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Seamens Protection Act [34 MIRC Ch 2]

34 MIRC Ch 2

MARSHALL ISLANDS REVISED CODE 2004

TITLE 34. - ADMIRALTY AND MARITIME AFFAIRS

CHAPTER 2.

SEAMEN'S PROTECTION ACT

ARRANGEMENT OF SECTIONS

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An Act to provide for the protection of the rights of seamen and for matters connected therewith.
[Section numbering style modified to conform to Code format .Rev.2003]

Source: 19 TTC 1970
19 TTC 1980

§201. Short Title.

This Act shall be known as the 'Seamen's Protection Act.' [19 TTC 1970, § 201; 19 TTC 1980, § 201, modified.]

§202. Interpretation.

In this Act, unless the context otherwise requires, the following definitions shall be applicable:

- (a) 'crew' means collectively the persons, other than officers and the master, serving in any capacity on board a vessel;
- (b) 'Director' means the Director of Sea Transportation or a person or board established by law to make rules and regulations not contrary to the provisions of this Act relating to conditions and terms of employment, benefits, and other necessary matters concerning the rights of seamen;
- (c) 'fishing vessel' means any vessel used for catching any living creatures at sea;
- (d) 'foreign trade' means trade between foreign countries or between the Republic and foreign countries;
- (e) 'Marshall Islands vessel' means any vessel registered with the Government of the Marshall Islands under this Act;
- (f) 'master' means any person having command of a vessel;
- (g) 'registered' means registration under the Admiralty and Maritime Act, not under the Maritime Act 1987;
- (h) 'seamen' means any or all members of a crew and officers other than the master and pilots, employed or engaged in any capacity on board any vessel;
- (i) 'shipowner' includes the charterer of any vessel where he mans, victuals, and navigates such vessel at his own expense or by his own procurement. [19 TTC 1970, § 202; 19 TTC 1980, §202, modified.]

§203. Certificate of service.

- (1) The master shall sign and give to a seamen discharged from his vessel, either on his discharge or on

payment of his wages, a certificate of service in a form approved by the Director, specifying the period of his service and the time and place of his discharge.

(2) If any person forges or fraudulently alters any certificate of service, he shall, with respect to each offense, be guilty of a misdemeanor. [19 TTC 1970, §203; 19 TTC 1980, §203. **modified.**]

§204. Minimum age for employment.

(1) Children under the age of sixteen (16) years shall not be employed on Marshall Islands vessels engaged in foreign trade, except on vessels on which only members of the same family are employed, school-ships, or training ships.

(2) The master shall keep a register of all persons under the age of sixteen (16) years employed on board his vessel, as required by regulations. [19 TTC 1970, §204; 19 TTC 1980, §204, **modified.**]

§205. Wages; generally.

(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 seaman his wages within two (2) days after the termination of the articles, or at the time when the seaman is discharged, whichever is first.

(3) A seaman 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-day (10) period. In case of wrongful failure to pay a seaman his wages on demand, the seaman becomes entitled to a payment of full wages earned.

(4) Every master shall deliver to the seaman, before paying off, a full and true account of his wages and all deductions to be made therefrom on any account whatsoever, and in default shall, for each offense, be liable to a penalty of not more than \$25. [19 TTC 1970, §205; 19 TTC 1980, §205, **modified.**]

§206. Same; unjustifiable discharge.

Any seaman 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. [19 TTC 1970, §206; 19 TTC 1980, §206.]

§207. Stowaways.

A stowaway signing the vessel's articles is entitled to wages, but not to maintenance and cure as provided in this Act. 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. [19 TTC 1970, §207; 19 TTC 1980, §207, **modified.**]

§208. Grounds for discharge.

The master may discharge a seaman 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 seaman 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; or
- (j) willful violation of the laws of the Republic or applicable criminal laws. **[19 TTC 1970, §208; 19 TTC 1980, §208. modified.]**

§209. Advance and allotment of wages.

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

(2) It shall be lawful for the master and any seaman to agree that an allotment of a portion of the seaman's earnings may be payable to a spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seaman. **[19 TTC 1970, §209; 19 TTC 1980, §209, modified.]**

§210. Wages and clothing exempt from attachment; assignment of wages.

The wages and clothing of a seaman shall not be subject to attachment or arrestment from any court; and assignment or sale of wages or of salvage made prior to the accruing thereof shall not bind the seaman, except that allotments shall bind the seaman. **[19 TTC 1970, §210; 19 TTC 1980, §210, modified.]**

§211. Vacation allowances and holidays.

(1) Every master and seaman shall be entitled after twelve (12) months of continuous service on a vessel or for the same employer to receive and shall take an annual paid vacation equivalent to:

- (a) in the case of masters and officers, not less than twelve (12) days base wages; and
- (b) in the case of other members of the crew, not less than eight (8) days base wages.

(2) Every seaman shall be entitled to a minimum of five (5) paid holidays per year.

(3) In the event a seaman is unable to take the benefits of Subsections (1) and (2) hereof for paid vacation or holiday, then that person shall be entitled to double time pay for each vacation day or holiday, as measured by eight (8) hours that person was unable to take, as certified by the master. **[19 TTC 1970, §211; 19 TTC 1980, §211, modified.]**

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

No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled, and every stipulation by which any seaman 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. **[19 TTC 1970 §212; 19 TTC 1980, §212, modified.]**

§213. Wages not dependent on freight earned.

No right to wages on the part of any seaman shall be dependent on the earning of freight by the vessel; provided, that nothing in this Section shall be construed to prevent any profit-sharing plan by which officers and crew are to be compensated with profits in addition to their established wages. **[19 TTC 1970, §213; 19 TTC 1980, §213, modified.]**

§214. Wages, maintenance, and benefits for sick and injured seamen.

(1) In the event of disabling sickness or injury while a seaman 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 seaman 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 (1/3) 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 220 of this Act including, in addition, all charges for his transportation, accommodation and food during the journey and his 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 seaman.

(3) The seaman shall not be entitled to any of the following 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 seaman shall have a maritime lien against the vessel for any wages due him under this Section. **[19 TTC 1970, §214; 19 TTC 1980, §214, modified.]**

§215. Wrongful death.

Notwithstanding anything contained in Part V of the [Civil Procedure Act](#), whenever the death of a seaman, 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 seaman may maintain a suit for his 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. **[19 TTC /970, §215; 19 TTC 1980, §215. modified.]**

§216. Death on board; procedure generally.

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 Director. 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, the place of death (latitude, longitude), date and time of death, the names of next of kin, if known, and the name of the vessel. If the deceased person is a seaman, 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 any of the ships officers. A list of personal effects and amounts of money left on board the vessel shall be attached. **[19 TTC 1970, §216; 19 TTC 1980, § 216, modified.]**

§217. Same; issuance of death certificate.

Where a death has been reported in accordance with the requirements of Section 216 of this Act, the office of the Director shall issue a death certificate containing the particulars set forth in Section 216 of this Act upon the request of anyone having a legal interest. **[19 TTC 1970, §217; 19 TTC 1980, §217, modified.]**

§218. Same; burial expenses.

In the case of death of a seaman 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 seaman up to the end of the month in which the death occurs. **[19 TTC 1970, §218; 19 TTC 1980, §218, modified.]**

§219. Working hours; overtime.

In relation to the 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) per day; provided, that Saturdays and Sundays shall be included as weekdays;

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

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

(d) whenever the master of any vessel shall fail to comply with this Section, he shall be liable to a penalty not exceeding \$100. [19 TTC 1970, §219; 19 TTC 1980, §219, **modified.**]

§220. Repatriation; rights generally.

(1) Any seaman 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 seaman's own country; or

(b) to another port, agreed upon between the seaman and the shipowner or the master.

However, in the event that the seaman'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.

(2) Any seaman whose period of employment is terminated by reason of completion of the voyage for which he was engaged or by expiration of his contract period of employment shall be entitled to repatriation, at no expense to him, to the port at which he was engaged or to such other port as may be agreed upon.

(3) The right to repatriation shall be lost by failure of the seaman to request repatriation within one week from the time that he is in condition to be repatriated. [19 TTC 1970, §220; 19 TTC 1980, §220, **modified**]

§221. Same; loss of right.

A seaman 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 224, 225 and 226 of this Act; or

(e) unjustifiable repudiation of the shipping articles. [19 TTC 1970, §221; 19 TTC 1980, §221, **modified.**]

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

(1) Any seaman on a Marshall Islands vessel who commits any of the following offenses may, in addition to any criminal penalties provided in this Act, 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 twenty-four (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 wages sufficient to defray any expenses

which shall have been properly incurred in hiring a substitute;

(b) for quitting the vessel without leave before it 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 neglect of duty, by being placed in restraint until such intoxication, disobedience or neglect shall cease, and by forfeiture, for every twenty-four (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; 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 the balance with an accounting thereof shall thereupon be forwarded to the Director. [19 TTC 1970, §222; 19 TTC 1980, §222, modified.]

§223. Corporal punishment.

Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel, and any master who shall violate the provision of this Section shall be guilty of a misdemeanor. [19 TTC 1970, §223; 19 TTC 1980, §223, modified.]

§224. Drunkenness, neglect of duty.

Whoever, being a master, seaman, 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 its cargo, or tending immediately to endanger his life or limb or 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 its 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 a fine of not more than \$250. [19 TTC 1970, § 224; 19 TTC 1980, §224, modified.]

§225. Desertion.

(1) Any seaman who deserts 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 office of the Director. The local authorities of the port shall be notified and requested to apprehend and deliver the deserter. [19 TTC 1970, §225; 19 TTC 1980, §225, modified.]

§226. Incitement of revolt, mutiny, riot, etc.

Whoever, being of the crew of a Marshall Islands vessel, 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 refuses or neglects his proper duty on board thereof, or betrays his proper trust, or assembles 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 liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding five (5) years, or both. [19 TTC 1970, §226; 19 TTC 1980, §226, modified.]

§227. Revolt or mutiny of seamen.

Whoever, being of the crew of a Marshall Islands vessel, 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, shall be guilty of revolt and mutiny and shall upon conviction be liable to a fine not exceeding \$2,000 or to a term of imprisonment not exceeding ten (10) years, or both. [19 TTC 1970, §227; 19 TTC 1980, § 227, modified.]

§228. Entry of the offenses in logbook.

Upon the commission of any offense, an entry thereof shall be made in the official logbook of the vessel on the day on which the offense was committed and an entry made of 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 next arrival of the vessel at any port or, if it is at the time in port, before its 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. [19 TTC 1970, §228; 19 TTC 1980, §228.]

§229. Abandonment of seamen.

(1) Whoever, being master or in charge of a Marshall Islands vessel, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the articles any member of the crew of such vessel in condition and willing to proceed when the master is ready to proceed, shall be fined not more than \$500.

(2) The abandoned seaman shall retain his right to repatriation. [19 TTC 1970, § 229; 19 TTC 1980, §229, modified]

§230. Freedom of association.

Seamen and their employers, without distinction whatsoever, shall have the right to establish and to become members of organizations of their choosing, subject always to jurisdiction of the Republic. [19 TTC 1970, § 230; 19 TTC 1980, § 230, modified.]

§231. Time limit.

- (1) Claims arising out of the shipping articles are subject to a one year prescription.
- (2) The following rights of action are subject to a two (2) year prescription:
 - (a) the right of action for death of a seaman 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. **[19 TTC 1970, §231; 19 TTC 1980, §231, modified]**

§232. Director to make rules and regulations.

The Director may make rules and regulations not contrary to the provisions of this Act relating to conditions and terms of employment, wages, vacations and leave, hours of work, repatriation, minimum age, and compensation for sickness, injury or death of masters, seamen and seagoing laborers employed on vessels documented under the laws of the Republic. Such rules and regulations, when signed and approved by the Cabinet, shall have the force and effect of law. **[19 TTC 1970, §232; 19 TTC 1980, §232, modified.]**
