 meters or more in length, engaged in foreign trade, wherever built, owned by a citizen or national of the Republic, or a foreign maritime entity qualified in the Republic.
- (c) any commercial yacht of 24 meters or more in length owned by a citizen or national of the Republic, or a foreign maritime entity qualified in the Republic.
- (d) any private yacht of 12 meters or more in length owned by a citizen or national of the Republic, or a foreign maritime entity qualified in the Republic.
- (e) vessels referred to in paragraphs (a), (b), (c) or (d) of this Section will not be eligible for initial documentation or re-documentation if, on January 1 of the year in which initial documentation or re-documentation is sought, such vessels are over 20 years of age, computed from completion of first construction.
- (f) any vessel under construction provided, that, a vessel under construction may only be registered in the name of the party making application for such registration provided that:

(i) upon completion of the vessel under construction pursuant to the terms of the construction contract, such vessel shall meet the requirements of paragraphs (a), (b), (c), or (d) of this Section:

(ii) title to the vessel under construction has vested in the name of the party making application for registration under the terms of the construction contract in respect of such vessel; and

(iii) there are no laws in the country in which the vessel is under construction restricting the right of the party applying for registration in the Republic to effect such registration.

(g) anything in this Section to the contrary notwithstanding, the ownership requirement referred to in Paragraphs (a), (b), (c) and (d); the minimum length restrictions referred to in Paragraphs (b), (c) and (d); and the 20-year maximum age limitation in Paragraph (e) of this Section, may be waived at the discretion of the Maritime Administrator and may be documented or re-documented where:

(i) the vessel meets all other applicable requirements for registration; and

(ii) it has been satisfactorily demonstrated that there is an absolute and genuine need for such waiver.

(h) for vessels entering the registry or flag of the Republic, the Maritime Administrator, or its duly authorized agent, may for good cause shown, including but not limited to cases of international, civil, political or military crisis, temporarily suspend or modify the requirements of this Chapter with respect to registration as well as related requirements for recordation of instruments under Chapter 3, and for good cause shown, permit such vessels to be documented under this Chapter or cause such instruments to be recorded under Chapter 3. *[P.L. 1990-92, § 20; repealed and replaced by P.L. 1992-32, § 4(20); and amended by P.L. 2000-8, § 203(e) and P.L. 2001-27, § 203; P.L. 2012-4, § 203(f).]*

#### **§ 204. Vessels not to be documented.**

(1) Any vessel engaged solely in domestic commerce shall not be documented under the provisions of this Chapter. Vessels operated exclusively within the waters of the Republic shall be documented under the provisions of Chapter 9, Domestic Watercraft Act.

(2) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be documented, the Maritime Administrator, or its duly authorized agent, may refuse registration to a vessel if satisfied that after due consideration it would be detrimental to the interests of the Republic or of international shipping for the vessel to be documented. *[P.L. 1990-92, § 21; P.L. 2001-27, § 204.]*

#### **§ 205. Registration fees.**

With respect to vessels registered under this Chapter, the Maritime Administrator shall establish by Regulation all necessary and proper registration fees. *[P.L. 1990-92, § 22.]*

#### **§ 206. Annual tonnage tax.**

With respect to vessels registered under this Chapter, the Maritime Administrator shall establish by Regulation all necessary and proper annual tonnage taxes. *[P.L. 1990-92, § 23.]*

**§ 207. Title of ship's document**

The ship's document shall be called the "Certificate of Registry". [P.L. 1990-92, § 24.]

**§ 208. Conditions precedent to issuance of Permanent Certificate of Registry.**

Upon receipt of the written application of an owner of a vessel eligible for documentation under the laws of the Republic and requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by Section 209 of this Chapter, the Maritime Administrator, by the Commissioner or any Deputy Commissioner, upon payment of the prescribed fees, may issue a Permanent Certificate of Registry for the vessel provided that the owner furnish proof satisfactory to the issuing officer:

- (a) as to its ownership of the vessel;
- (b) that any foreign marine document for the vessel has been surrendered with the consent of the government that had issued it, or has been legally canceled or otherwise terminated;
- (c) that the vessel is in a seaworthy condition;
- (d) that the owner has paid to the Maritime Administrator or its designee a sum equal to the initial registration fee and tonnage tax;
- (e) that the markings of name, official number, home port and draft required by Section 230 of this Chapter have actually been made;
- (f) that a Certificate of Measurement as required by Section 251 has been issued. [P.L. 1990-92, § 25; P.L. 2001-27, § 208.]

**§ 209. Oaths.**

(1) In order to document a vessel, the owner, managing owner, part owner, or his agent, authorized by power of attorney where such vessel is owned by individuals, or in the case of a corporate-owned vessel by the president, vice president, secretary or assistant secretary of the corporation or other officer or agent as authorized in writing, shall take an oath declaring the name of the vessel, its net tonnage or tonnages, the place where built, the date when built, the name and residence of any other owner and his citizenship, each owner's proportion, and the name of the affiant and his citizenship.

The oath may be taken before the Commissioner, a Deputy Commissioner, a Special Agent or before a notary public or other officer authorized to administer oaths by the laws of the place where the oath is administered or before any other person designated by the Commissioner or a Deputy Commissioner for the administration of such oaths. Nothing contained in this section shall be construed to require the administration of an oath by a Marshall Islands or foreign consul.

The names of the persons owning shares in an incorporated company owning such vessel need not be stated. The oath of any other person interested and concerned in the vessel shall not be required. An agent or attorney who purchases any vessel shall take oath to the ownership of the vessel and that he is the agent or attorney for the owner and in such capacity has made such purchase in good faith.

(2) Whenever the document of any vessel is lost or destroyed, the Master, or other person in command, may take the following oath before the Commissioner or a Deputy Commissioner or a Special Agent or before a notary public or other officer authorized to administer oaths by the laws of the place where the oath is administered or before any other person designated by the Commissioner or a Deputy Commissioner for the administration of such oaths at or nearest to the port where the vessel is first located after such loss or destruction:



“I, (insert the name of the person swearing) being Master or in command of the (insert type of vessel) or vessel called the (insert the name of the vessel), Official No. (insert No.) owned by (insert the name of the owner) of (insert domicile of the owner) do swear (or affirm) that the said vessel has been, as I verily believe, registered according to the law of the Republic of the Marshall Islands by the name of (insert again name of vessel), and that a Permanent (or Provisional) Certificate of Registry bearing No. (insert No. of lost Certificate) was issued for such vessel pursuant to the laws of the Republic of the Marshall Islands at (insert place of issuance of lost Certificate) on (insert date of issuance of lost Certificate), which Certificate has been lost (or destroyed); and that the same, if found, and within my power, will be delivered up to the Maritime Administrator.”

When an oath is taken in the foregoing form, the officer or person administering such oath shall grant to the vessel a temporary Provisional Certificate of Registry and insert therein that it is issued in lieu of the one lost or destroyed. Said officer or person shall forthwith send to the Maritime Administrator a written notice, accompanied by a copy of the oath, advising that such oath has been taken and such temporary Provisional Certificate issued. Upon receipt of such notice the Maritime Administrator, Deputy Commissioner or Special Agent upon being satisfied that the vessel is entitled to a Certificate of Registry, may grant a new Certificate of Registry, identical with that which was lost or destroyed. As soon as practicable after the issuance of such a Certificate of Registry, the temporary Provisional Certificate hereinbefore referred to must be surrendered to the Maritime Administrator for cancellation. [*P.L. 1990-92, § 26; P.L. 2001-27, § 209.*]

**§ 210. *Reserved.***

**§ 211. *Forms of documents.***

(1) The Maritime Administrator or its duly authorized agent may prescribe and furnish forms of Provisional and Permanent Certificates of Registry and Construction Certificates of Registry. A vessel's documents shall be in the form prescribed by the Maritime Administrator.

(2) The Maritime Administrator or its duly authorized agent may prescribe endorsements that may be made on vessel documents from time to time, with or without issuance of a new document or surrender of the old document. [*P.L. 1990-92, § 32; P.L. 2001-27, § 211; P.L. 2012-4, § 211(1).*]

**§ 212. *Numbering of Registry Certificates.***

The Maritime Administrator or its duly authorized agent shall progressively number the Registry Certificates granted by it, beginning anew at the commencement of each year, and shall make a record thereof in a book kept for that purpose. It shall also retain permanently copies of all such documents issued by or surrendered to him. [*P.L. 1990-92, § 33.*]

**§ 213. *Provisional Registry Certificates to vessels abroad.***

(1) Upon compliance with the requirements of Sections 214, 262 or 274 of this Chapter, a Provisional Certificate of Registry may be issued by the Maritime Administrator, by the Commissioner or any Deputy Commissioner or any Special Agent, to vessels abroad which are to be documented under this Chapter.

(2) Unless sooner revoked or suspended, a Provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of the Republic in the foreign trade for a period not exceeding two (2) years, as endorsed thereon.

(3) The Maritime Administrator or its duly authorized agent shall prescribe the conditions in accordance with which Provisional Certificates of Registry shall be issued and renewed and the manner in which they shall be surrendered in exchange for Permanent Certificates of Registry. [P.L. 1990-92, § 34.]

**§ 214. Conditions precedent to issuance of Provisional Certificate.**

(1) Upon receipt by the office of the Maritime Administrator of the written application of an owner of a vessel eligible for documentation under the laws of the Republic and requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by Section 209 of this Chapter, and upon payment of the prescribed fees to the officer receiving said application, the Maritime Administrator or any issuing official listed in Section 213 of this Chapter, may issue a Provisional Certificate of Registry for the vessel, provided the owner shall furnish proof satisfactory to the officer receiving said application:

(a) as to his ownership of the vessel;

(b) that if there is an outstanding foreign marine document for the vessel the government that had issued it has consented to its surrender and that either said marine document has been surrendered for cancellation or that the owner has issued orders to the Master of the vessel to surrender said foreign marine document for cancellation immediately upon receipt of the Provisional Certificate of Registry of the Republic on board the vessel; or that the outstanding document has been legally canceled;

(c) that the vessel is in a seaworthy condition;

(d) that the owner has paid to the Maritime Administrator a sum equal to the initial registration fee and tonnage tax;

(e) that the markings of names, official number, home port, and draft required by Section 230 of this Chapter, have either actually been made or that the owner has issued orders to the Master of the vessel to have said markings made immediately upon receipt of the Provisional Certificate of Registry of the Republic on board the vessel; and

(f) of third party liability insurance including, but not limited to, coverage for pollution liability risks, shipwreck removal, and the ship-owners repatriation obligations under Section 843 of this Act.

(2) Unless the owner within thirty (30) days after issuance of the Provisional Certificate of Registry shall furnish satisfactory proof to the officer to whom the application for documentation has been presented, showing that the vessel's outstanding foreign marine document has actually been surrendered for cancellation and that the markings required by Section 230 of this Chapter, have actually been made, or if before such thirty (30) day period it is established that any of the obligations hereunder will not or cannot be complied with said officer may declare said Provisional Certificate of Registry to be null and void.

(3) As soon as reasonably practicable after a measurement of the vessel and the surrender for cancellation of any outstanding foreign marine document of the vessel and the making of the markings required by Section 230 of this Chapter, a Permanent Certificate of Registry shall be issued in place of any Provisional Certificate theretofore issued, and such Provisional Certificate shall be surrendered as promptly as circumstances permit to the Maritime Administrator. When the Permanent Certificate is issued after the issuance of a Provisional Certificate, the charges originally paid shall be adjusted in accordance with the tonnage established by the Certificate of Measurement.

(4) For good cause shown the Maritime Administrator by the Commissioner or any Deputy Commissioner may, from time to time, issue a new Provisional Certificate of Registry for a period not exceeding two (2) years. [P.L. 1990-92, § 35; P.L. 2001-27, § 214; P.L. 2009-16, § 214(1)(f).]

**§ 214A. Conditions precedent to issuance of Construction Certificate.**

(1) Upon receipt by the office of the Maritime Administrator of the written application of an owner of a vessel under construction eligible for documentation under the laws of the Republic and requesting the issuance of a Construction Certificate of Registry for the vessel and upon payment of the prescribed fees to the officer receiving said application, the Maritime Administrator or any issuing official listed in Section 213 of this Chapter, may issue a Construction Certificate of Registry for the vessel, provided the owner shall furnish proof satisfactory to the Maritime Administrator or officer receiving said application:

- (a) that the construction contract has been entered into (by providing a certified copy of the construction contract);
- (b) that construction of the vessel under construction has begun or commenced; and
- (c) that the party seeking registration of the vessel under construction has paid to the Maritime Administrator a sum equal to the initial registration fee.

(2) As soon as reasonably practicable after completion of the vessel under construction and the compliance with Sections 214 of this Chapter, a Provisional Certificate of Registry shall be issued in place of the Construction Certificate theretofore issued, and such Construction Certificate shall be surrendered as promptly as circumstances permit to the Maritime Administrator. [P.L. 2012-4, § 214A.]

**§ 215. Denial of document.**

There shall be no documents granted or papers issued to any vessel until all applicable provisions of this Part have been complied with. [P.L. 1990-92, § 36.]

**§ 216. Sale of document forbidden.**

A document shall be used solely on the vessel to which it is granted, and it shall not be sold, lent, or otherwise disposed of to any person. [P.L. 1990-92, § 37.]

**§§ 217-219. Reserved.**

**§ 220. Sale or transfer abroad.**

A registered vessel sold or transferred in whole or in part while without the Republic, but without change of Flag, shall comply with the provisions of this Part relating to the documentation of vessels and a new document shall be obtained. [P.L. 1990-92, § 38.]

**§ 221. Transfer foreign.**

The owner of a documented vessel which desires to transfer the vessel to foreign registry may do so provided that there are no unfulfilled obligations to the Republic in respect of the vessel. Before such transfer is accomplished the registered owner shall surrender the ship's document to the Maritime Administrator. [P.L. 1990-92, § 39.]

**§ 222. Application for surrender of documents.**

Before a Certificate of Registry shall be accepted for surrender, the registered owner shall submit to the Maritime Administrator a written application specifying the name of the vessel, the reasons for the proposed surrender, the name and nationality of the proposed new owner, if any, and, if a transfer to foreign registry is contemplated, the name of the country to whose registry transfer is desired. *[P.L. 1990-92, § 40.]*

**§ 223. Surrender and cancellation of Registry.**

(1) If a registered vessel is lost, taken by an enemy, burned, broken up, or otherwise prevented from returning to the port to which she may belong, the Registry Certificate, if preserved, shall be delivered within eight (8) days after the arrival of the Master or person in command, to the Maritime Administrator.

(2) If a registered vessel is lost, broken up or transferred from the registry, the Maritime Administrator may, subject to the provisions of this Chapter, strike or delete the vessel from the Registry of the Republic.

(3) When the application is made for new registry of a vessel, its former Registry Certificate shall be delivered to the Maritime Administrator.

(4) Where a Registry Certificate is granted in lieu of one lost, the lost Certificate, if found, shall be delivered to the Maritime Administrator, which shall thereupon cancel it.

(5) The continued validity of the Registry Certificate of a vessel is subject to:

- the payment of tonnage taxes when due,
- the good standing of the owning entity, and
- verification for safety compliance,

If an owner or vessel is deemed to be non-compliant, the Certificate shall be delivered immediately to the Maritime Administrator, which shall thereupon cancel it. *[P.L. 1990-92, § 41; P.L. 2001-27, § 223.]*

**§ 224. Surrender of document of vessel subject to Preferred Mortgage.**

The Certificate of Registry of a vessel subject to a Preferred Mortgage shall not be accepted for surrender without the consent of the mortgagee, except in the case of a Provisional Certificate surrendered for the purpose of issuance of a Permanent Certificate. *[P.L. 1990-92, § 42.]*

**§ 225. New document.**

(1) Whenever a documented vessel is sold or transferred wholly or partly without change of flag, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, she shall be documented anew. Every such sale or transfer shall be evidenced by a written instrument in the nature of a bill of sale to which is attached a true copy of the vessel's latest Certificate of Registry. Otherwise the vessel shall not be documented anew. In cases of a combination vessel that can be used either for the carriage of liquid cargo in bulk or dry cargo in bulk, if the Certificate of Registry shows the vessel in the condition or use providing the greater net and gross tonnage and has attached thereto an appendix showing the vessel in the other or use with the lesser gross

and net tonnage, then a change of a vessel from one condition or use to the other would not require the vessel to be documented anew.

(2) When the Maritime Administrator determines that any vessel has been sold or transferred by process of law, and that her document is retained by the former owner, he may grant a new document under such sale upon the owner complying with the requirements of this Part, excepting only the delivering up of the former document. This Subsection shall not remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel on a transfer or sale of the same.

(3) Any vessel required by this Part to be documented anew, which is not so documented, shall not be deemed a vessel of the Republic. If a former document has not been delivered up, except where it has been lost or destroyed and the oath thereto has been taken, the owner of such vessel shall be subject to a penalty of not more than five thousand US dollars (US\$5,000) and, until paid, such penalty shall constitute a maritime lien on the vessel. [*P.L. 1990-92, § 43; P.L. 2001-27, § 225; P.L. 2013-7, §225(3); P.L. 2016-14, §225(1).*]

### **§ 226. Builder's Certificate.**

In order for the first time to register a vessel newly built and previously undocumented under any flag, the builder, by whom or under whose direction the vessel has been built, shall certify as follows:

- (a) that it was built by him or under his direction;
- (b) the place where built;
- (c) the date delivered;
- (d) the person for whom built;
- (e) build;
- (f) number of decks and masts;
- (g) length;
- (h) breadth;
- (i) depth;
- (j) tonnage or tonnages; and
- (k) such other circumstances as are usually descriptive of the identity of a vessel. [*P.L. 1990-92, § 44; P.L. 2001-27, § 226.*]

### **§§ 227-229. Reserved.**

### **§ 230. Names, numbers and marks on vessels.**

(1) Every documented vessel shall have her name marked upon each bow and upon the stern. The home port of the vessel shall also be marked upon the stern. These names shall be painted or gilded upon beaded or cast Roman letters in light color on a dark background, or in a dark color on a light background, permanently affixed and distinctly visible. The smallest letters used shall not be less than six inches in height.

(2) Each vessel of the Republic, in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in height, on each outer side of the pilot house.

(3) The Maritime Administrator may prescribe a system of numbering and marking documented vessels. The designated number(s) of each vessel shall be marked permanently on her main beam.

(4) The draft of every registered vessel shall be marked upon the stem and stern post, in English feet or in decimeters, in Arabic numerals. The bottom of each numeral shall indicate the draft to that line. *[P.L. 1990-92, § 45; P.L. 2001-27, § 230.]*

### **§ 231. Numbering of vessels.**

Upon the initial registration of a vessel, the Maritime Administrator or its duly authorized agent shall assign to the vessel an official number. *[P.L. 1990-92, § 46; P.L. 2001-27, § 231.]*

### **§ 232. Change in name of vessel.**

(1) The Maritime Administrator may change the name of a vessel of the Republic on application of the owner.

(2) The Maritime Administrator may establish necessary Rules and Regulations and procure necessary evidence as to age, condition, where built, and pecuniary liability of the vessel so as to prevent injury to public or private interests.

(3) The owners of the vessel shall pay the fee prescribed by the Maritime Administrator for securing such changes in name.

(4) Whenever the name of a vessel of the Republic is changed, or any device advertisement, or contrivance is used with intent to deceive as to its true name or character such vessel shall forfeit its registration in the Republic. *[P.L. 1990-92, § 47; P.L. 2001-27, § 232; P.L. 2016-14; §232(2) through (4).]*

### **§ 233. Inspection of document.**

Any officer designated by the Maritime Administrator, the Commissioner or a Deputy Commissioner, or who within the Republic is concerned in the collection of government revenue, may at all times inspect the Certificate of Registry and tonnage tax receipt of a vessel of the Republic. A Master who fails to exhibit the same, when required by such officer, shall be subject to a penalty of one thousand US dollars (US\$1,000), and, if his failure is willful, shall be subject to a penalty of not more than ten thousand US dollars (US\$10,000), imprisonment for a term not exceeding one (1) year, or both. *[P.L. 1990-92, § 48; P.L. 2013-7, §233.]*

### **§ 234. Display of ship's papers.**

(1) Upon arrival during customary business hours of a documented vessel at any foreign port where there is an agent appointed by the Maritime Administrator, the Master, ship's agent or other authorized person shall, upon request thereof, display to him on board during customary business hours, without payment of any fee, the vessel's Certificate of Registry and Annual Tonnage Tax Receipt.

(2) Only the Certificate of Registry and Annual Tonnage Tax Receipt shall be required to be so displayed, and this requirement shall be waived when the vessel's papers have been so displayed in the same port within ninety (90) days previously.

(3) Where a request has been made and the ship's papers have not been properly displayed, the vessel shall not be detained by the agent appointed by the Maritime Administrator making the request, but such non-compliance shall be immediately reported to the Maritime Administrator.

(4) Whether local port regulations do or do not require clearance of a vessel from an agent appointed by the Maritime Administrator, it shall not be required in relation to such clearance that the signing on or off of crew or the execution of any ship's papers or documents be done before an agent appointed by the

Maritime Administrator, or that any ship's papers or documents be witnessed, visaed, stamped or otherwise legalized by a representative appointed by the Maritime Administrator. [*P.L. 1990-92, § 49; P.L. 2001-27, § 234.*]

### **§ 235. Perjury.**

(1) If any owner, agent, attorney-in-fact or other party (except for the Master) commits perjury in an oath or affirmation taken to obtain documentation of a vessel, such vessel and, her tackle, apparel, and furniture shall be forfeited, or the value thereof recovered from such person.

(2) A Master who commits perjury in taking such oath or affirmation shall be subject to a penalty of not more than ten thousand US dollars (US\$10,000), imprisonment for a term not exceeding one (1) year, or both; but the vessel shall not thereby be forfeited. [*P.L. 1990-92, § 50; P.L. 2001-27, § 235, penalty provisions increased; P.L. 2013, §235.*]

### **§ 236. Rules and Regulations.**

The Maritime Administrator is hereby authorized, in keeping with the provisions of Section 103 of this Title to make such Rules and Regulations, not inconsistent with the provisions of this Title, for the registration, identification and regulation of transfers of vessels as it may deem in the best interests of the Merchant Marine of the Republic. [*P.L. 1990-92, § 51.*]

### **§ 237. Standards of seaworthiness.**

The Maritime Administrator may from time to time establish by Regulation standards of seaworthiness required for the registration of vessels under this Chapter and may appoint Classification Societies or others to determine any questions involved. [*P.L. 1990-92, § 52; P.L. 2001-27, § 237.*]

### **§ 238. Collection of fees and taxes; penalties and liens.**

(1) Except for yachts, fishing vessels and as otherwise provided therein, the tonnage tax imposed by Section 206 of this Part, while payable in advance and due on the first day of January in each year, may be paid without penalty in installments as follows:

(a) fifty percent (50%) on or before January 1; and

(b) the second fifty percent (50%) on or before July 1 of the year in respect of which such taxes are due.

Except as specifically designated by the Maritime Administrator through Regulation, there shall be no rebate or proration of tonnage tax and the entire annual tonnage tax shall be due in respect of a vessel which remains on the Register of the Republic for any portion of any calendar year. Any and all annual fees payable under the Maritime Regulations shall be paid in advance by January 1 of the year in respect of which such fees are due. A penalty at a rate established by Maritime Regulation shall be imposed for late payment of such fees and tax; such Regulation shall be promulgated before November 1 to take effect as of January 1 of the succeeding year, and the penalty rate thereby established shall be effective until altered by subsequent Regulation. If payment is delayed beyond July 1 of the year in respect of which such fees and tax are due, the Certificate of Registry of the vessel in question may be suspended and confiscated until all outstanding fees, taxes and penalties are paid, or, in the alternative, the Certificate of Registry may be canceled by the Maritime Administrator.

(2) The Maritime Administrator is authorized to issue official receipts for annual tonnage taxes, annual fees, and any penalties relating thereto.

(3) All unpaid tonnage taxes, fees, penalties and other charges arising under this Act or Regulations made thereunder shall constitute a maritime lien on the vessel in respect of which such amounts are due, and anything in Section 316 of this Title to the contrary notwithstanding, such lien shall have priority over all others save those for wages and salvage.

(4) No Certificate of Registry shall be returned to the Master of a vessel by an officer of the Maritime Administrator with whom it may have been deposited until proof is furnished that the annual tonnage tax and annual fees for the then current year have been paid. [P.L. 1990-92, § 53; P.L. 2001-27, § 238; P.L. 2013-8, § 238(1).]

**§ 239. Jurisdiction and control of the Republic exclusive.**

From the time of issuance of a Certificate of Registry under this Chapter and until its expiration, termination, revocation or cancellation, whichever first occurs, the vessel shall be granted and shall enjoy the right to fly the Flag of the Republic exclusively, unless its Certificate of Registry is specifically endorsed so as to withdraw that right. At all times during the period that a vessel has the right to fly the Flag of the Republic, the vessel shall be subject to the exclusive jurisdiction and control of the Republic as the Flag State, in accordance with the applicable international conventions and agreements and with the provisions of this Act and any Regulations or Rules made thereunder. [P.L. 1990-92, § 54.]

**§§ 240-249. Reserved.**

**PART II - VESSEL MEASUREMENT**

**§ 250. Measurement.**

A vessel shall not be permanently registered until measured by a person appointed by the Maritime Administrator. [P.L. 1990-92, § 27.]

**§ 251. Certificate of Measurement.**

The person or agent appointed under Section 250 of this Chapter, to measure a vessel shall certify, specifying the building of the vessel, number of decks and masts, length, breadth, depth, tonnage or tonnages, and such other particulars usually descriptive of the identity of a vessel, and that the markings required by Section 230 of this Chapter have actually been made. [P.L. 1990-92, § 28.]

**§ 252. Measurement of vessels.**

The Maritime Administrator shall by Regulation prescribe the method of measurement for all vessels registered under this Chapter. [P.L. 1990-92, § 27.]

**§ 253. Reserved.** [P.L. 2001-27, § 253. Terminated, no longer statutorily applicable.]

**§ 254. Tonnage statements in Registry Certificate.**

(1) Each ship's permanent document shall state the gross and net tonnage or tonnages determined in accordance with such Rules and Regulations as the Maritime Administrator may prescribe.

(2) Upon application by the owner or Master of a vessel of the Republic in foreign trade, the Maritime Administrator or its duly authorized agent may attach to the document an appendix stating separately, for use in foreign ports, the measurement of such space or spaces as are there permitted to be deducted from gross tonnage or tonnages. [P.L. 1990-92, § 31.]

**§§ 255-259. Reserved.**



**PART III - BAREBOAT CHARTER**  
**REPUBLIC OF THE MARSHALL ISLANDS REGISTRATION**

**§ 260. Recording of bareboat charter party.**

(1) A citizen or national of the Republic or a foreign maritime entity that qualifies in the Republic, desiring to obtain provisional registration under this Act of a vessel which such citizen or national or foreign maritime entity possesses by bareboat charter, and which in all respects other than ownership complies with the requirements of Part I of this Chapter, must cause a true copy of the charter party to be duly recorded in books to be kept for that purpose and indexed to show:

- (a) the name of the vessel;
- (b) the names of the bareboat charterer, the shipowner and the holders of any registered mortgages, hypothecations or similar charges;
- (c) the time and date of recording of the charter party;
- (d) the period of duration of the charter party; and
- (e) the foreign State of registration of the vessel.

(2) The following documents must be filed with the Office of the Maritime Administrator:

- (a) an official certificate from the foreign State of registration setting forth the ownership of the vessel and any recorded encumbrances;
- (b) the written consents of the shipowner and of the mortgagee(s), if any, to the provisional registration of the vessel in the Republic under this Part; and
- (c) satisfactory evidence that the foreign State of registration will withdraw from the vessel the right to fly the flag of that State while the vessel is subject to the bareboat charter recorded under Subsection (1) of this Section.

(3) Any subsequent amendments or addenda to the charter party recorded under Subsection (1) of this Section and any and all present or subsequent bareboat subcharter parties shall be submitted for recording within thirty (30) days of execution. *[P.L. 1990-92, § 55; P.L. 2001-27, § 260.]*

**§ 261. Undertaking of bareboat charterer.**

The bareboat charterer shall execute under oath or affirmation an undertaking that while the vessel is granted the right to fly the Flag of the Republic she will not fly any other flag nor show any home port other than Majuro, and that the bareboat charterer will without delay notify the Office of the Maritime Administrator if any foreign State shall accord the vessel the right to fly its flag. *[P.L. 1990-92, § 56.]*

**§ 262. Bareboat charter; Certificate of Registry.**

(1) When the charter party has been recorded and an application for registration of the vessel has been executed and filed by the bareboat charterer together with all necessary documents and payment of all taxes and fees, the Maritime Administrator shall issue to the vessel a Provisional Certificate of Registry, valid for a period not exceeding two (2) years or until the date of termination of the bareboat charter, whichever first occurs.

(2) Prior to the expiration of the current Provisional Certificate of Registry, the bareboat charterer may obtain a new Provisional Certificate of Registry, valid for a period not exceeding two (2) years. In no case may a Provisional Certificate of Registry reissued under this Subsection bear an expiration date later than or remain valid beyond the date of termination of the bareboat charter. *[P.L. 1990-92, § 57; P.L. 2001-27, § 262.]*

**§ 263. Penalty for flying foreign flag; termination of Marshall Islands registration.**

(1) If the bareboat charterer breaches the undertaking given under Section 261 of this Chapter, or if a vessel while registered under any provisions of this Chapter shall be found flying or pretending entitlement to fly the flag of a foreign State without first complying with Sections 270 and 271 of this Chapter, the owner and/or bareboat charterer shall be liable to pay an administrative penalty not to exceed fifty thousand dollars (US\$50,000), which shall until paid constitute a maritime lien upon the vessel. Such penalty may be imposed without regard to any other penalties for perjury or fraud.

(2) The bona-fide grant by a foreign State of the right to fly the flag of that State shall, from the time of such grant, terminate provisional registration of a vessel in the Republic under Section 262 of this Part, but shall not terminate registration of a vessel of the Republic under any other Section of this Chapter. *[P.L. 1990-92, § 58.]*

**§ 264. Recognition and recordation of notice of foreign ship mortgage.**

(1) Without prejudice to the continuing foreign legal status of a ship mortgage, hypothecation or similar charge made and registered in accordance with the laws of a foreign State, a notice may be recorded in the central office of the Maritime Administrator in the United States of America, that such mortgage exists.

(2) No notice in respect of a ship mortgage, hypothecation or similar charge, or any other instrument related thereto shall be accepted for recording under this Section unless it has first been duly and validly executed and registered in the foreign State of registration of the vessel. If there is more than one such mortgage, hypothecation or similar charge, then notices in respect of all such instruments may be recorded under the provisions of this Section in the same order as they are registered in the foreign State of registration.

(3) If notice in respect of a foreign mortgage, hypothecation or similar charge has been recorded pursuant to Subsection (1) of this Section, then any subsequent mortgage, hypothecation or similar charge and any other instrument related thereto which is subsequently registered in accordance with the laws of the foreign State of registration of the vessel shall also be recorded forthwith in accordance with the provisions of Chapter 3 of this Title. *[P.L. 1990-92, § 59. Reference to New York clarified. P.L. 2001-27, § 264.]*

**§§ 265-269. Reserved.**

**PART IV - BAREBOAT CHARTER  
FOREIGN REGISTRATION**

**§ 270. Bareboat charter registration in foreign State.**

No vessel registered under the provisions of this Chapter may obtain valid bareboat charter registration in a foreign State unless the owner first applies for and receives the permission of the Maritime Administrator or its duly authorized agent. *[P.L. 1990-92, § 60; P.L. 2001-27, § 270.]*

**§ 271. Consent of mortgagee.**

In the event that the vessel is subject to one or more Preferred Ship Mortgages of the Republic, the written consent of each mortgagee to the foreign bareboat charter registration shall be duly filed prior to issuance of a Certificate of Permission under Section 272 of this Chapter. *[P.L. 1990-92, § 61.]*

**§ 272. Certificate of Permission.**

Upon granting permission under Section 270 of this Part, for a vessel of the Republic to obtain bareboat charter registration in a foreign State, the Maritime Administrator or its duly authorized agent shall issue a Certificate of Permission to obtain such registration. *[P.L. 1990-92, § 62; P.L. 2001-27, § 272.]*

**§ 273. Right to fly the flag of the Republic withdrawn.**

(1) The Certificate of Permission for bareboat charter registration in a foreign State shall declare that the right to fly the Flag of the Republic and to show the home port of Majuro is withdrawn while the vessel is subject to the bareboat charter identified in the Certificate. The Certificate shall also state that the Republic recognizes the named foreign State as the competent authority to exercise exclusive jurisdiction and control over the vessel in accordance with the applicable international conventions and agreements.

(2) Notwithstanding that the right to fly the Flag of the Republic shall have been withdrawn during the period of bareboat charter registration in the foreign State, in the event that the vessel remains subject to one or more Preferred Ship Mortgages recorded under this Title, such mortgage shall, unless satisfied, released or discharged of record, remain in full force and effect and be governed solely and exclusively by the laws of the Republic of the Marshall Islands. *[P.L. 1990-92, § 63.]*

**§ 274. Restricted Certificate of Registry.**

(1) Once a Certificate of Permission has been issued under Section 272 of this Part, the owner of the vessel shall surrender her current Certificate of Registry, and a new Provisional Certificate of Registry shall be issued to the vessel, boldly endorsed to show that the right to fly the Flag of the Republic has been withdrawn. The endorsed Provisional Certificate of Registry, together with all other documents and certificates issued by the Republic to the vessel, shall be surrendered to and retained by the Maritime Administrator.

(2) Prior to the expiration of the current Provisional Certificate of Registry, the owner may obtain a new Provisional Certificate of Registry valid for a further period not exceeding two (2) years. In no case may a Provisional Certificate of Registry issued under this Subsection bear an expiration date later than or remain valid beyond the date of termination of the bareboat charter. *[P.L. 1990-92, § 64; P.L. 2001-27, § 274.]*

**PART V - YACHT REGISTRATION**

**§ 275. Documentation of yachts.**

A private or commercial yacht is entitled to be registered if:

- (a) it is owned, to the prescribed extent, by a citizen or national of the Republic, or a foreign maritime entity qualified in the Republic;
- (b) such other conditions are satisfied as are prescribed under Part I and Part II of this Chapter;

(c) a certificate of survey, statement of compliance or similar document, is received from the yacht owner; and

(d) an application for yacht registration is duly made. *[P.L. 2001-27. New yacht provision.]*

**§ 276. Yacht Certificate of Registry.**

Upon receipt by the office of the Maritime Administrator of the written application of an owner of a yacht eligible for documentation under the laws of the Republic and requesting the issuance of a Yacht Certificate of Registry for the vessel, accompanied by the oath or oaths required by Section 209 of the Chapter, and upon payment of the prescribed fees to the officer receiving said application, the Maritime Administrator or its duly authorized agent, may issue a Yacht Certificate of Registry for the yacht. *[P.L. 2001-27. New yacht provision.]*

**§ 277. Continuing validity of Yacht Certificate of Registry.**

All Private and Commercial Yacht Certificates of Registry issued under this Chapter, although issued without an expiration date, shall be subject to annual revalidation. The continued validity of the Yacht Certificate of Registry shall be contingent upon:

(a) the good standing of the owning entity,

(b) the payment of tonnage taxes and all outstanding fees and penalties when due, and

(c) the completion of annual safety inspections, if applicable, by the anniversary date of initial issue verifying compliance with the relevant requirements of this Chapter and the applicable Rules and Regulations established by the Maritime Administrator. *[P.L. 2001-27. New yacht provision.]*

**§ 278. Refusal and termination of registration.**

(1) The Maritime Administrator may, nevertheless, refuse to register or terminate the registration of a yacht if, taking into consideration the relevant requirements of this Chapter and the applicable Rules and Regulations, it is considered inappropriate for the yacht to be or remain to be registered under the laws of the Republic.

(2) Registration shall automatically terminate with the failure to maintain the continued validity of the Yacht Certificate of Registry. *[P.L. 2001-27. New yacht provision.]*

**PART VI - FISHING VESSEL REGISTRATION**

**§ 279. Fishing vessel documentation.**

(1) A fishing vessel is entitled to be registered if:

(a) it is owned, to the prescribed extent, by a citizen or national of the Republic, or a foreign maritime entity qualified in the Republic;

(b) such other conditions are satisfied as are prescribed under Part I and Part II of this Chapter;

(c) a certificate of survey, statement of compliance or similar documentation, is received from the owner; and

(d) an application for fishing vessel registration is duly made.

(2) The Maritime Administrator shall document fishing vessels in the same manner as any other vessel engaged in foreign trade subject to the Rules and Regulations established by the Maritime Administrator, and to the laws and treaty obligations of the Republic. *[P.L. 2001-27. New fishing vessel provision.]*

**§ 280. Refusal and termination of registration.**

(1) The Maritime Administrator may, nevertheless, refuse to register a fishing vessel if, taking into consideration the relevant requirements of this Chapter and the applicable Rules and Regulations established by the Maritime Administrator, it is considered inappropriate for the fishing vessel to be registered under the laws of the Republic.

(2) The Maritime Administrator may terminate a fishing vessel's registration if:

(a) having given regard to matters relating to subsection (1) above, it would be detrimental to the interests of the Republic or of international shipping for a registered fishing vessel to continue to be registered;

(b) a penalty imposed on the owner of a registered fishing vessel in respect of a contravention of this Title, or of any instrument in force under this Title, has remained unpaid for a period of more than three (3) months;

(c) the annual tonnage tax has remained unpaid for a period of more than one (1) year; or

(d) the vessel becomes a total or constructive total loss. *[P.L. 2001-27. New fishing vessel provision.]*

## CHAPTER 3

### PREFERRED SHIP MORTGAGES AND MARITIME LIENS

Commencement: September 13, 1990

Source:	P.L. 1990-92	P.L. 2000-8	P.L. 2013-5
	P.L. 1992-93	P.L. 2001-27	P.L. 2013-7
	P.L. 1997-33	P.L. 2012-4	P.L. 2016-14

#### § 301. Short title.

This Chapter may be cited as the Preferred Ship Mortgage and Maritime Liens Act. *[Short title supplied by Reviser during recodification of the original Act.]*

#### § 302. Recording and contents.

(1) A sale, conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid in respect of such vessel, against any person other than the grantor or mortgagor, his heirs or devisees and persons having actual notice thereof until the instrument evidencing such transaction is recorded in the central office of the Maritime Administrator, in the United States of America, or by its duly authorized agent elsewhere.

(2) Each duly authorized agent of the Maritime Administrator, wherever located, shall have full authority to record such instrument or instruments.

(3) The central office of the Maritime Administrator in the United States of America, or its duly authorized agent elsewhere, shall record such instruments in the order of their reception in appropriate indexes to be kept for that purpose, showing:

- (a) the name of the vessel;
- (b) the names of the parties;
- (c) the time and date of reception of the instrument affected;
- (d) the interest in the vessel transferred or affected; and
- (e) the amount or amounts of the direct or contingent obligations, including those provided for in Section 309 of this Chapter, that are or may become secured by the mortgage. *[P.L. 1990-92, § 65; amended by P.L. 1992-32, § 4; P.L. 2001-27, § 302.]*

#### § 302A. Registration, Recordation, and Discharge of Financing Charters

(1) Without adversely affecting the documentation or the eligibility for documentation or the renewal of documentation of a vessel, a documented owner and a charterer may execute a contract in the form of a demise or bareboat charter and either the documented owner or the charterer may register for recordation a true copy thereof with the Commissioner or Deputy Commissioner with respect to a vessel documented in the name of such documented owner. Such contract shall be signed and acknowledged by the documented owner and the charterer and shall include the name and official number of the vessel, the date of such contract, the names and addresses of the documented owner and the charterer, and shall state, as the total amount secured thereby, the maximum aggregate of the nominal amount of all charter hire payments, termination payments, and purchase or put option amounts which could under any circumstances be due and payable under such financing charter, exclusive of any interest, indemnities, expenses, or fees. A security interest in a vessel in favor of a documented owner evidenced by any such

contract which is a financing charter, which is registered for recordation in compliance with this section 302A, shall be deemed to be a Preferred Mortgage on the vessel in favor of the documented owner for all purposes, effective for all purposes as of the date and time of filing. All the provisions of this Chapter 3 shall apply to any contract filed in accordance with this section 302A that is a financing charter.

(2) A documented owner may also register for recordation, any renewals, amendments, supplements, assignments, or other instruments related to any contract filed pursuant to paragraph (1) of this section 302A.

(3) A documented owner shall have the power to grant one or more Preferred Mortgages encumbering the whole of a vessel, and any supplements, amendments, assignments, or other instruments related thereto, notwithstanding that such documented owner or predecessor in interest shall have entered into any contract which is deemed to be a Preferred Mortgage on the vessel pursuant to paragraph (1) of this section 302A.

(4) The mere registration or recording of a contract as a financing charter hereunder shall not constitute evidence that such contract is, in fact, a financing charter or that it creates a security interest.

(5) With respect to any financing charter, the documented owner party thereto shall be deemed a mortgagee under a Preferred Mortgage and the finance charterer shall be deemed the mortgagor, for all purposes under the laws of the Republic.

(6) Without affecting the validity of the financing charter as a Preferred Mortgage, the parties to a financing charter may redact or omit any exhibit thereto including, without limitation, any schedule with respect to the due date and amount of individual installments of charter hire and the timing and amounts of individual purchase options, termination payments or puts.

(7) An existing demise or bareboat charter which does not itself meet the requirements set forth in this section 302A may be eligible for filing as a financing charter upon execution and acknowledgment of an amendment or supplement which specifically attaches and incorporates the existing demise or bareboat charter and which amendment or supplement then meets the recording requirements of this section 302A.

(8) The Maritime Administrator may accept for filing a discharge of a Preferred Mortgage maritime lien which is evidenced by a recorded financing charter under this section 302A; provided, however, that such filing will itself not affect the registration of the vessel or otherwise affect any rights or obligations of the parties under the financing charter. [*P.L. 2013-5, § 302A; P.L. 2016-14; §302A(1), and (3) through (8).*]

### **§ 303. Preferred Mortgage.**

(1) A valid mortgage, whenever made, which at the time it is made includes the whole of any vessel, including, for the avoidance of doubt, any vessel under construction, shall have a preferred status in respect of such vessel as of the date of its recordation if the mortgage is recorded as provided herein. The preferred status of a mortgage under this Chapter shall not be prejudiced or impaired by reason of the fact that such instrument secures the payment, pledge or assignment of monies or rights, due or to become due, such as, but not limited to, guarantee fees, insurance options, charter hire, freight revenues or any other fees, costs or charges, direct or contingent, incidental to the sale, purchase or operation of a vessel of the Marshall Islands; or the applicability of or compliance with any provision of Section 309 of this Chapter; or by reason of the fact that no advance of monies is or has been made at the time of its recordation.

(2) Notwithstanding the provisions of the first sentence of subsection (1) of this Section, a valid mortgage whenever made which (i) includes the whole of any vessel, (ii) is recorded as provided herein, and (iii) is granted in continuation of a prior recorded mortgage, hypothecation or similar charge on such vessel, whether granted under the laws of the Marshall Islands or the laws of another nation under which the vessel was documented at the time such prior mortgage was recorded, shall have preferred status in respect of such vessel as of the date of recordation of such prior mortgage. For purposes of this subsection, a mortgage “granted in continuation of a prior recorded mortgage, hypothecation or similar charge” shall mean a mortgage on a Marshall Islands vessel where:

- (a) The vessel covered by such mortgage is a vessel covered by the prior mortgage, hypothecation or similar charge;
- (b) The obligations secured by such mortgage are obligations secured by the prior mortgage, hypothecation or similar charge;
- (c) Such mortgage is granted by the current vessel owner whether or not the owner is the vessel owner which granted the prior mortgage, hypothecation or similar charge to secure obligations secured by the prior mortgage, hypothecation or similar charge; and
- (d) For a vessel entering the Registry of the Republic, such mortgage is recorded during the period defined in § 303(3).

Nothing in this subsection (2) shall be construed to pre-empt any non-statutory law which, taking into account the foregoing and/or other circumstances, would recognize the preferred status of a mortgage on a vessel of the Marshall Islands prior to the date of recording thereof.

(3) For a vessel entering the registry of the Republic, the preferred status of a mortgage, hypothecation or similar charge on such vessel recognized under Section 317 shall continue for a period of thirty (30) days following registration of the vessel if the information with respect to such mortgage required by the Maritime Administrator is furnished to the Administrator in connection with the registration of the vessel under the laws of the Republic. Such preferred status shall not be adversely affected by the deletion or release of the mortgage as a matter of record from the vessel’s prior register in connection with, or as a condition to, deletion of the vessel from that register.

(4) In the interpretation and application of this Section, a certified Extract of the Preferred Mortgage Index of the public register maintained by the Maritime Administrator, a Certificate of Ownership and Encumbrance issued by such Administrator or, in the case of a mortgage, hypothecation or similar charge recorded in another nation, similar documentation, including a transcript of registry, certified or issued by the appropriate governmental agency in such nation, shall be accepted as evidence of the granting and recordation of a mortgage, hypothecation or similar charge, including the date of recordation thereof. *[P.L. 1990-92, § 66; amended by P.L. 1992-32, § 4; P.L. 1997-33, § 10A; P.L. 2000-8, § 303; P.L. 2001-27, § 303 P.L. 2012-4, § 303(1).]*

#### **§ 304. Termination of mortgagee’s interest.**

(1) The interest of a mortgagee in a vessel registered under this Title shall not be terminated by a forfeiture of the vessel for a violation of any law of the Republic, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

(2) A vessel which is the subject of a Preferred Mortgage may not be canceled from the Register for so long as the indebtedness secured by the Preferred Mortgage remains unsatisfied or the Mortgage is not otherwise discharged; provided however, that the Maritime Administrator may, not less than 60 days following the mailing of notice to all mortgagees of record at their last known mailing addresses of its



intent to do so, strike a vessel from the Registry and Flag of the Republic as a result of receipt by it of evidence satisfactory to it that the vessel has been lost, destroyed, or transferred to another registry following sale by order of an Admiralty Court in a civil action *in rem*; such administrative action by the Maritime Administrator shall not impair or affect the lien or status of any Preferred Mortgage recorded under this Chapter, nor shall it terminate the interest of a mortgagee in such a vessel. [P.L. 1990-92, § 67; amended by P.L. 1992-32, § 4.]

### **§ 305. Ship mortgage; conditions precedent.**

A mortgage shall not be recordable unless it states the interest of the mortgagor in the vessel, and the interest so mortgaged. A mortgage or instrument of release or discharge thereof shall not be recorded unless it bears an apostille issued by a competent authority of a State Party to the Hague Convention of 5 October 1961, as amended, or has been acknowledged or is submitted with such other proof of due execution as may be required by Regulation. [P.L. 1990-92, § 68; P.L. 2001-27, § 305.]

### **§ 306. Bill of sale; recording.**

The central office of the Maritime Administrator in the United States of America or its duly authorized agent elsewhere may accept for recording any bill of sale or other conveyance of a vessel or a facsimile thereof, the original of which has been received by a Commissioner, any Deputy Commissioner or any Special Agent, which recites the interest of the seller in the vessel and the interests sold or conveyed, provided it has previously been acknowledged or is submitted with such other proof of due execution as may be required by Regulation, and provided further that any bill of sale of a vessel already documented under the laws of Republic must have attached thereto a true copy of its latest Certificate of Registry. [P.L. 1990-92, § 69; amended by P.L. 1992-32, § 4; P.L. 2001-27, § 306.]

### **§ 307. Mortgages; recording.**

The central office of the Maritime Administrator in the United States of America, or its duly authorized agent elsewhere, may accept for recording any mortgage on a vessel, whenever made, which recites the interest of the mortgagor in the vessel and the interest so mortgaged, provided it bears the Hague Convention apostille or has been acknowledged or is submitted with such other proof of due execution as may be required by Regulation, and provided further that written proof is furnished to it of the amounts and dates of any documents or evidence of debts in support thereof. The central office of the Maritime Administrator or its duly authorized agent elsewhere shall record a mortgage or related instrument submitted to it in proper form, and shall thereupon, upon request, issue a Certified Extract of the Preferred Mortgage Index of the public register maintained by the Maritime Administrator, as evidence of recordation of a Preferred Ship Mortgage under this Chapter. A Certificate of Ownership and Encumbrance shall upon timely request be issued by the central office of the Maritime Administrator or its duly authorized agent elsewhere, setting forth all recorded mortgages, encumbrances and related instruments with respect to a vessel registered under this Title as of the time and date of its issuance. [P.L. 1990-92, § 70; amended by P.L. 1992-32, § 4; P.L. 2001-27, § 307.]

### **§ 308. Allocation of mortgage indebtedness.**

(1) A mortgage which complies with the conditions enumerated in this Chapter is designated as a Preferred Mortgage.

(2) If a Preferred Mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

(3) If a vessel covered by a Preferred Mortgage under this Chapter, that includes more than one vessel, or property that is not a vessel, is to be sold on the order of an Admiralty Court in a civil action *in rem* and the mortgage does not provide for separate discharge as provided in Section 308(2) of this Chapter, the said Preferred Mortgage shall constitute a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and an allocation of mortgage indebtedness for purposes of separate discharge may not be made by such Court among the vessel and other property covered by the mortgage. [P.L. 1990-92, § 71; amended by P.L. 1992-32, § 4; amended by P.L. 1999-91, § 2.]

### **§ 309. Advances and repayments.**

(1) Advances or other value given pursuant to commitment:

(a) A Preferred Mortgage may secure future advances including contingent obligations and shall not be extinguished or lose its priority because all previously outstanding obligations secured thereby have been fully repaid or otherwise performed, provided that an advance or other value is to be given at a later time pursuant to commitment existing at the time the Mortgage is recorded. For the purpose of this paragraph an advance or other value is given “pursuant to commitment” if the mortgagee or other person entitled to the benefit of the security of the mortgage has bound himself to give it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.

(b) When a Preferred Mortgage secures an obligation in respect of which one or more advances or repayments may be made from time to time in the future and the maximum amount outstanding under the obligation at any one time is limited to a certain amount, the amount to be recorded with respect to such obligation may be either:

- (i) such maximum amount that may be outstanding at any one time, or
- (ii) the aggregate of all possible advances that may be made.

(c) A Preferred Mortgage made pursuant to commitment shall clearly indicate whether the amount is the maximum amount that may be outstanding at any one time or is the aggregate of all possible advances.

(2) Advances or other value given pursuant to agreement:

(a) Notwithstanding any other provision of this Chapter, a Preferred Mortgage may secure an agreed-upon maximum amount representing all debts or obligations arising or that may arise between the debtor and the creditor within a specified period. Such maximum amount may exceed the value of the vessel or vessels, which may themselves represent only a part of all of the assets that are subject to the Preferred Mortgage. Only that indebtedness incurred on or prior to the maturity date or date of termination of a Preferred mortgage made “pursuant to agreement” shall retain its status and ranking as a preferred maritime lien under this Chapter. The indebtedness secured thereby shall include all expenses and interest associated with such indebtedness prior to maturity. A Preferred Mortgage made “pursuant to agreement” under this Subsection shall not be required to represent a commitment to lend on the part of the mortgagee, but shall secure all debts or obligations arising or that may arise between the parties as a result of transactions the nature of which are subject to the provisions of the mortgage deed, whether present or future, actual or contingent, and shall set forth in addition to other terms and conditions the maximum amount and the maturity date, or a statement of the date of termination if it is other than the maturity date thereof.

(b) Nothing contained in this Subsection 2 shall be construed to impair the lien status, recordability, validity or enforceability with respect to a vessel registered under this Chapter of a Preferred Mortgage granted by its owner that:

(i) secures obligations, in whole or in part, arising out of specific successive business contracts or other transactions, whether or not such contracts or transactions are related to or arise from the construction, purchase, sale or chartering of a vessel registered under this Title, or

(ii) secures all debts or obligations owed or to be owed thereunder, so long as the aggregate amount of such debts or obligations does not exceed at any one time the stated maximum amount of the Mortgage.

The preferred status of a mortgage made “pursuant to agreement” in accordance with this Subsection 2, which may be secured by property that is not a vessel, or more than one vessel, shall not be impaired by reason of the fact that the mortgage does not provide for separate discharge thereof. *[P.L. 1990-92, § 72; amended by P.L. 1992-32, § 4.]*

### **§ 310. Units of Account.**

(1) The obligations secured by a Preferred Mortgage may be expressed in any unit or units of account to which the parties may agree, including but not limited to currency of the Republic, currency or currencies of any foreign state or states, or in equivalents of any other unit or units of account established by intergovernmental organizations.

(2) If a Preferred Mortgage secures an obligation in one or more specified units of account and there is an option to have a unit of account altered from time to time, the principal amount of the mortgage to be recorded shall be denominated in one or more of the said specified units of account. The recordation may include as additional words “or an equivalent amount in any alternate unit of account,” or similar language, and if such additional words are recorded, no change in the recorded amount shall be required to reflect the fact that the obligation or any portion thereof is subsequently denominated in a different unit or units of account, unless the parties otherwise agree.

(3) When a Preferred Mortgage secures an obligation in respect of which there is an option to have the obligation amount denominated from time to time in alternate units of account but which continues to be payable in, or by reference to, a specified unit of account:

(a) the amount of the obligation to be recorded shall be expressed in the specified unit of account; and

(b) notwithstanding any exercise of the option, no change in the recorded amount shall be required.

(4) A Preferred Mortgage as described in Subsections (2) or (3) of this Section may additionally secure any loss up to a specified amount arising out of fluctuations between a specified unit of account and any alternate unit of account in which the obligation amount may be denominated from time to time, and such specified amount shall also be recorded. *[P.L. 1990-92, § 73.]*

### **§ 311. Lien of Preferred Mortgage.**

A Preferred Mortgage shall constitute a maritime lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel. The lien of a Preferred Mortgage shall not be

in any way impaired or affected because the vessel's document following recording of the mortgage has expired, or has been restrictively endorsed, suspended, revoked or canceled. *[P.L. 1990-92, § 74.]*

### **§ 312. Interest on Preferred Mortgage.**

Any other provision of law or regulation to the contrary notwithstanding, a Preferred Mortgage may secure such interest, including interest on interest, on an obligation secured by the mortgage as the parties may agree, which interest may be at fixed rates, variable rates, rates based upon formulas, or by adding margins to the mortgagee's cost from time to time of funding an obligation secured by the mortgage, or by any other method to which the parties may agree. *[P.L. 1990-92, § 75.]*

### **§ 313. Priority; disclosure of liens; penalty.**

(1) The mortgagor, before executing a Preferred Mortgage, shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged which is known to the mortgagor.

(2) After the execution of such Mortgage and before the mortgagee has had a reasonable time in which to record it, the mortgagor, without the consent of the mortgagee, shall not incur any contractual obligation creating a lien upon the vessel, other than liens for wages of stevedores when employed directly by the owner, operator, Master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average or for salvage, including contract salvage, tonnage taxes and other charges of the Maritime Administrator in respect of the vessel.

(3) Whoever, being a mortgagor or the president or principal officer of a corporate mortgagor, violates this Section with intent to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lien or of the mortgaged vessel, shall be subject to a penalty of not more than twenty-five thousand US dollars (US\$25,000), imprisonment for a term not exceeding two (2) years, or both. The mortgage indebtedness shall thereupon become immediately due and payable at the election of the mortgagee. *[P.L. 1990-92, § 76; P.L. 2013-7, §313(3).]*

### **§ 314. Certified copies; exhibition.**

(1) Upon recording a Preferred Mortgage, two certified copies thereof shall be delivered to the mortgagor who shall place and use due diligence to retain one copy on board the mortgaged vessel, and cause such copy and the document of the vessel to be exhibited by the Master to any person having business which may give rise to a maritime lien or to the sale, conveyance, or mortgage of the vessel.

(2) The license of a Master who willfully fails to exhibit such documents and copy of mortgage may be suspended or revoked. *[P.L. 1990-92, § 77.]*

### **§ 315. Discharge of mortgage.**

The mortgagor upon a complete discharge of the mortgage indebtedness shall forthwith file a certificate of such discharge duly executed by the mortgagee, his successors or assigns, with the central office of the Maritime Administrator in the United States of America, or its duly authorized agent elsewhere, which shall thereupon record the certificate; and the mortgagor may similarly file a certificate of partial discharge, which shall be similarly recorded. *[P.L. 1990-92, § 78; amended by P.L. 1992-32, § 4; P.L. 2001-27, § 315.]*

**§ 316. Foreclosure and default; jurisdiction and procedure.**

(1) The lien of a Preferred Mortgage may be enforced in the Republic by a suit *in rem* in the High Court of the Republic, sitting in Admiralty, upon default of any term or condition. In addition to any notice by publication, actual notice of the commencement of suit shall be given by the libellant, in such manner as the Court directs, to the Master, other ranking officer, or caretaker of the vessel, and to any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the libellant satisfactory to the Court such person is not found within the Republic. Failure to give such notice shall not constitute a jurisdictional defect, but the libellant shall be liable to such person for damages in the amount of his interest in the vessel terminated by the suit.

(2) The lien of a Preferred Mortgage may also be enforced by a suit *in rem* in Admiralty or otherwise in any foreign country in which the vessel shall be found, pursuant to the procedure of said country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of said country.

(3) Notwithstanding anything in this Chapter, the mortgagee may, in addition to all other remedies granted by this Chapter, bring suit *in personam* against the mortgagor, maker, co-maker, or guarantor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.

(4) The enforcement by suit *in rem* in Admiralty of the rights of the mortgagee with respect to a vessel or vessels covered by a Preferred Mortgage shall not be precluded or impaired, notwithstanding the enforcement of any rights that the mortgagee may have under the said mortgage to property that is not a vessel. [P.L. 1990-92, § 79; amended by P.L. 1992-32, § 4.]

**§ 317. Preferred status.**

As used in Sections 311, 316, 318 and 320 of this Chapter, the term “Preferred Mortgage” shall include, in addition to a Preferred Mortgage made pursuant to the provisions of this Part, any mortgage, hypothecation or similar charge created as security upon any documented foreign vessel if such mortgage, hypothecation or similar charge has been duly and validly executed and registered in accordance with the laws of the nation where the vessel’s ownership is documented; and the term “Preferred Mortgage lien” shall also include the lien of such mortgage, hypothecation or similar charge. As used in sections 302A, 303, 311, 316, 318, and 320 of this Chapter, the term “Preferred Mortgage” also means a financing charter of a foreign vessel that has been registered in a public registry at the port of registry of the vessel or at the central office (i) in the foreign country under whose laws the ownership of the vessel is registered in the name of the person stated to be the owner of the financing charter, and (ii) if applicable, in the foreign country under whose bareboat charter registry laws the financing charter of the vessel is registered in order to permit the vessel to sail under the flag of such foreign country. [P.L. 1990-92, § 80; P.L. 2001-27, §317; P.L. 2013-5, §317.]

**§ 318. Foreclosure; priority of Preferred Mortgage lien; exemption.**

Upon the sale of any vessel in a suit *in rem* in the High Court of the Republic, sitting in Admiralty for the enforcement of a Preferred Mortgage lien, all preexisting claims in the vessel, including any possessory common law lien, shall terminate and shall thereafter attach in like amount and in accordance with their respective priorities to the proceeds of sale; except that the Preferred Mortgage lien shall have priority over all claims against the vessel, except maritime liens for damages arising out of tort, maritime liens arising under Section 238 of this Title, maritime liens for crew’s wages, for general average, and for salvage (including contract salvage) and expenses and fees allowed and costs taxed by the Court. [P.L. 1990-92, § 81; amended by P.L. 2000-8, § 318.]

**§ 319. Necessaries; lien; enforcement.**

(1) Whoever furnishes repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, to any foreign or domestic vessel upon the order of the owner or person authorized by the owner, shall have a maritime lien on the vessel.

(2) The managing owner, ship's husband, Master, or any person to whom the management of the vessel at the port of supply is entrusted, including any such appointed by a charterer, owner *pro hac vice* or agreed purchaser in possession, shall be presumed to have authority from the owner to procure such necessaries; but a person tortuously or unlawfully in possession or charge of the vessel shall not have authority to bind it.

(3) This Section shall not confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering necessaries was without authority to bind the vessel therefor. [*P.L. 1990-92, § 82.*]

**§ 320. Necessaries; waiver of lien.**

This Chapter shall not prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway or other necessaries, or the mortgagee, from waiving his right to a lien or in the case of a Preferred Mortgage lien to the preferred status of such lien, at any time by agreement or otherwise. [*P.L. 1990-92, § 83.*]

**§ 321. Abolition of mortgage endorsement.**

(1) Except as provided in Subsection (2) of this Section, nothing previously contained in the Maritime Act 1987, as amended, P. L. 1987-17, (the "Maritime Act 1987") or in any other provision of law, shall require, permit or be construed as requiring or permitting, endorsements upon any vessel's document in connection with the validity, recording, designation as a Preferred Mortgage, or preferred status of any mortgage in respect of any such vessel, or the clearance to be given to such vessel following the recording of any such mortgage.

(2) Notwithstanding the provisions of Subsection (1) of this Section any vessel's document issued or reissued prior to the effective date of this Title and any instrument made, recorded and endorsed prior to the effective date of this Title shall remain subject to the endorsement requirements previously contained in the Maritime Title 1987, until such time as the vessel's document is surrendered or reissued or a new document is issued, as the case may be. [*P.L. 1990-92, § 84.*]

**§ 322. Yacht mortgage or security agreement; recording.**

The Central Office of the Maritime Administrator in the United States of America or its duly authorized agent elsewhere may accept for recording any mortgage or other document securing an installment loan or other debt with respect to the financing of a yacht, the original which has been received by a Commissioner, any Deputy Commissioner or any Special Agent, provided it has been acknowledged or is submitted with such other proof of due execution as may be required by Regulation. [*P.L. 2001-27, § 322. New yacht provision.*]

## CHAPTER 4

### CARRIAGE BY SEA

Commencement: September 13, 1990

Source: P.L. 1990-92

P.L. 1990-94

#### PART I - CARRIAGE OF GOODS

##### § 401. Short title.

This Chapter may be cited as the Carriage by Sea Act. *[Short title supplied by Reviser during recodification of the original Act.]*

##### § 402. Definitions.

When used in this Part:

- (a) “carrier” includes the owner or the charterer who enters into a contract of carriage with a shipper;
- (b) “contract of carriage” applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same;
- (c) “goods” includes goods, wares, merchandise, and articles of every kind whatsoever, except live animals, and cargo which by the contract of carriage is stated as being carried on deck and is so carried;
- (d) “ship” means any vessel used for the carriage of goods by sea;
- (e) “carriage of goods” covers the period from the time when the goods are loaded on, to the time when they are discharged from the ship; and
- (f) “foreign trade” means the transportation of goods between the ports of the Republic and, or between, ports of foreign countries. *[P.L. 1990-92, § 85. The Phrase “the term”, used in each Paragraph, was deleted as being redundant.]*

##### § 403. Risks.

Subject to the provisions of Section 408 of this Chapter, under every contract of carriage of goods by sea, the carrier in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods shall be subject to the responsibilities and liabilities and entitled to the rights and immunities hereinafter set forth. *[P.L. 1990-92, § 86.]*

##### § 404. Responsibilities and liabilities.

- (1) The carrier shall be bound, before and at the beginning of the voyage to exercise due diligence to:
  - (a) make the ship seaworthy;
  - (b) properly man, equip, and supply the ship; and

(c) make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation.

(2) The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

(3) After receiving the goods into his charge the carrier, or the Master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things:

(a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided, such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;

(b) either the number of packages or pieces, or the quantity or weight as the case may be, as furnished in writing by the shipper; and

(c) the apparent order and condition of the goods; provided that no carrier, Master, or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight, which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

(4) Such a bill of lading shall *be prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with Subsections (3)(a), (b), and (c) of this Section. However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith. Nothing in this Part shall be construed as limiting the application of any part of the law governing bills of lading.

(5) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of the shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

(6) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

If the loss or damage is not apparent, the notice must be given within three (3) days of the delivery. Said notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof. The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

Subject to Subsection (7) of this Section, the carrier and the ship shall in any event be discharged from all liability whatsoever in respect of the goods, unless suit is brought within one year of their delivery or of the date when they should have been delivered. This period may, however, be extended if the parties so agree after the cause of action has arisen. In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.



(7) An action for indemnity against a third person may be brought even after the expiration of the year provided for in Subsection (6) of this Section, if brought within the time allowed for suit on causes of action sounding in contract. However, the time allowed shall be not less than three (3) months, commencing from the day when the person bringing such action of indemnity has settled the claim or has been served with process in the action against himself.

(8) After the goods are loaded the bill of lading to be issued by the carrier, Master, or agent of the carrier to the shipper shall, if the shipper so demands, be a “shipped” bill of lading; provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the “shipped” bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, Master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Section be deemed to constitute a “shipped” bill of lading.

(9) Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, arising from negligence, fault, or failure in the duties and obligations provided in this Section, or lessening such liability otherwise than as provided in this Chapter, shall be null and void and of no effect.

A benefit of insurance in favor of the carrier, or similar clause, shall be deemed to be a clause relieving the carrier from liability. *[P.L. 1990-92, § 87. Former Subsection (6)(a) and (b) have been renumbered to Subsections (6) and (7), and all subsequent Subsections have been renumbered accordingly, for consistency with the format and style of the Code.]*

#### **§ 405. Rights and immunities.**

(1) Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make holds, refrigerating and cooling chambers, and all other parts of the ship in which the goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of Subsection 404 (1) of this Part. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other persons claiming exemption under this Section.

(2) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from:

- (a) act, neglect, or default of the Master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
- (b) fire, unless caused by the actual fault or privity of the carrier;
- (c) perils, dangers, and accidents of the sea or other navigable waters;
- (d) act of God;
- (e) act of war;
- (f) act of public enemies;
- (g) arrest or restraint of princes, rulers, or people, or seizure under legal process;
- (h) quarantine restrictions;

- (i) act or omission of the shipper or owner of the goods, his agent or representative;
- (j) strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general; provided that nothing herein contained shall be construed to relieve a carrier from responsibility for the carrier's own acts;
- (k) riots and civil commotions;
- (l) saving or attempting to save life or property at sea;
- (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;
- (n) insufficiency of packing;
- (o) insufficiency or inadequacy of marks;
- (p) latent defects not discoverable by due diligence; and
- (q) any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

(3) The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

(4) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Chapter or the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom; provided, however, that if the deviation is for the purpose of loading or unloading cargo or passengers it shall, *prima facie*, be regarded as unreasonable.

(5) Unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading, neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding 666.67 units of account per package or unit or 2 units of account per kilogram of gross weight of the goods lost or damaged, whichever is the higher.

(a) The total amount recoverable shall be calculated by reference to the value of such goods at the place and time at which the goods are discharged from the ship in accordance with the contract, or should have been so discharged. The value of the goods shall be fixed according to the commodity exchange price, or, if there be no such price, according to the current market price, or if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

(b) Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading as packed in such article of transport shall be deemed the number of packages or units for the purpose of this Subsection as far as these packages or units are concerned. Except as aforesaid such article of transport shall be considered the package or unit.

(c) The unit of account mentioned in this Section is the Special Drawing Right as defined by the International Monetary Fund. The dollar value in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

(d) Neither the carrier nor the ship shall be entitled to the benefit of the limitation of liability provided for in this Subsection if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

(e) The declaration mentioned in Subsection (5) of this Section, if embodied in the bill of lading, shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier.

(f) By agreement between the carrier, Master or agent of the carrier, and the shipper, other maximum amounts than those mentioned in Subsection (5) of this Section may be fixed, provided, that no maximum amount so fixed shall be less than the appropriate maximum mentioned in Subsection (5) of this Section.

(g) Neither the carrier nor the ship shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

(6) Goods of an inflammable, explosive, or dangerous nature, to the shipment whereof the carrier, Master or agent of the carrier has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any. [*P.L. 1990-92, § 88. The provisions of Subsection (5) have been renumbered to make them consistent with the format and style of the Code.*]

#### **§ 406. Defenses.**

(1) The defenses and limits of liability provided for in this Part shall apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.

(2) If such an action is brought against a servant or agent of the carrier (such servant or agent not being an independent contractor), such servant or agent shall be entitled to avail himself of the defenses and limits of liability which the carrier is entitled to invoke under this Part.

(3) The aggregate of the amounts recoverable from the carrier, and such servants and agents, shall in no case exceed the limit provided for in this Part.

(4) Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of this Section, if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result. [*P.L. 1990-92, § 89.*]

**§ 407. Surrender of rights and immunities, and increase of responsibilities and liabilities.**

(1) A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this Part, provided that such surrender or increase shall be embodied in the bill of lading issued to the shipper.

(2) The provisions of this Part shall not be applicable to charter parties, but if bills of lading are issued in the case of a ship under a charter party they shall comply with the terms of this Part. Nothing in this Part shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average. *[P.L. 1990-92, § 90.]*

**§ 408. Special conditions.**

(1) Notwithstanding the provisions of the preceding Sections, a carrier, Master or agent of the carrier, and a shipper shall, in regard to any particular goods, be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea; provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a nonnegotiable document and shall be marked as such.

(2) Any agreement so entered into shall have full legal effect; provided that this Section shall not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed are such as reasonably justify a special agreement. *[P.L. 1990-92, § 91.]*

**§ 409. Contract permitted as to damage to goods while not on ship.**

Nothing contained in this Part shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on, and subsequent to the discharge from, the ship on which the goods are carried by sea. *[P.L. 1990-92, § 92.]*

**§410. Effect of Part.**

(1) The provisions of this Part shall not affect the rights and obligations of the carrier under the provisions of Chapter 5 of this title, or under the provisions of any statute for the time being in force, relating to the limitation of the liability of the owners of sea-going vessels.

(2) This Part shall not affect the provisions of any International Convention or national law governing liability for nuclear damage. *[P.L. 1990-92, § 93.]*

**§ 411. Discrimination forbidden as to competing shippers.**

Nothing contained in this Part shall be construed as permitting a common carrier by water to discriminate between competing shippers similarly placed in time and circumstances, either:

(1) with respect to their right to demand and receive bills of lading subject to the provisions of this Part; or

(2) when issuing bills of lading, either in the surrender of any of the carrier's rights and immunities or in the increase of any of the carrier's responsibilities. [P.L. 1990-92, § 94. *Format of the Section has been modified to be consistent with the format and style of the Code.*]

**§ 412. Bulk cargo-weights ascertained by third parties.**

Where under the customs of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in this Chapter, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier on the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper. [P.L. 1990-92, § 95.]

**§ 413. Scope of Part.**

This Part shall apply to all contracts for carriage of goods by sea:

(1) on board vessels of the Republic in foreign trade; or

(2) to or from ports of the Republic in foreign trade, whatever may be the nationality of the ship, the carrier, the shipper, the consignee, or any other interested person. [P.L. 1990-92, § 96. *Format of the Section has been modified to be consistent with the format and style of the Code.*]

**§ 414. Fire damage.**

Any other provision of this Part to the contrary notwithstanding, no owner of any vessel shall be liable to answer for, or make good to any person, any loss or damage which may happen to any merchandise whatsoever, which shall be shipped, taken in, or put on board any such vessel, by reason or by means of any fire happening to or on board the vessel, unless such fire is caused by the actual fault or privity of such owner. [P.L. 1990-92, § 97.]

**§§ 415-419. Reserved.**

**PART II - CARRIAGE OF PASSENGERS AND LUGGAGE**

**§ 420. Definitions.**

In this Part the following expressions have the meanings hereby assigned to them:

- (a) "carrier" means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;
- (b) "performing carrier" means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;
- (c) "contract of carriage" means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;
- (d) "ship" means only a seagoing vessel, excluding an air-cushion vehicle;
- (e) "passenger" means any person carried in a ship,

- (i) under a contract of carriage; or
  - (ii) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Part;
- (f) “luggage” means any article or vehicle carried by the carrier under a contract of carriage, excluding:
- (i) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods; and
  - (ii) live animals;
- (g) “cabin luggage” means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of Paragraph (i) of this Section and Section 427 of this Chapter, cabin luggage includes luggage which the passenger has in or on his vehicle;
- (h) “loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labor disputes;
- (i) “carriage” covers the following periods:
- (i) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;
  - (ii) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been redelivered to the passenger;
  - (iii) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;
- (j) “international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State. *[P.L. 1990-92, § 98.]*

**§ 421. Application.**

- (1) This Part shall apply to any international carriage if:
  - (a) the ship is flying the flag of or is registered in the Republic;

(b) the contract of carriage has been made in a State Party to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended; or

(c) the place of departure or destination, according to the contract of carriage, is in a State Party to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended.

(2) Notwithstanding Subsection (1) of this Section, this Part shall not apply when the carriage is subject, under any international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

(3) This Part shall apply to commercial carriage undertaken by States or Public Authorities under contracts of carriage within the meaning of Section 420 of this Chapter. [*P.L. 1990-92, § 99.*]

#### **§ 422. Liability of the carrier.**

(1) The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

(2) The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.

(3) Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of loss of or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant. [*P.L. 1990-92, § 100.*]

#### **§ 423. Performing carrier.**

(1) If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Part. In addition, the performing carrier shall be subject and entitled to the provisions of this Part for the part of the carriage performed by him.

(2) The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.

(3) Any special agreement under which the carrier assumes obligations not imposed by this Part or any waiver of rights conferred by this Part shall affect the performing carrier only if agreed by him expressly and in writing.

(4) Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.

(5) Nothing in this Section shall prejudice any right of recourse as between the carrier and the performing carrier. *[P.L. 1990-92, § 101.]*

**§ 424. Valuables.**

The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewelry, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in Section 427 (3) of this Chapter, unless a higher limit is agreed upon in accordance with Section 429 (1) of this Chapter. *[P.L. 1990-92, §102.]*

**§ 425. Contributory fault.**

If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court. *[P.L. 1990-92, § 103.]*

**§ 426. Limit of liability for personal injury.**

The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 46,666 units of account per carriage. Where in accordance with the law of the court seized of the case damages are awarded in the form of periodic income payments, the equivalent capital value of those payments shall not exceed the said limit. *[P.L. 1990-92. § 104.]*

**§ 427. Limit of liability for loss of or damage to luggage.**

(1) The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 833 units of account per passenger, per carriage.

(2) The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 3,333 units of account per vehicle, per carriage.

(3) The liability of the carrier for the loss of or damage to luggage other than that mentioned in Subsections (1) and (2) of this Section shall in no case exceed 1,200 units of account per passenger, per carriage.

(4) The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 117 units of account in the case of damage to a vehicle and not exceeding 13 units of account per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage. *[P.L. 1990-92, § 105.]*

**§ 428. Unit of Account.**

The Unit of Account mentioned in this Part is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Sections 426 and 427 of this Chapter shall be converted into the U.S. Dollar on the basis of the value of the U.S. Dollar on the date of the judgment or the date agreed upon by the Parties. The value of the U.S. Dollar, in terms of the Special Drawing Right, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. *[P.L. 1990-92, § 106. Reference to "Dollar" has been clarified as relating to the United States Dollar.]*



**§ 429. Supplementary provisions on limits of liability.**

(1) The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Sections 426 and 427 of this Chapter.

(2) Interest on damages and legal costs shall not be included in the limits of liability prescribed in Sections 426 and 427 of this Chapter. *[P.L. 1990-92, § 107.]*

**§ 430. Defenses and limits for carriers' servants.**

If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Part, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defenses and limits of liability which the carrier or the performing carrier is entitled to invoke under this Part. *[P.L. 1990-92, § 108.]*

**§ 431. Aggregation of claims.**

(1) Where the limits of liability prescribed in Sections 426 and 427 of this Chapter take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.

(2) In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Part, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

(3) In any case where a servant or agent of the carrier or of the performing carrier is entitled under Section 430 of this Part to avail himself of the limits of liability prescribed in Sections 426 and 427 of this Chapter, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits. *[P.L. 1990-92, § 109]*

**§ 432. Loss of right to limit liability.**

(1) The carrier shall not be entitled to the benefit of the limits of liability prescribed in Sections 426 and 427 and Subsection (1) of Section 429 of this Chapter, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(2) The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result. *[P.L. 1990-92, § 110.]*

**§ 433. Basis for claims.**

No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Part. *[P.L. 1990-92, § 111.]*

**§ 434. Notice of loss or damages to luggage.**

(1) The passenger shall give written notice to the carrier or his agent:

(a) in the case of apparent damage to luggage:

(i) for cabin luggage, before or at the time of disembarkation of the passenger;

(ii) for all other luggage, before or at the time of its redelivery;

(b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen (15) days from the date of disembarkation or redelivery or from the time when such redelivery should have taken place.

(2) If the passenger fails to comply with this Section, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.

(3) The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection. [*P.L. 1990-92, § 112.*]

**§ 435. Time-bar for action.**

(1) Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of two (2) years.

(2) The limitation period shall be calculated as follows:

(a) in the case of personal injury, from the date of disembarkation of the passenger;

(b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three (3) years from the date of disembarkation;

(c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

(3) The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this Part be brought after the expiration of a period of three (3) years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.

(4) Notwithstanding Subsections (1), (2) and (3) of this Section, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing. [*P.L. 1990-92, § 113.*]

**§ 436. Competent jurisdiction.**

(1) An action arising under this Part shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended:

(a) the court of the place of permanent residence or principal place of business of the defendant;  
or

(b) the court of the place of departure or that of the destination according to the contract of carriage, or

(c) a court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State; or

(d) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.

(2) After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration. *[P.L. 1990-92. § 114.]*

**§ 437. Invalidity of contractual provisions.**

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Part except as provided in Section 427(4) of this Chapter, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the option specified in Section 436(1), of this Chapter, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Part. *[P.L. 1990-92. § 115.]*

**§ 438. Other provisions on limitation of liability.**

This Part shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in Part III of this Chapter, or in international conventions relating to the limitation of liability of owners of seagoing ships. *[P.L. 1990-92, § 116.]*

**§ 439. Nuclear damage.**

No liability shall arise under this Part for damage caused by a nuclear incident:

(a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage; or

(b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favorable to persons who may suffer damage as either the Paris or the Vienna Conventions. *[P.L. 1990-92, § 117.]*

## CHAPTER 5

### LIMITATION OF LIABILITY FOR MARITIME CLAIMS

Commencement: September 13, 1990

Source: P.L. 1990-92

P.L. 2006-53

#### PART I - THE RIGHT OF LIMITATION

##### § 501. Short title.

This Chapter may be cited as the Limitation of Liability for Maritime Claims Act. *[Short title supplied by Reviser during recodification of the original Act.]*

##### § 502. Persons entitled to limit liability.

(1) Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Chapter for claims set out in Section 503 of this Chapter.

(2) The term “shipowner” shall mean the owner, charterer, manager and operator of a seagoing ship.

(3) “Salvor” shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Section 503(1)(d), paragraph 1(d), (e) and (f) of this Chapter.

(4) If any claims set out in Section 503 of this Chapter are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Chapter.

(5) In this Chapter the liability of a shipowner shall include liability in an action brought against the vessel herself.

(6) An insurer of liability for claims subject to limitation in accordance with the rules of this Chapter shall be entitled to the benefits of this Chapter to the same extent as the assured himself.

(7) The act of invoking limitation of liability shall not constitute an admission of liability.

(8) “Court” shall mean within the Republic the High Court, sitting in Admiralty; and without the Republic shall mean a court of competent maritime jurisdiction. *[P.L. 1990-92, § 118.]*

##### § 503. Claims subject to limitation.

(1) Subject to Sections 504 and 505 of this Chapter, the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:

(a) claims in respect of loss of life or personal injury or loss or damage to property (including damage to harbor works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Chapter, and further loss caused by such measures.

(2) Claims set out in Subsection (1) of this Section, shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under Subsections 1(d), (e) and (f) of this Section, shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable. *[P.L. 1990-92, § 119.]*

#### **§ 504. Claims excepted from limitation.**

The rules of this Chapter shall not apply to:

(a) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, dated 29 November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Section 510. *[P.L. 1990-92, § 120; P.L. 2006-53, § 504.]*

#### **§ 505. Conduct barring limitation.**

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result. *[P.L. 1990-92, § 121.]*

**§ 506. Counterclaims.**

Where a person entitled to limitation of liability under the rules of this Chapter has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Chapter shall only apply to the balance, if any. [P.L. 1990-92, § 122.]

**§§ 507-509. Reserved.**

**PART II - LIMITS OF LIABILITY**

**§ 510. The general limits.**

(1) The limits of liability for claims other than those mentioned in Section 511 of this Chapter, arising on any distinct occasion, shall be calculated as follows:

(a) in respect of claims for loss of life or personal injury,

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

(A) for each ton from 2,001 to 30,000 tons, 800 Units of Account;

(B) for each ton from 30,001 to 70,000 tons, 600 Units of Account; and

(C) for each ton in excess of 70,000 tons, 400 Units of Account;

(b) in respect of any other claims,

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in Clause (i) of this Paragraph:

(A) for each ton from 2,001 to 30,000 tons, 400 Units of Account;

(B) for each ton from 30,001 to 70,000 tons, 300 Units of Account; and

(C) for each ton in excess of 70,000 tons, 200 Units of Account.

(2) Where the amount calculated in accordance with Subsection (1)(a) of this Section, is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with Subsection (1)(b) of this Section, shall be available for payment of the unpaid balance of claims under Subsection (1)(a) of this Section, and such unpaid balance shall rank rateably with claims mentioned under subsection (1)(b) of this Section.

(3) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

(4) For the purpose of this Chapter the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969, as amended. *[P.L. 1990-92, § 123; P.L. 2006-53, § 510. The format of this Section has been changed to conform as closely as possible to the format and style of this Code.]*

**§ 511. The limit for passenger claims.**

(1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

(2) For the purpose of this Section "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

(a) under a contract of passenger carriage; or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods. *[P.L. 1990-92, § 124; P.L. 2006-53, § 511.]*

**§ 512. Unit of Account.**

The Unit of Account referred to in Sections 510 and 511 of this Chapter, is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Sections 510 and 511 of this Chapter, shall be converted into the U.S. Dollar according to the value of the U.S. Dollar at the date the limitation fund shall have been constituted, payment is made, or security is given which the Court deems equivalent to such payment. The value of the U.S. Dollar in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. *[P.L. 1990-92, § 125. Reference to "Dollar" has been clarified as relating to the United States Dollar.]*

**§ 513. Aggregation of claims.**

(1) The limits of liability determined in accordance with Section 510 of this Chapter, shall apply to the aggregate of all claims which arise on any distinct occasion:

(a) against the person or persons mentioned in Subsection 502(2) of this Chapter, and any person for whose act, neglect or default he or they are responsible;

(b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

(2) The limits of liability determined in accordance with Section 510 of this Chapter, shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in Subsection 502(2) of this Chapter in respect of the ship referred to in Section 511 of this Chapter, and any person for whose act, neglect or default he or they are responsible. *[P.L. 1990-92, § 126.]*

§§ 514-519. *Reserved.*

### PART III - THE LIMITATION FUND

#### § 520. Limitation of liability without constitution of a limitation fund.

(1) Limitation of liability may be invoked in the defense of an action notwithstanding that a limitation fund as mentioned in Section 521 of this Chapter, has not been constituted.

(2) If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Section 522 of this Chapter, shall apply correspondingly.

(3) Questions of procedure shall be resolved in accordance with the *lex fori*. [P.L. 1990-92, § 127.]

#### § 521 Constitution of the fund.

(1) Any person alleged to be liable may constitute a fund with the Court in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Sections 510 and 511 of this Chapter, as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(2) A fund may be constituted, either by depositing the sum, or by producing a guarantee considered to be adequate by the Court.

(3) A fund constituted by one of the persons mentioned in Subsection (1)(a), (b) or (c) or Subsection (2) of Section 513 of this Chapter, or his insurer shall be deemed constituted by all persons mentioned in Subsection (1)(a), (b) or (c) or Subsection (2) of that Section, respectively. [P.L. 1990-92, § 128.]

#### § 522. Distribution of the fund.

(1) Subject to the provisions of Subsections (1), (2) and (3) of Sections 510 and 511 of this Chapter, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

(2) If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Chapter.

(3) The right of subrogation provided for in Subsection (2) of this Section, may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid.

(4) Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to Subsections (2) and (3) of this Section, had the compensation been paid before the fund was distributed, the Court may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund. [P.L. 1990-92, § 129.]



**§ 523. Bar to other actions.**

(1) Where a limitation fund has been constituted in accordance with Section 521 of this Chapter, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

(2) After a limitation fund has been constituted in accordance with Section 521 of this Chapter, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within Marshall Islands for a claim which may be raised against the fund, or any security given, may be released by order of the Court. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter;
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury;
- (c) at the port of discharge in respect of damage to cargo; or
- (d) in the state where the arrest is made.

(3) The rules of Subsections (1) and (2) of this Section shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim. *[P.L. 1990-92, § 130.]*

**§ 524. Governing law.**

Subject to the provisions of Section 116 of this Title and of this Chapter, the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the civil procedure law of Marshall Islands. *[P.L. 1990-92, § 131.]*

**§ 525. Scope of application.**

(1) This Chapter shall apply whenever any person referred to in Section 502 of this Chapter, seeks to limit his liability before a Court of the Republic or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of the Republic.

(2) This Chapter shall not apply to:

- (a) air-cushion vehicles;
- (b) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof. *[P.L. 1990-92, § 132.]*

## CHAPTER 6

### CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

An Act to provide the force and effect of law within the Republic for certain portions of the International Convention on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969, as amended by the 1976 Protocol thereto.

Commencement: October 15, 1993

Source: P.L. 1993-76 P.L. 2013-7

#### **§ 601. Short title.**

This Chapter may be cited as the Civil Liability for Oil Pollution Damage Act. *[Short title supplied by Reviser.]*

#### **§ 602. International Convention.**

Articles I-XI of the International Convention on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969, as amended by the 1976 Protocol thereto (the “Convention on Civil Liability”), a copy of which is annexed to the Nitijela Resolution providing for the accession of the Republic thereto, shall form a part of the laws of the Republic, subject to the provisions of Sections 603 to 607 of this Chapter. *[P.L. 1993-76, § 3(205).]*

#### **§ 603. Action for compensation.**

An action for compensation under this Chapter may be brought in the Republic if pollution damage resulting from an incident covered under the Convention on Civil Liability has been sustained within the Republic, including its territorial sea, or if measures have been taken to prevent or minimize such damage in that area. Any such action shall be brought before the High Court. *[P.L. 1993-76, § 3(206).]*

#### **§ 604. Limitation Fund.**

The Limitation Fund referred to in Article V (3) of the Convention on Civil Liability shall be constituted with the High Court. *[P.L. 1993-76, § 3(207).]*

#### **§ 605. Procedure.**

The High Court shall determine the procedure for the presentation of claims and for the distribution of the Limitation Fund. If the limitation amount is insufficient to satisfy the claims of those who are entitled to compensation, the amount of compensation of each claimant shall be reduced pro rata. *[P.L. 1993-76, § 3(208).]*

#### **§ 606. Certificates of Insurance.**

With respect to vessels registered under the provisions of this Title, certificates attesting that insurance or other financial security is in force as required under Article VII (2) of the Convention on Civil Liability, shall be issued by the Maritime Administrator in the form prescribed in such Article, and such certificates shall be issued by the Maritime Administrator upon proof of financial responsibility, to ships flying the flag of a State not party to the Convention on Civil Liability that leave a port in the territory of the Republic. The Maritime Administrator shall determine the procedure for the issue of certificates of insurance or other financial security. *[P.L. 1993-76, § 3(209).]*

**§ 607. Penalty for lack of certificate.**

Each vessel carrying as cargo more than 2,000 tons of oil in bulk, as defined in Article I-(5) of the Convention on Civil Liability, shall carry a valid certificate of insurance or other financial security prior to entering or leaving, as the case may be, a port or terminal installation within the territory of the Republic. The owner and Master of any vessel which fails to comply with such requirement shall each be subject to a fine not to exceed ten thousand US dollars (US \$10,000). [*P.L. 1993-76, § 3(210); P.L. 2013-7, §607.*]

## CHAPTER 7

### INVESTIGATION - WRECKS AND SALVAGE

Commencement: September 13, 1990

Source: P.L. 1990-92

P.L. 2001-27

P.L. 2009-16

P.L. 2013-7

### PART I - WRECKS AND SALVAGE

#### § 701. Short title.

This Chapter may be cited as the Investigations - Wrecks and Salvage Act. *[Short title supplied by Reviser during recodification of the original Act.]*

#### § 702. International agreements as to derelicts.

The President is hereby authorized to make international agreements with governments interested for the reporting, marking and removing of dangerous wrecks, derelicts and other menaces to navigation in the Central Pacific Region outside the coastal waters bordering the Republic. *[P.L. 1990-92, § 141.]*

#### § 703. International agreements; derelicts; expenses.

(1) The President may conclude agreements with interested maritime nations for the

(a) a service of assistance to vessels and crews requiring aid within the limits of a patrol to be defined in the agreement concluded; and

(b) a service for the destruction or removal of derelicts in the Central Pacific Region, the area in which said service is to be maintained to be determined in such agreements by appropriate latitudinal and longitudinal boundaries.

(2) The President may include in such agreements a provision for payment to the Government of the Republic by the countries concerned of a proportionate share of the expense for the maintenance of the services named. All such agreements shall be subject to ratification by the Nitijela. *[P.L. 1990-92, § 142. Format of this Section has been modified to be consistent with the format and style of this Code.]*

#### § 704. Vessels stranded on foreign coasts.

The Commissioner and Deputy Commissioner and any Special Agent in countries on whose shores vessels of the Republic are stranded shall take proper measures for saving the vessels, their cargoes and appurtenances, storing and securing the effects and merchandise saved, and taking inventories thereof; and such merchandise and effects with inventories thereof shall, after payment of the expenses, be delivered to the owners. The Commissioner, any Deputy Commissioner or any Special Agent shall not take possession of any such merchandise, or other property, when the Master, owner or consignee thereof is present or capable of taking possession of the same. The Maritime Administrator is hereby authorized to conclude agreements with countries in which the Republic is neither represented by the Commissioner, any Deputy Commissioner or any Special Agent, for the purpose of securing the service herein imposed upon the Commissioner, any Deputy Commissioner or any Special Agent in countries to which they are assigned. *[P.L. 1990-92, § 143.]*

**§ 705. Right to salvage not affected by ownership of vessel.**

The right to remuneration for assistance or salvage services shall not be affected by common ownership of the vessels rendering and receiving such assistance or salvage services. [*P.L. 1990-92, § 144.*]

**§ 706. Salvage remuneration.**

Salvors of human life or cargo who have taken part in the services rendered in connection with the incident giving rise to salvage are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo and accessories. [*P.L. 1990-92, § 145.*]

**§ 707. Time limit for salvage suits.**

A suit for the recovery of remuneration for rendering assistance or salvage services shall not be maintainable if brought later than two (2) years from the date when such assistance or salvage was rendered, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person or corporation to be charged, in which case the right of action shall not lapse until ninety (90) days after there has been a reasonable opportunity to secure jurisdiction. [*P.L. 1990-92, § 146.*]

**§ 708. Recovery for salvage services rendered by government vessels.**

The Maritime Administrator or its agent and the crew of any vessels owned or operated by the Republic or its representatives, may collect and sue for salvage services rendered by such vessel and crew. Any salvage monies recovered by the Maritime Administrator, or its agent and not for the benefit of the crew, shall be held for the credit of the government agency having possession or control of the vessel rendering such service. [*P.L. 1990-92, § 147.*]

**§ 709. Marine casualties and incidents.**

In the event of any casualty or incident involving a vessel of the Republic where there is personal injury or loss of life or there is loss of or damage to property or the vessel, the Master shall immediately forward a report thereon to the Maritime Administrator in accordance with such Rules and Regulations as the Maritime Administrator may make from time to time. Where there is a failure to execute and file a report as required hereunder, the Master shall be subject to a fine of not more than two thousand US dollars (US \$2,000) and the vessel owner shall be subject to a fine of not more than ten thousand US dollars (US\$10,000) respectively upon notice from the Maritime Administrator. [*P.L. 1990-92, § 148; P.L. 2001-27, § 720; P.L. 2009-16, § 709; P.L. 2013-7, §709.*]

**§ 710. Marine casualties and incident investigations.**

(1) The Maritime Administrator may, from time to time, make such Rules and Regulations as are deemed by him necessary and appropriate to the investigation of marine casualties and incidents involving vessels registered under the laws of the Republic or otherwise occurring within the jurisdiction of the Republic in accordance with the International Convention for the Safety of Life at Sea, 1974 (SOLAS) Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (the “Casualty Investigation Code”).

(2) The Maritime Administrator may cause a preliminary investigation into a casualty or incident to be conducted by a person or agency appointed by the Maritime Administrator as an investigator of marine casualties and incidents and who shall have such authority as may be conferred upon him or it by the

Maritime Administrator and/or this Title. The Maritime Administrator may also enter into memorandum of undertaking with other SOLAS member States for cooperation and assistance between the parties in respect of marine safety investigation into a marine casualty or incident. *[P.L. 1990-92, § 149; P.L. 2001-27, § 721; P.L. 2009-16, § 709.]*

**§ 711. Marine offenses and criminal acts.**

(1) Any instance of a marine offense or criminal act shall be reported by the Master or shipowner to the Maritime Administrator. Upon receipt of the notification, the Maritime Administrator shall initiate an investigation as may be necessary to determine the circumstances of the offense and the action to be taken in coordination with the Attorney General of the Republic as necessary in accordance with Title 15, Marshall Islands Revised Code, Chapter 1, the Counter-Terrorism Act, 2002 (15 MIRC) and the Schedule to 15 MIRC, as well as the Protocols of 2005 to amend the 1988 SUA Convention.

(2) Should a marine offense or criminal act occur or be occurring in the jurisdiction of a State or territory that is a signatory to the 1988 SUA Convention and Protocols, other than the Republic, the Maritime Administrator may waive flag State jurisdiction and allow the State or territory to assert jurisdiction over the case.

(3) Should a marine offense or criminal act occur on the high seas, the Maritime Administrator shall notify and offer jurisdiction to the State governments of the victim(s) and the accused. If no State accepts jurisdiction, the Maritime Administrator shall notify the Marshall Islands Minister of Justice of the Republic. After an investigation to determine that a crime has occurred, the Marshall Islands Ministry of Justice shall then make the necessary arrangements to extradite and prosecute the accused.

(4) The Maritime Administrator may waive the Republic's jurisdiction where such waiver is deemed necessary and appropriate to the prosecution of a marine offense or criminal act. *[P.L. 2009-16, § 711.]*

## CHAPTER 8

### MERCHANT SEAFARERS

Commencement: September 13, 1990

Source: P.L. 1990-92

P.L. 2000-8

P.L. 2001-27

P.L. 2009-16

P.L. 2013-9

P.L. 2016-14

### PART I - GENERAL

#### § 801. Short title.

This Chapter may be cited as the Merchant Seafarers Act. *[Short title supplied by Reviser during the recodification of the original Act.]*

#### § 802. Application.

(1) The rights and obligations of every person employed on any vessel registered under this Title, and any person employing such person shall, with respect to terms and conditions of employment and other matters relating to employment and the internal order of such vessel, be governed by this Chapter.

(2) The provisions of this Chapter shall not apply to:

- (a) persons employed solely in ports in repairing, cleaning, stevedoring and loading or unloading the vessels;
- (b) persons employed on private yachts; and
- (c) pilots. *[P.L. 1990-92, § 150; P.L. 2001-27, § 802.]*

#### § 803. Definitions.

For the purpose of this Chapter, the following expressions have the meaning hereby assigned to them:

- (a) “Master” means any person having command of a vessel;
- (b) “seafarer(s)” means any or all members of the crew and officers other than the Master and pilots, employed or engaged in any capacity on board any vessel;
- (c) “crew” means collectively the persons, other than officers and the Master, serving in any capacity on board a vessel;
- (d) “shipowner” includes the charterer of any vessel where he mans, victuals and navigates such vessel at his own expense or by his own procurement;
- (e) “vessel” means any vessel registered under this Title;
- (f) “fishing vessel” means a decked vessel used for catching fish, whales, seals, walrus and other living creatures at sea;

(g) “processing vessel” means a vessel used exclusively for processing fish and other living resources of the sea;

(h) “foreign trade” means trade between foreign countries or between the Republic and foreign countries;

(i) “domestic commerce” means any vessel exclusively engaged in coastwise trade or transportation between atolls, islands and/or ports within the waters of the Republic;

(j) “overriding operational conditions”, in the context of hours of rest, means essential shipboard work which cannot be delayed for safety reasons and which could not reasonably have been anticipated at the commencement of a voyage; and

(k) “accommodations” means sleeping rooms; mess rooms; sanitary, hospital, recreation, store room and catering accommodations provided for the use of seafarers and the Master but does not include any accommodation which is also used by or provided for the use of passengers. [*P.L. 1990-92, § 151;*

*P.L. 2001-27, § 803. Additional definitions for clarification.]*

#### **§ 804. Full complement required.**

A vessel of the Republic shall not be navigated unless it has in its service and on board such complement of officers and crew as is necessary for safe navigation. The Maritime Administrator may, from time to time, make such Rules and Regulations as are deemed by him necessary and appropriate to ensure compliance with this requirement. [*P.L. 1990-92, § 152.*]

#### **§ 805. Officers’ licenses.**

Except when prevented by *force majeure*, all officers of vessels of the Republic subject to compliance with the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended and revised from time to time, shall obtain licenses to fill their relative positions from the Maritime Administrator authorized to issue licenses. [*P.L. 1990-92, § 153; P.L. 2001-27, § 805.*]

#### **§ 806. Penalty for misuse of licenses or certificates.**

Any person who shall receive or shall have in his possession any Republic license, certificate or document issued to officers or crew by the Maritime Administrator, or any certificate or document issued pursuant to Chapter 9 of this Title, to which he is not lawfully entitled, or any false license, certificate or document, with intent to use the same unlawfully; or who without lawful authority shall alter or change any genuine license, certificate or document; or who shall in any manner transfer or arrange for the transfer of any such license, certificate or document; or who shall aid or abet the perpetration of any of the foregoing acts shall, for each offense, be liable to a fine of not more than ten thousand dollars (US\$10,000), or imprisonment for not more than one year, or both, and forfeit the right to continued possession of or any future seafarer certification and documentation for service aboard vessels of the Republic. [*P.L. 1990-92, § 154; P.L. 2001-27, § 806.*]

#### **§§ 807-809. Reserved.**



## 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.**

(a) 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. The Shipping Articles shall be written or printed and shall be subscribed by every seafarer on the vessel and shall state the period of engagement or voyage or voyages and the term or terms for which each seafarer shall serve, the rate of pay for each, and such other items as may be required by Regulation.

(b) Notwithstanding anything contained in this section, the Administrator may exempt any vessel; any category, type, or class of vessel; or any person or category of persons aboard the vessel from the requirements of subsection (a). [*P.L. 1990-92, § 160; P.L. 2001-27, § 820; P.L. 2013-9, § 820.*]

**§ 821. Penalty for alteration of Shipping Articles.**

If any person fraudulently alters or makes false entry in any Shipping Articles, or if any person aids in committing or procures to be committed any such offense, he shall, in respect of each offense, be subject to a fine not exceeding five thousand US dollars (US\$5,000). [*P.L. 1990-92, § 161; P.L. 2013-7, §821.*]

**§ 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 subject to a penalty of not more than two thousand US dollars (US\$2,000). The vessel shall not be subject to a penalty for failure to enter into Shipping Articles: (i) where the vessel or person is exempt from the requirement to enter into Shipping Articles or (ii) where a person has 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 represented himself to the Master or officers of the vessel, for the purpose of being carried to sea. [*P.L. 1990-92, § 162; P.L. 2013-7, §822; P.L. 2013-9, § 822.*]

**§ 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 the event of the wrongful failure to pay a seafarer wages on demand, the seafarer shall be 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 subject to a penalty of not more than two hundred and fifty US dollars (US\$250).

(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 Shipping Articles between the Master and seafarer. *[P.L. 1990-92, § 167; P.L. 2001-27, § 827, provision to accommodate modern payroll systems, P.L. 2013-7, §827.]*

**§ 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 therefore 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 subject to a fine of not more than two hundred and fifty US dollars (US\$250).

(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, siblings, 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; P.L. 2013-7, §831.]*

**§ 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 lien 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 (8) hours per day;
- (b) work performed over and above the eight (8)-hour period shall be considered as overtime and shall be compensated for at overtime rates;
- (c) a sufficient number of crewmembers shall be employed to promote safety of life at sea and to avoid excessive overtime; and
- (d) whenever the Master of any vessel shall fail to comply with this Section, he shall be subject to a penalty not exceeding one thousand US dollars (US\$1,000). *[P.L. 1990-92, § 182; P.L. 2001-27, § 842; P.L. 2013-7, §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 subject to

a monetary penalty and/or imprisonment as prescribed under section 115(2) of this Title. [P.L. 1990-92, § 189, P.L. 2013-7; §849.]

**§ 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 subject to a monetary penalty and/or imprisonment as prescribed under section 115(2) of this Title. [P.L. 1990-92, § 190; P.L. 2013-7, §850.]

**§ 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, and such member of the crew is in a condition and willing to proceed when the Master is ready to proceed, shall be subject to a penalty not more than ten thousand US dollars (US\$10,000), imprisonment for a term not exceeding one (1) year, or both.

(2) The abandoned seafarer shall retain his right to repatriation. [P.L. 1990-92, § 192; P.L. 2001-27, § 852, penalty provisions increased; P.L. 2013-7, §852]

**§ 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 ten thousand US dollars (US\$10,000). *[P.L. 2001-27, § 863; P.L. 2013-7, § 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, and compensation for sickness, injury, abandonment, 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; P.L. 2016-14, § 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]*