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Maritime Act 1987

MARSHALL ISLANDS

MARITIME ACT 1987

CHAPTER 3

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MARITIME ACT 1987

CHAPTER 3

An Act to provide for the registration of vessels in the Republic engaged in foreign trade and for matters connected therewith.

Commencement: September 25, 1987
Source: P.L. 1987-17

P.L. 1988-18

PART I - PRELIMINARY

§ 1. Short title.

This Act may be cited as the "[Maritime Act 1987](#)". [*P.L. 1987-17, § 1.*]

§ 2. Interpretation.

(1) In this Act, unless the context otherwise requires:

- (a) "Commissioner" means the Commissioner of Maritime Affairs appointed under Section 4 of this Act;
- (b) "Deputy Commissioner" means the Deputy Commissioner appointed under Section 5 of this Act;
- (c) "documented" means registered, enrolled or licensed;
- (d) "foreign trade" means trade between the Republic and a foreign country or between one foreign country and another;
- (e) "Maritime Authority" means the Republic of the Marshall Islands Maritime Authority;
- (f) "ship's document" means the Certificate of Registry whether permanent or provisional;

(g) "vessel" means a vessel registered under this Act.

(2) All references to the symbol "S" shall denote the United States Dollar. [*P.L. 1987-17, § 2.*]

PART II - ADMINISTRATION

§ 3. Maritime Authority.

The Maritime Authority is empowered with the authority to promulgate and enforce rules, regulations, orders and other subordinate instruments which are necessary and proper to carry out the provisions of this Act.

The Cabinet in the exercise of its independent constitutional authority is empowered to make such contracts and other instruments on behalf of the Republic which may be necessary to establish and maintain the Maritime Authority which shall be a separate legal person, corporate or otherwise and shall be an agency, or instrumentality, and organ of the Republic. Accordingly, it shall enjoy all sovereign immunities that are possessed by the Republic itself.

[*P.L. 1987-17, § 3.*]

§ 4. Commissioner of Maritime Affairs.

The Authority with the approval of the President shall appoint a suitably qualified person to exercise the powers and perform the duties of Commissioner of Maritime Affairs under this Act. [*P. L. 1987-17, § 4.*]

§ 5. Deputy Commissioners of Maritime Affairs.

(1) The Commissioner may, with the approval of the Maritime Authority, from time to time, appoint Deputy Commissioners of Maritime Affairs.

(2) The Commissioner may delegate to the Deputy Commissioners any of his powers and duties under this Act that may also be exercised in foreign ports. [*P. L. 1987-17, § 5.*]

§ 6. Records relating to vessels.

There shall be maintained in the office of the Commissioner at Majuro, Republic of the Marshall Islands, and at the office of every Deputy Commissioner at other places, a central registration office where there shall be recorded or filed, in properly indexed public registers, all documents of the following nature:

- (a) bills of sale and other instruments of conveyance of vessels;
- (b) mortgages or hypothecation of vessels;
- (c) assignments of mortgages;
- (d) certificates of permanent and provisional registration and licenses;
- (e) licenses and certificates of officers and members of the crew of vessels; and
- (f) all other documents relating to vessels which are entitled to be recorded.

[*P. L. 1987-17, § 6.*]

§ 7. Authority to administer oaths and take acknowledgement.

The Commissioner and every Deputy Commissioner are authorized to administer all oaths and take all acknowledgements required by this Act. [*P. L. 1987-17, § 7.*]

§ 8. Authority to issue radio station licenses.

The Commissioner and every Deputy Commissioner are authorized to issue ship radio station licenses with respect to radio transmitting apparatus located on board vessels registered under this Act. [*P. L. 1987-17, § 8.*]

§ 9. Authority to issue licenses, certificates.

(1) The Commissioner and every Deputy Commissioner are hereby authorized to issue all such licenses, certificates or other documents for officers and personnel on vessels registered under this Act, as are necessary or proper for carrying out the purposes of this law or any international convention to which the Republic is or may become a party.

(2) In carrying out the licensing, certification and upgrading of the officers and personnel of the vessel, the Authority upon the recommendation of the Commissioner shall, from time to time, establish such standards, rules and regulations as it deems necessary and appropriate for maintaining a high standard for the merchant shipping of the Republic.

(3) Failure of an owner of a vessel registered under this Act to file any required report relating to officers employed on the vessel shall result in a fine of \$250 for each offense, and until paid, each such fine shall constitute a maritime lien on the vessel.

(4) Failure of an owner of a vessel registered under this Act to ensure that each officer employed on the vessel holds a valid license of competence to fill the position held by him duly issued under the provisions of this Act shall subject the owner thereof to a fine of \$100 for each officer so employed who does not hold such license. If a proper license is obtained within thirty (30) days of notice from the Commissioner or a Deputy Commissioner, the fine with respect thereto shall be remitted. Until paid or remitted, each fine shall constitute a maritime lien on the vessel. [*P. L. 1987-17, § 9.*]

§ 10. Suspension and revocation proceedings.

(1) The Commissioner shall have the power to suspend or to revoke any license, certificate, permit or document issued under the provisions of this Act.

(2) The Authority may on the recommendation of the Commissioner from time to time make such rules and regulations as are deemed necessary and appropriate to the conduct of suspension and revocation proceedings under Subsection (1) of this Section. [*P. L. 1987-17§ 10.*]

§ 11. Fees.

The Authority may, on the recommendation of the Commissioner, establish by order all necessary and proper fees except where the fee is already provided for in this Act. [*P. L. 1987-17, § 11.*]

PART III - CONSTRUCTION

§ 12. Adoption of general maritime law.

Insofar as it does not conflict with any other provisions of this Act or any statutory law of the Republic, the non-statutory general maritime law of the United States of America is declared to be and is hereby adopted as the general maritime law with respect to all vessels registered under this Act. [*P. L. 1987-17, § 12.*]

§ 13. General penalty for violation.

Except as expressly provided in this Act, any person who is convicted by a court of competent jurisdiction of a violation of any of the provisions of this Act or of rules and regulations thereunder shall upon conviction be liable to a fine not exceeding \$10,000 or to a term or imprisonment not exceeding ten (10) years, or both. [*P. L. 1987-17, § 13.*]

§ 14. Jurisdiction

All causes of action arising out of or under this Act are hereby declared and shall be cognizable before the High Court of the Republic, however, except as otherwise specially provided in this Act, the provisions of this Section shall not be deemed to deprive courts of other countries of jurisdiction to enforce such causes of action. [*P. L. 1987-17, § 14.*]

§ 15. Appeal from Commissioner's decision.

Appeal from any decision of the Commissioner pursuant to any provision of this Act or any rules and regulations made thereunder may be made to the Authority. Upon exhaustion of administrative remedies, appeal may be taken to the High Court. [*P. L. 1987-17, § 15.*]

PART IV – REGISTRATION AND IDENTIFICATION OF VESSELS

§ 16. General provision.

No self-propelled or sailing vessel engaged in foreign trade shall fly the flag 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, and the name of the home port shall be shown on the Certificate of Registry. [*P. L. 1987-17, § 16.*]

§ 17. Vessels eligible to be registered or reregistered.

(1) Vessels of the following classes are eligible to be registered or reregistered under this Act:

- (a) any seagoing vessel of more than 500 net tons engaged in foreign trade;
- (b) any yacht or other vessel used exclusively for pleasure, of fifty (50) net tons or over;
and
- (c) Vessels on bareboat charter.

(2) Vessels referred to in Subsection (1) (a) and (b) of this Section shall not be eligible for registration if, on January 1 of the year in which registration is sought, such vessels are over twenty (20) years of age, computed from completion of first construction.

(3) Anything in this Section to the contrary notwithstanding, the 500 net tons minimum requirement referred to in Subsection (1) (a) of this Section may be waived by the Commissioner or a Deputy Commissioner, and a vessel of lesser net tonnage may be registered in exceptional cases where it has been demonstrated to the satisfaction of the Commissioner or Deputy Commissioner either that:

- (a) the vessel meets all requirements for registration; and
- (b) the vessel is needed to implement the operations of an owner of a ship registered in the Republic or its registration is otherwise desirable to carry out the objectives of the maritime program of the Republic.

(4) Notwithstanding anything to the contrary in the rest of the provisions of this Section the ownership requirement referred to in Subsection (1) of this Section may in exceptional cases be waived by the Commissioner or a Deputy Commissioner where:

- (a) the vessel meets all other requirements for registration; and
- (b) it has been satisfactorily demonstrated that there is an absolute and genuine need for such waiver. [*P. L. 1987-17, § 17.*]

§ 18. Registration fees.

The Authority shall, on the recommendation of the Commissioner, establish by order all necessary and proper registration fees. [*P. L. 1987 -17, § 18.*]

§ 19. Annual tonnage tax.

The Authority shall, on the recommendation of the Commissioner, establish by order all necessary and proper Annual Tonnage Taxes. [*P. L. 1987 -17, § 19.*]

§ 20. Conditions precedent to issuance of permanent Certificate of Registry.

Upon receipt of a written application of an owner of a vessel eligible for registration under the provisions of this Act requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by Section 21 of this Act, 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 furnishes proof satisfactory to the issuing officer:

- (a) as to his ownership of the vessel;
- (b) that any foreign maritime document for the vessel has been surrendered with the consent of the government that had issued it, or has been legally cancelled;
- (c) that the vessel is in a seaworthy condition;
- (d) that the owner has paid to the Authority the registration fees due with respect to the vessel;
- (e) that the markings of name, official number, net tonnage or tonnages, home port and draft required by Section 42 of this Act have actually been made; and
- (f) that a Certificate of Measurement as required by Section 23 of this Act has been issued. [*P. L. 1987-17, § 20.*]

§ 21. Oaths.

(1). In order to register a vessel, the owner, managing owner, co-owner, or his agent, authorised by power of attorney, where such vessel is owned by individuals, or, in the case of a corporate owned

vessel, a director, secretary or assistant secretary of the corporation, or other officer or agent authorised in writing, shall take an oath declaring the name of the vessel, its net tonnage or tonnages, the place where built, the name and residence of any other owner and his citizenship, each owner's proportionate share of ownership (in the case of several owners), and the name of the applicant and his citizenship.

(2) The oath may be taken before the Commissioner or a Deputy Commissioner or a Consul or Consular Agent of the Republic or before a notary public or other officer authorised to administer oaths by the laws of the place where the oath is administered or before any other person designated by the Commissioner for the administration of such oaths.

(3) An agent or attorney who purchases any vessel shall take an oath as to the ownership of the vessel and that he is the agent or attorney for the owner and has made such purchase in good faith and in such capacity.

(4) Whenever the document of any vessel is lost or destroyed, the master, or the person in command, may take the following oath before any Consular or Diplomatic Officer or other person appointed by the Authority 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 vessel) Official No. (insert number) owned by (insert name of the owner) of (insert domicile of the owner) do swear (or affirm) that said vessel has been, as I verily believe, registered according to the laws 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 number 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) which certificate has been lost (or destroyed); and that the same if found, and within my power, will be delivered up to the Commissioner or Deputy Commissioner."

(5) When an oath is taken as provided in Subsection (4) of this Section, the officer or person administering such oath shall grant to the vessel a temporary provisional Certificate of Registry and insert therein that it is used in lieu of the one lost or destroyed. Such officer or person shall forthwith send to the Commissioner or to any Deputy Commissioner a written notice, accompanied by a copy of the oath, advising that such oath has been taken and such temporary provisional certificates issued. Upon receipt of such notice the Commissioner or such Deputy Commissioner 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 Certificate of Registry, the temporary provisional certificate hereinbefore referred to shall be surrendered to the Commissioner or to a Deputy Commissioner for cancellation. [*P.L. 1987-17, § 21; amended by P.L. 1988-18, § 3, amending Subsections (4) and (5).*]

§ 22. Measurement.

A vessel shall not be permanently registered until measured by a person appointed by the Commissioner or by a Deputy Commissioner. A vessel registered under this Act shall not be required to be measured a new unless the burden of the vessel has been changed. [*P. L. 1987-17, § 22.*]

§ 23. Certificate of Measurement.

The person or agent appointed under Section 22 of this Act to measure a vessel shall certify, specifying the building of the vessel, number of decks and masts, length, depth, tonnage or tonnages, and such other particulars usually descriptive of the identity of a vessel, and that the markings required by Section 42 of this Act have actually been made. [*P. L. 1987-17, § 23.*]

§ 24. Method of measurement of vessels.

The Authority on the recommendation of the Commissioner shall by order prescribe the method of measurement for all vessels registered under this Act. [*P.L. 1987-17, § 24.*]

§ 25. Treatment of shelter-deck and certain other spaces.

The Authority on the recommendation of the Commissioner may issue orders for the purpose of effectuating recommendations concerning treating of the shelter-deck and certain other spaces. [*P.L. 1987-17, § 25.*]

§ 26. Tonnage statements in Certificate of Registry.

(1) The Certificate of Registry for each vessel shall state the gross and net tonnage or tonnages determined in accordance with such rules and regulations as the Commissioner may prescribe.

(2) Upon application by the owner or master of a vessel registered under this Act engaged in foreign trade, the Commissioner or his duly authorised agent may attach to the document an appendix for use in foreign ports, stating separately, the measurement of such space or spaces as are permitted to be deducted from gross tonnage or tonnages. [*P.L. 1987-17, § 26.*]

§ 27. Forms of documents.

The Authority on the recommendation of the Commissioner shall prescribe and furnish forms of bareboat charter, provisional and permanent Certificates of Registry and other ship documents, and may prescribe forms of endorsements that may be made on ship documents from time to time without issuance of a new document or surrender of the old document to show liens and encumbrances. [*P. L. 1987-17, § 27.*]

§ 28. Numbering Certificates of Registry and licenses.

The Commissioner or his duly authorized agent shall progressively number the licenses and Certificate of Registry respectively, granted by him, beginning a new at the commencement of each year, and shall make a record thereof in a book kept for that purpose. Bareboat charter Certificates of Registry shall be assigned a separate series of numbers as the Commissioner or his duly authorised agent stipulates. The Commissioner or his duly authorised agent, shall also permanently retain copies of all such documents issued by or surrendered to him for an indefinite period. [*P. L. 1987-17, § 28.*]

§ 29. Provisional Certificate of Registry for vessels abroad.

(1) Upon compliance with the provisions set forth in Section 30 of this Act, a provisional Certificate of Registry may be issued by the Commissioner or any Deputy Commissioner, or by a Consular or Diplomatic Officer or Consular Agent of the Republic upon direction by the Commissioner or any Deputy Commissioner, or by any other person designated by the Authority, to vessels abroad which are to be registered under the flag of the Republic.

(2) Copies of provisional Certificates of Registry issued by persons other than the Commissioner or a Deputy Commissioner shall be furnished as soon as practicable by the issuing officer to the Commissioner and all Deputy Commissioners.

(3) Unless sooner invalidated, a provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of the Republic in the foreign trade until the expiration of one year from its date.

(4) The Commissioner or his duly authorized agent shall prescribe the conditions in accordance with

which provisional Certificate of Registry shall be issued and renewed and the manner in which they shall be surrendered in exchange for a permanent Certificate of Registry.

[*P.L.1987-17, § 29.*]

§ 30. Conditions precedent to issuance of provisional Certificate.

(1) Upon receipt by the Commissioner or Deputy Commissioner of a written application by an owner of a vessel eligible for registration under the provisions of this Act requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by Section 21 of this Act, and upon payment of the prescribed fees to the officer receiving such application, the Commissioner or any Deputy Commissioner or any issuing official listed in Section 29(1) of this Act may issue a provisional Certificate of Registry for the vessel, provided the owner shall furnish proof satisfactory to the officer receiving such 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 the marine document has been surrendered for cancellation or that the owner has issued orders to the master of the vessel to surrender the foreign marine document for cancellation immediately upon receipt of the provisional Certificate of Registry on board the vessel, or that the outstanding document has been legally cancelled;

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

(d) that the owner has paid to the Registry the registration fees due with respect to the vessel, being the initial registration fee due with respect to the vessel; and

(e) that the markings of name, official number, net tonnage or tonnages, home port and draft required by Section 42 of this Act have either actually been made or that the owner has issued orders to the master of the vessel to have such marking made on the vessel, immediately upon receipt of the provisional Certificate of Registry.

(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 registration 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 42 of this Act have actually been made, or if before such thirty (30) day period expires and it is established that any of the obligations hereunder will not or cannot be complied with, such officer may declare the provisional Certificate of Registry to be null and void.

(3) As soon as reasonably practicable after measurement of the vessel and the surrender for cancellation of any outstanding foreign marine document for the vessel and the making of the markings required by Section 42 of this Act, 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 Commissioner or a Deputy Commissioner. When the permanent Certificate of Registry 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 Commissioner or any Deputy Commissioner may, from time to time, renew a provisional Certificate of Registry for a period not exceeding one year.

[*P. L. 1987-17, § 30.*]

§ 31. Conditions precedent to issuance of bareboat Certificate of Registry.

(1) Notwithstanding anything to the contrary in the rest of the provisions of this Act, a bareboat charter of a vessel registered in a foreign registry may obtain a bareboat charter Certificate of Registry for a period of two years, which may be extended, under the provisions of this Act where permitted by the foreign registry, upon presentation to the Commissioner or a Deputy Commissioner of the following:

- (a) a written application;
- (b) a copy of the charter party in a form satisfactory to the Commissioner and certified as true and correct by any person permitted to take oaths under Section 21 of this Act;
- (c) proof of ownership and consent of the registered owner of the vessel;
- (d) consents of holders of all mortgages, hypothecation or similar charges against the vessel in the foreign registry;
- (e) true and correct copies of all the said mortgages, hypothecation or similar charges which copies shall be in the original language, and shall have affixed thereto a duly acknowledged statement in the English language indicating the name of the vessel, the names of the parties, the total original amount, the discharge amount, and the date of maturity;
- (f) written consent of the country of registration, or presentation of satisfactory evidence that such consent is not required; and
- (g) a certificate of ownership and encumbrance, transcript of registry, or other such document from the foreign registry showing all recorded liens and encumbrances.

(2) During any period in which a vessel carries a bareboat charter Certificate of Registry, at no time shall a document indicating a transfer of ownership be recorded against the vessel in the record books maintained at the office of the Commissioner or a Deputy Commissioner. Any mortgage, hypothecation or similar charge, or document related thereto, which is at any time recorded in the foreign registry shall be recorded in the office of the Commissioner or a Deputy Commissioner as provided for in Subsection (3) of this Section.

(3) Copies of mortgages, hypothecation or charges referred to in Subsection (1) (d) of this Section shall, upon payment of the prescribed fee, be recorded in the same order to the foreign registry in a bareboat charter mortgage book maintained at the office of the Commissioner or a Deputy Commissioner, and the information contained in the statement affixed to the document shall be endorsed upon the vessel's bareboat charter Certificate of Registry. Two certified copies of the recorded document shall be furnished to the bareboat charterer one of which is to be placed upon and retained on board the vessel. All such foreign mortgages, hypothecation and charges shall have preferred status as under Section 64 of this Act.

(4) A bareboat charter Certificate of Registry may be extended for a period of two (2) years upon filing an application, a copy of the charter party, and a certificate of ownership encumbrance or transcript of registry and consents of mortgagees with the Commissioner or a Deputy Commissioner prior to the expiration of the current certificate and upon payment of the prescribed fees and taxes.

(5) A bareboat charter Certificate of Registry may be cancelled prior to its date of expiration upon presentation to the Commissioner or Deputy Commissioner of the following:

- (a) written consent of all holders of record of any mortgage, hypothecation or other

charge on the vessel;

(b) written consent of the owner;

(c) written consent of the bareboat charterer; and

(d) surrender of the bareboat charter Certificate of Registry and the radio license for cancellation.

If the vessel is sold or transferred during the time it carries a bareboat charter Certificate of Registry, the certificate shall become null and void at the time of the sale or transfer and must be surrendered for cancellation within thirty (30) days or such further time as may be allowed by the Commissioner or Deputy Commissioner.

(6) The bareboat charterer of a Republic of the Marshall Islands vessel may register the vessel in a foreign jurisdiction, where permitted by the jurisdiction, upon obtaining written consent of the Commissioner or Deputy Commissioner, which may be granted upon presentation of the following:

(a) written consent of the owner;

(b) written consent of all holders of record of any mortgage, hypothecation or other charges recorded in the offices of the Commissioner and Deputy Commissioner;

(c) satisfactory proof that the vessel document issued by the foreign jurisdiction shall have endorsed upon it, or upon an addendum affixed to it, evidence of all mortgages recorded against the vessel in the offices of the Commissioner and Deputy Commissioner; and

(d) a copy of the foreign document, certified as true and correct, to be submitted within thirty (30) days following registry in the foreign jurisdiction. [*P. L. 1987-17, § 31.*]

§ 32. Denial of document.

The Commissioner or his agent or Consular or Diplomatic Officer shall not grant a document or issue papers to any vessel until all applicable provisions of this Part have been complied with.

[*P. L. 1987-17, § 32.*]

§ 33. Waiver of certain requirements of [Part IV](#).

Where an owner of a vessel registered in a foreign registry is prevented from, or incurs inordinate delay in, complying with any of the requirements of Sections 20(b), 29(1), and 30(1) of this Act because of abnormal conditions existing in the country of foreign registration, the Commissioner or Deputy Commissioner may waive such requirement upon the owner furnishing proof to the satisfaction of the officer receiving such application that such owner has been so prevented or delayed because of such abnormal conditions existing in the country of foreign registration. Such owner shall provide an affidavit setting out full particulars of all mortgages, hypothecation or other charges registered or entitled to be registered on the foreign registry with respect to the vessel, and upon receipt of either the written consent of all holders of mortgages, hypothecation or other charges, or the release thereof, the vessel may be registered and all such mortgages, hypothecation or such other charges shall be recorded in the same order of precedence as recorded on the foreign registry. [*P. L. 1987-17, § 33.*]

§ 34. Sale of document forbidden.

A document shall be used solely for the vessel for which it is granted, and it shall not be sold, loaned, or otherwise disposed of to any person. [*P. L. 1987-17, § 34.*]

§ 35. Sale or transfer abroad.

A registered vessel sold or transferred in whole or in part while outside the territorial waters of the Republic, but without change of flag, shall comply with the provisions of this Part relating to the registration of vessels and a new Certificate of Registry shall be obtained by that vessel. [*P. L. 1987-17, § 35.*]

§ 36. Transfer to foreign registry.

The owner of a registered vessel who desires to transfer the vessel to a foreign registry may do so; provided, that there are no unfulfilled obligations owing to the Republic with respect to the vessel. Before such transfer is accomplished the registered owner shall surrender the ship's document to the Commissioner or his duly authorized agent or to a Consular or Diplomatic Officer of the Republic. [*P. L. 1987-17, § 36.*]

§ 37. Application for surrender of documents.

Before a Certificate of Registry shall be accepted for surrender, the registered owner shall submit to the Commissioner or Deputy Commissioner 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 which transfer or registration is desired. [*P. L. 1987-17, § 37.*]

§ 38. Surrender and Certificate 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 it may belong, the Certificate of Registry, if preserved, shall be delivered up within eight (8) days after the arrival of the master or person in command, to the Commissioner or his authorized agent.

(2) When an application is made for new registry of a vessel, its former Certificate of Registry shall be delivered up to the Commissioner or his duly authorized agent to whom such application is made.

(3) Where a Certificate of Registry is granted in lieu of one that has been lost, the lost certificate, if found, shall be delivered up to the Commissioner or his duly authorized agent who shall thereupon cancel it. [*P. L. 1987-17, § 38.*]

§ 39. Surrender of documents of vessel subject to Preferred Mortgages.

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 of Registry for the purpose of issuing a permanent Certificate, in which case the mortgage endorsement on the provisional Certificate shall be transferred to the permanent Certificate of Registry. [*P. L. 1987-17, § 39.*]

§ 40. New document.

(1) Whenever a registered vessel is sold or transferred entirely or partially, 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, it shall be registered anew, by its former name. Every such sale or transfer shall be evidenced by a written instrument in the nature of a bill of sale reciting the entire Certificate of Registry. Otherwise the vessel shall not be registered anew.

(2) In case 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 addendum showing the vessel in the other condition or use with a 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 registered anew.

(3) When the Commissioner or his duly authorized agent determines that any vessel has been sold or transferred by process of law, and that its certificate is retained by the former owner, he may grant a new certificate, under such sale, upon the owner's compliance with the requirements of this Part, excepting the delivery of the former certificate. 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 such vessel.

(4) Any vessel required to be registered anew which is not so registered shall not be deemed a registered vessel of the Republic. If a former certificate 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 liable to a fine not exceeding \$500. [*P. L. 1987-17, § 40.*]

§ 41. Builder's certificate.

In order to register a vessel newly built and previously unregistered 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 time when built;
- (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. 1987-17, § 41.*]

§ 42. Names, numbers and marks on vessel.

(1) Every registered vessel shall have its 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, or consist of cut or carved or cast Roman letters in light color on a dark background, or in a dark color on a light background, secured in place and distinctly visible. The smallest letters used shall not be less than four (4) inches in size. If any such vessel is found without these names being so marked, the owner shall be liable to a fine of \$10 for each name omitted.

(2) Each vessel, in addition to having its name painted on its stern, shall have such name conspicuously placed in distinct plain letters of not less than six (6) inches in length, on each side of the pilot house, if any, and in case the vessel has sidewheels, also on the outer side of each wheelhouse. Any such vessel found without having its name so marked shall be subject to a fine of \$10 for each marking omitted.

(3) The Commissioner or his duly authorized agent may prescribe a system of numbering registered vessels. The designated number and the net tonnages of each vessel shall be carved deeply or otherwise marked permanently on its main beam. If at any time such vessel ceases to be so marked, it shall be liable to a fine of \$30 on every arrival in the Republic.

(4) The draft of every registered vessel shall be marked upon the stern post, in English feet or in decimeters, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line. [*P. L. 1987-17, § 42.*]

§ 43. Numbering of vessels.

Upon the initial registration (either permanent or provisional) of a vessel, the Commissioner, either directly or through the Deputy Commissioner issuing the Certificate, shall assign to the vessel an official number. [*P. L. 1987-17, § 43.*]

§ 44. Change in name of vessel.

(1) The Commissioner or his duly authorized agent may change the name of a vessel on application of the owner.

(2) The Commissioner or his agent shall establish necessary rules and regulations and procure necessary evidence as to age, condition, location where built, and pecuniary liability of the vessel so as to prevent injury to public or private interest. Upon granting permission, the Commissioner or his agent shall cause the order for change of name to be published in the "Journal of Commerce" published by the Registry. The person desiring the change of name shall pay the cost of procuring evidence and advertising.

(3) A fee of \$200 shall be payable by the owner of the vessel for securing such change of name.

(4) Whenever the name of a vessel is changed, or any device, advertisement, or contrivance is used with intent to deceive as to its true name or character, such vessel shall be forfeited.

[*P. L. 1987-17, § 44.*]

§ 45. Inspection of documents.

Any officer concerned in the collection of revenue may at all times inspect the documents of a vessel. A master who fails to exhibit the same, when required by such officer, shall be liable to a fine of \$100, and if his failure is willful, shall be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both. [*P. L. 1987-17, § 45.*]

§ 46. Display of ship's papers to consul.

(1) Upon arrival during customary business hours of a registered vessel at any foreign port where there is located the principal Consular Office of a Republic of the Marshall Islands Consul or Vice Consul, the master, ship's agent or other authorized person shall upon request of such Consul or Vice Consul display to him, without payment of any fee, the vessel's Certificate of Registry and Annual Tonnage Tax Receipt.

(2) Where a request has been made and the ship's papers have not been properly displayed, the vessel shall not be detained therefor by the Republic of the Marshall Islands Consul or Vice Consul making the request, but he shall immediately notify the Commissioner or a Deputy Commissioner of such noncompliance.

(3) Subsection (1) of this Section shall not apply to a vessel whose papers have been displayed in a foreign port within the previous ninety (90) days.

(4) Whether local port regulations do or do not require clearance of a vessel by a Republic of the Marshall Islands Consul or Vice Consul, it shall not be required in relation to such clearance that the signing on or off of a crew or the execution of any ship's papers or documents be done before a Republic of the Marshall Islands Consul or Vice Consul, or that any ship's papers or documents be witnessed, visaed, stamped or otherwise legalized by the Republic of the Marshall Islands Consul or Vice Consul. [*P. L. 1987-17, § 46.*]

§ 47. Perjury.

(1) If any owner, agent, or attorney commits perjury in the oath taken to obtain registration of a vessel, such vessel, 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 shall be liable to a fine of \$1,000, but the vessel shall not thereby be forfeited. [*P. L. 1987-17, § 47.*]

§ 49. Rules and regulations.

The Authority on the recommendation of the Commissioner may make such rules and regulations, not inconsistent with the provisions of this Act, for the registration, identification and regulation of transfers of vessels as he may deem in the best interests of the Republic, merchant marine and domestic and foreign commerce of the nation. [*P. L. 1987-17, § 48.*]

§ 49. Standard of seaworthiness.

The Authority on the recommendation of the Commissioner may from time to time by order establish standards of seaworthiness required for the registration of vessels and may appoint Classification Societies or others to determine any questions involved. [*P. L. 1987-17, § 49.*]

PART V - PREFERRED SHIP MORTGAGES AND MARITIME LIENS

§ 50. Contents of record.

(1) A sale conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid with respect to 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 office of the Commissioner or a Deputy Commissioner.

(2) The Commissioner or Deputy Commissioner shall record such instruments in the order of their receipt in books to be kept for that purpose and indexed to show:

- (a) the name of the vessel;
- (b) the name of the parties;
- (c) the time and date of receipt of the instrument;

- (d) the interest in the vessel transferred or affected; and
- (e) the amount and date of maturity of any mortgage. [*P. L. 1987-17, § 50.*]

§ 51. Documentary endorsement of Preferred Mortgage.

A valid mortgage, which at the time it is made includes the whole of any vessel, shall have a preferred status with respect to such vessel as of the date of its recording, if:

- (a) the mortgage is endorsed upon the vessel's certificate;
- (b) the mortgage is recorded as provided herein;
- (c) an affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud an existing or future creditor of the mortgagor or any lienor of the mortgaged vessel; and
- (d) the mortgage does not stipulate that the mortgagee waives the preferred status thereof. [*P. L. 1987-17, § 51; amended by P. L. 1988-18, § 4, introducing new Paragraph (d).*]

§ 52. Termination of mortgagee's interest.

The interest of a mortgagee in a vessel registered under this Act shall not be terminated by a forfeiture of the vessel for a violation of any of the laws of the Republic, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation. [*P. L. 1987-17, § 52.*]

§ 53. Conditions precedent to recording.

A bill of sale, conveyance, or mortgage shall not be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed or mortgaged. A bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof shall not be recorded unless previously acknowledged before the Commissioner or a Deputy Commissioner or a Consul or Consul Agent of the Republic, or before a notary public or other officer authorized by the laws of the place where the acknowledgement is made to take acknowledgment of deeds. [*P. L. 1987-17, § 53.*]

§ 54. Recording of bills of sale.

The Commissioner or any Deputy Commissioner may accept for recording in his office upon payment of the prescribed fee any bill of sale of a vessel which recites the interest of the grantor in the vessel and the interests sold or conveyed; provided, that it has previously been acknowledged in accordance with the provisions of Section 53 of this Act; and provided further, that any bill of sale of a vessel already documented under the laws of the Republic must have incorporated therein a true copy of its latest Certificate of Registry. [*P. L. 1987-17, § 54.*]

§ 55. Recording of mortgages.

The Commissioner or any Deputy Commissioner may accept for the recording in his office upon payment of the prescribed fee any bill of sale of a vessel which recites the mortgagor in the vessel and the interest so mortgaged; provided, that it has been previously acknowledged in accordance with the provisions of Section 53 of this Act; and provided further, that written proof is furnished to him of the amounts and dates of any documents or evidence of debts in support thereof. At the time of recording the Commissioner or Deputy Commissioner may, if requested, certify without charge two (2) copies of

any mortgage so recorded. [*P. L. 1987-17, § 55.*]

§ 56. Preferred Mortgage.

(1) A mortgage which complies with the conditions enumerated in this Part shall be designated as a "Preferred Mortgage".

(2) There shall be endorsed upon the certificate of a vessel covered by a Preferred Mortgage:

- (a) the names of the mortgagor and the mortgagee;
- (b) the time and date the endorsement is made;
- (c) the amount and date of the maturity of the mortgage; and
- (d) any amount required to be endorsed by Subsection (5) and (6) of this Section.

(3) Such endorsement shall be made by the Commissioner at the port of registry or by a Deputy Commissioner or other duly appointed agent at any foreign port, and each Deputy Commissioner is empowered and authorized as a special agent to endorse on the document, whether a permanent or provisional Certificate of Registry of a vessel covered by a Preferred Mortgage recorded in his office, a notation of such mortgage as required under Subsection (2) of this Section. Clearance shall not be given to the vessel until such endorsement is made.

(4) A certificate of such endorsement, giving the place, time and description of the endorsement, shall be recorded with the records of registration. Where the endorsement is made by a person other than the Commissioner, such certificate shall be promptly furnished to the Commissioner if recording has been accomplished by a Deputy Commissioner.

(5) A mortgage which includes property other than a vessel shall not be held a Preferred Mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a Preferred Mortgage so provides for the separate discharge, the amount of the portion of such payment shall be endorsed upon the certificate of the vessel.

(6) If a Preferred Mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion shall be endorsed upon the document of the vessel. [*P. L. 1987-17, § 56.*]

§ 57. 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. [*P. L. 1987-17, § 57.*]

§ 58. Interest on Preferred Mortgage.

A Preferred Mortgage may bear such rate of interest as agreed between the two parties. [*P. L. 1987-17, § 58.*]

§ 59. Disclosure of liens and priority.

(1) The mortgagor, before executing a preferred mortgage, shall disclose to the mortgagee in writing the existing 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 to record it and have proper endorsements made upon the document of the vessel, 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 all other charges (not to exceed \$1,000) of the Commissioner with respect to the vessel.

(3) Whoever, being a mortgagor or an officer of a corporate mortgagor, with the intent to defraud, violates this Section shall be liable to a fine not exceeding \$3,000 or to a term of imprisonment 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. 1987-17, § 59.]

§ 60. Exhibiting certified copies.

(1) Upon recording a Preferred Mortgage, two (2) certified copies 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 certificate 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) A master who willfully fails to exhibit such documents and copy of the mortgage shall be liable to have his license suspended or revoked. [P. L. 1987-17, § 60.]

§ 61. Record of notice of claim of lien.

The Commissioner or his duly authorized agent shall upon the request of any person record notice of his claim to a lien upon a registered vessel, together with the nature, date of creation, and amount of the lien and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file a certificate of such discharge with the Commissioner or his duly authorized agent, who shall thereupon record the certificate. [P. L. 1987-17, § 61.]

§ 62. 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 successor or assigns with the Commissioner or his duly authorized agent, who shall thereupon record the certificate and the mortgagor may similarly file a certificate of partial discharge of a mortgage covering more than one vessel. [P. L. 1987-17, § 62.]

§ 63. Foreclosure and default jurisdiction and procedure.

(1) The lien of a Preferred Mortgage may be enforced in the Republic by a suit *in rem* 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 plaintiff, in such manner as the court directs, to the master, other ranking officer, or caretaker of the vessel, and any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the plaintiff 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 plaintiff shall be liable to such person for damages in the amount of his interest in the vessel terminated by the action.

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

under the laws of such country.

(3) Notwithstanding anything in this Act to the contrary, the mortgagee may, in addition to all other remedies granted by this Part, bring an action *in personam* against the mortgagor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.

(4) This Act does not authorize the enforcement by action *in rem* in admiralty of the rights of the mortgagee with respect to realty or personalty other than the vessel or vessels covered by the mortgage. [*P. L. 1987-17, § 63.*]

§ 64. Preferred status.

As used in Sections 57, 58, 63, 65 and 67 of this Act, 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 registered 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 is documented; and the term "Preferred Mortgage lien" shall also include the lien of such mortgage, hypothecation or similar charge. [*P. L. 1987-17, § 64.*]

§ 65. Foreclosure.

Upon the sale of any vessel in an action *in rem* in admiralty for the enforcement of a Preferred Mortgage lien, all pre-existing claims on 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 liens arising prior in time to the recording and endorsement of the Preferred Mortgage as provided in this Part, liens for damages arising out of tort, 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. 1987-17, § 65.*]

§ 66. Necessaries.

(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 tortiously or unlawfully in possession or charge of the vessel shall not leave authority to bind it.

(3) This Section shall not confer a lien when the workman or materialman knows, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement of sale of the vessel, or for other reason, the person ordering necessaries was without authority to bind the vessel therefor. [*P. L. 1987-17, § 66.*]

§ 67. Waiver of lien in necessaries.

This Part shall not prevent the furnisher of repairs, supplies, tonnage, use of dry dock or marine railway, or other necessaries, or a mortgagee, from waiving his right to a lien or in the case of a Preferred Mortgagee, to waive the preferred status of such lien, at any time by agreement or otherwise. [*P. L. 1987-17, § 67.*]

PART VI – CARRIAGE OF GOODS BY SEA

§ 68. Interpretation.

In this Part, unless the context otherwise requires:

- (a) "carrier" includes the owner or the charterer who enters into a contract of carriage of goods with a shipper;
- (b) "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;
- (c) "contract of carriage" applies only to contracts of carriage covered by a 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;
- (d) "foreign trade" means the transportation of goods between the ports of the Republic and ports of foreign countries. [*P. L. 1987-17, § 68.*]

§ 69. Risks.

Subject to the provisions of Section 73 of this Act, 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 entitled to the rights and immunities hereinafter set forth. [*P. L. 1987-17, § 69.*]

§ 70. Carrier's responsibility.

- (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 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, that such marks are stamped or otherwise clearly shown upon the goods if uncovered or on the cases or coverings in which such goods are contained in such 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 grounds for suspecting do not accurately represent the goods actually received, or which he has not had 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 Subsection (3) (a), (b) and (c) of this Section. Nothing in this Part shall be construed as limiting the application of any part of the general law governing Bills of Lading.

(5) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of 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) After the goods are loaded, the Bill of Lading to be issued by the carrier 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 against the issue of the "shipped" Bill of Lading, but at the option of the carrier such document of title may be noted as 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.

(7) 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 Act, 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. 1987-17, § 70.*]

§ 71. Notice of loss or damage.

(1) Unless notice of loss or damage and the general nature of such loss or damage is 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 the 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.

(2) If the loss or damage is not apparent, the notice must be given within three (3) days of the delivery.

(3) A notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof.

(4) A notice of loss or damage may not be given if the state of the goods has, at the time of their receipt, been the subject of a joint survey or inspection.

(5) The carrier and the ship shall be discharged from all liability with respect to loss or damage unless action is brought within one year after delivery of the goods or the date when the goods should have been delivered; provided, that if a notice of loss or damage, either apparent or concealed, is not given as provided for in this Section, that fact shall not affect or prejudice the right of the shipper to bring an action within one year after delivery of the goods or the date when the goods should have been delivered.

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. [*P. L. 1987-17, § 70. This Section is derived from original Section 70 of the Act, which for purposes of clarity was split into present Sections 70 and 71. The language of this Section has been modified.*]

§ 72. 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 see 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 Section 70 of this Act. 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) acts of God;
- (e) acts of war;
- (f) acts of public enemies;
- (g) arrest or restraint of princes, rulers, or people, or seizure under legal process;
- (h) quarantine restriction;
- (i) acts or omissions of the shipper or owner of the goods, his agent or representatives;
- (j) strikes or lookout 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 responsibilities for the carrier's own acts;
- (k) riots and civil commotions;
- (l) saving or attempting to save life or property at sea;
- (m) wasted 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 contribute 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 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 Act 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) 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 transportation of goods in an amount exceeding \$600 per package, or in case of goods not shipped in packages, per customary freight unit, or the equivalent of the sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the Bill of Lading. The declaration, if embodied in the Bill of Lading, shall be *prima facie* evidence, but shall not be conclusive on the carrier.

(6) By agreement between the carrier, master, or agent of the carrier, and the shipper, a maximum amount other than that mentioned in this Section may be fixed; provided, that such maximum shall not be less than the amount set forth in Subsection 5 of this Section.

(7) In no event shall the carrier be liable for more than the amount of damage actually sustained.

(8) Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with the transportation of the goods if the nature or value thereof has been knowingly and fraudulently misstated by the shipper in the Bill of Lading.

(9) 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 shipments.

If any goods shipped without such knowledge and consent shall become a danger to the ship or cargo, they may be 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. 1987-17, § 71; amended by P. L. 1988-18, § 5, amending Section 2(q). This Section has been renumbered.*]

§ 73. 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 vessel 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 provisions regarding general average. [*P. L. 1987-17, § 72. This Section has been renumbered.*]

§ 74. Special conditions.

(1) Notwithstanding the provisions of the preceding Sections, a carrier, master or agent of the carrier, and a shipper shall, with regard to any particular goods, be at liberty to enter into any agreement on any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier with respect to such goods, or his obligation as to seaworthiness (insofar as the stipulation regarding seaworthiness is not contrary to public policy), or the care or diligence of his servants or agent with regards to lading, 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 accordingly.

(2) Any agreement so entered into shall have full legal effect; provided, that the Section shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to the 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. 1987-17, § 73. This Section has been renumbered.*]

§ 75. Contracts relating 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 loading and subsequent to the discharge from the ship on which the goods are carried by sea. [*P. L. 1987-17, § 74. This Section has been renumbered.*]

§ 76. Effect of Parts.

The provisions of this Part shall not affect the rights and obligations of the carrier under the provisions of Part VII of this Act, or under the provisions of any statute for the time being in force, relating to the limitation of the liability of the owners of seagoing vessels. [*P. L. 1987-17, § 75. This Section has been renumbered.*]

§ 77. 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:

(a) with respect to their right to demand and receive Bills of Lading subject to the provisions of this Part; or

(b) 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. 1987-17, § 76. This Section has been renumbered.*]

§ 78. 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 as so ascertained or accepted is stated in the Bill of Lading, then notwithstanding anything in this Act, the Bill of Lading shall not be deemed to be *prima facie* evidence against the carrier of 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. 1987-17, § 77. This Section has been renumbered.*]

§ 79. Scope of this Part.

This Part shall apply to all contracts for carriage of goods by sea to or from ports of the Republic in foreign trade. [*P. L. 1987-17, § 78. This Section has been renumbered.*]

PART VII-LIMITATION OF SHIPOWNER'S LIABILITY

§ 80. Owner's right to limitation.

(1) The owner of a ship may limit his liability in accordance with Section 82 of this Act with respect to claims arising from any of the following occurrences unless the occurrences giving rise to the claim resulted from the actual fault or privity of the owner:

(a) loss of life of, or personal injury to, any person being carried in his ship, and loss of, or damage to, any property on board the ship;

(b) loss of life of, or personal injury to, any person, whether on land or on water loss of or damage to any other property or infringement of any rights caused by the act, neglect or default of any person on board the ship for whose act, neglect or default of the owner is responsible: provided, however, that with regard to the act, neglect or default of the class of persons referred to hereinabove, the owner shall only be entitled to limit his liability when the act, neglect or default is one which occurs in the navigation or the management of the ship or in the loading carriage or discharge of its cargo or in the embarkation, carriage or disembarkation of its passengers; or

(c) any obligation or liability imposed by any law relating to the removal or destruction of any ship which is sunk, stranded or abandoned (including anything which may be on board such ship) and any obligation or liability arising out of damage caused to harbor works, basins and navigable waterways.

(2) In this Part the expression "personal claims" means claim resulting from loss of life and personal injury, "property claims" mean all other claims set out in Subsection (1) of this Section.

(3) An owner shall be entitled to limit his liability in the cases set out in Subsection (1) of this Section even in the cases where his liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the ship.

(4) Nothing in this Section shall apply to:

(a) claims for salvage or claims for contribution in general average; or

(b) claims by master, by members of the crew; or

(c) by any servants of the owner on board the ship or by servants of the owner whose duties are connected with the ship, including the claims of their heirs, personal representatives of dependants, if under the law governing the contract of service between the owner and such servants the owner is not entitled to limit his liability with respect to such claims, or if he is by such law only permitted to limit his liability with respect to 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 81 of this Act.

(5) If the owner of a ship is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

(6) The act of invoking limitation of liability shall not constitute an admission of liability. [*P. L. 1987-17, § 79. This Section has been renumbered.*]

§ 81. Claims.

(1) The limit of liability prescribed by Section 81 of this Part shall apply to the aggregate of personal claims and property claims which arise on any distinct occasion without regard to any claims which have arisen or may arise on any other distinct occasion.

(2) Where the aggregate of the claims which arise on any distinct occasion exceeds the limits of liability provided for by Section 82 of this Act, the total sum representing such limits of liability may be constituted as one distinct limitation fund.

(3) The fund thus constituted shall be available only for the payment of claims with respect to which limitation of liability can be invoked.

(4) After the fund has been constituted, no claimant against the fund shall be entitled to exercise any right against any other assets of the shipper with respect to his claim against the fund, if the limitation fund is actually available for the benefit of the claimant. [*P. L. 1987-17, § 80. This Section has been renumbered.*]

§ 82. Limitation fund.

(1) The amounts to which the owner of a ship may limit his liability under Section 80 of this Act shall be:

(a) an aggregate amount of \$67 for each ton of ship's tonnage where the occurrence has only given rise to property claim;

(b) an aggregate amount of \$207.70 for each ton of the ship's tonnage where the occurrence has only given rise to personal claim; and

(c) an aggregate amount of \$207.70 for each ton of the ship's tonnage which shall be exclusively appropriated to the payment of property claim where the occurrence has given rise both to personal claims and property claims; provided, however, that in the cases where the first portion is insufficient to pay the personal claims in full the unpaid balance of such claims shall rank ratably with the property claims for payment against the second portion of the fund.

(2) In each portion of the limitation fund the distribution among the claimants shall be made in proportion to the amounts of their established claims.

(3) If before the fund is distributed the owner has paid in whole or in part any of the claims set out in Section 80 of this Act, he shall *pro tanto* be placed in the same position in relation to the fund as the claimant whose claim he has paid who have had a right of recovery against him under the laws of the Republic.

(4) Where the shipowner establishes that he may at a later date be compelled to pay in whole or in part any of the claims set out in Section 80 of this Act, the court may order that a sufficient sum shall be provisionally set aside to enable the shipowner at such later date to enforce his claim against the fund in the manner set out in Subsection (3) of this Section.

(5) For the purpose of ascertaining the limit of an owner's liability in accordance with the provisions of this Section the tonnage of a ship of less than 300 tons shall be deemed to be 300 tons.

(6) For the purpose of this Part only, tonnage shall be calculated as follows:

(a) in the case of steamships or other mechanically propelled ships there shall be taken the net tonnage with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage; and

(b) in the case of all other ships there shall be taken the net tonnage. [*P. L. 1987-17, § 81. This Section has been renumbered.*]

§ 83. Bail and release.

(1) Whenever a shipowner is entitled to limit his liability under this Part and the ship has been arrested or attached within the jurisdiction of the Republic or bail or other security has been given to avoid arrest, a court may, in its discretion, order the release of the ship or other property or of the security given if it is established by the shipowner that he has already given satisfactory bail or security, in the Republic or elsewhere, in a sum equal to the full limit of his liability under this Part and that the bail or other security so given is actually available for the benefit of the claimant in accordance with his rights.

(2) Where, in circumstances mentioned in Subsection (1) of this Section, bail or other security has already been given:

(a) at the port where the accident giving rise to the claim occurred;

(b) at the first port of call after the accident if the accident did not occur in a port; or

(c) at the port of disembarkation or discharge if the claim is a personal claim or relates to damage to cargo,

the court shall order the release of the ship or the bail or other security given, subject to the conditions set forth in Subsection (1) of this Section.

(3) The provisions of Subsections (1) and (2) of this Section shall apply likewise if the bail or other security already given is a sum less than the full limit of liability under this Part; provided, that satisfactory bail or other security is given for the balance.

(4) When the shipowner has given bail or other security in a sum equal to the full limit of his liability under this Part such bail or other security shall be available for the payment of all claims arising on a distinct occasion and with respect to which the shipowner may limit his liability.

[*P. L. 1987-17, § 82. This Section has been renumbered.*]

§ 84. Applicability.

(1) In this Part the liability of the shipowner includes the liability of the ship.

(2) Subject to Subsection (3) of this Section, the provisions of this Part shall apply to the charterer, manager and operator of the ship, and to the master, members of the crew and other servants of the owner, charterer, manager or operator acting in the course of their employment, in the same way as they apply to an owner himself; provided, that the total limits of liability of the owner and all such other persons with respect to personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with Section 82 of this Act.

(3) When actions are brought against the master or against the members of the crew, such persons

may limit their liability even if the occurrence which gives rise to the claims resulted from the actual fault or privity of one or more of such persons. If, however, the master or member of the crew is at the same time the owner, co-owner, charterer, manager or operator of the ship, the provisions of this Subsection shall only apply where the act, neglect or default in question is an act, neglect or default committed by the person in question in his capacity as master or as member of the crew of the ship. [*P. L. 1987-17, § 83. This Section has been renumbered.*]

§ 85. Fire damage.

No owner, master or agent of the 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, master, or agent of the owner. [*P. L. 1987-17, § 84. This Section has been renumbered.*]

PART VIII – RADIO

§ 86. Regulations.

The Authority may, on the recommendation of the Commissioner, from time to time make rules and regulations as may be deemed necessary and appropriate to the efficient administration of maritime mobile radio stations. [*P. L. 1987-17, § 85. This Section has been renumbered.*]

PART IX – RULES OF NAVIGATION

§ 87. Regulations for preventing collisions.

The Regulations approved by the International Conference on Revision of the International Regulations for Preventing Collisions at Sea, 1972, and such changes therein as in the future shall be made by an International Convention to which the Republic subscribes 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 and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels except as provided in such Regulations which Regulations shall have the effect of law as if specifically enacted by statute and fully set forth herein. [*P. L. 1987-17, § 86. This Section has been renumbered.*]

§ 88. Small rowing boats.

The term "small rowing boat" as set forth in the Regulations referred to in Section 87 of this Act, shall be interpreted to include canoes and various nondescript local craft. [*P. L. 1987-17, § 87. This Section has been renumbered.*]

§ 89. Penalty for violation of rules by pilot, engineer, mate or master.

Every pilot, engineer, mate, master or other person in charge of any vessel, boat, canoe, or nondescript local craft who neglects or refuses to observe the provisions of this Part shall be liable to a fine up to \$100 in addition to all damages sustained by any passenger to 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. 1987-17, § 88. This Section has been renumbered.*]

§ 90. Penalty for violation by vessel.

Every vessel that shall be navigated without complying with the provisions of this Part shall be liable to a fine of \$200, for which sum the vessel so navigated shall be liable and may be seized and proceeded against before any court of competent jurisdiction in the Republic. [*P. L. 1987-17, § 89. This Section has been renumbered.*]

§ 91. Assistance in case of collision.

In every case of collision between two (2) vessels, it shall be the duty of the master or person in charge of each vessel, if 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, 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. 1987-17, § 90. This Section has been renumbered.*]

§ 92. Penalty for failure to render assistance.

Every master or person in charge of a Republic of the Marshall Islands vessel or boat, who, without reasonable cause fails to render assistance or to give information as required under Section 91 above shall be guilty of an offense and shall upon conviction be liable to a fine of \$1,000 or to a term of imprisonment not exceeding two (2) years, or both; and for the above sum the vessel shall be liable and may be seized and proceeded against by any person in any court of competent jurisdiction in the Republic. [*P. L. 1987-17, § 91. This Section has been renumbered.*]

PART X – WRECKS AND SALVAGE

§ 93. Vessels stranded on foreign coasts.

Consuls and Vice Consuls in countries on whose shores registered 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. A Consular or Vice Consular shall not take possession of any merchandise, or other property, when the master, owner or consignee thereof is present or capable of taking possession of the same. [*P. L. 1987-17, § 92. This Section has been renumbered.*]

§ 94. Right to salvage not affected by ownership of vessel.

The right of 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. 1987-17, § 93. This Section has been renumbered.*]

§ 95. Salvage remuneration.

Salvors of human life or cargo who have taken part in the services rendered in connection with the accident giving rise to salvage are entitled to a fair share of the remuneration awarded to the salvors of the vessel, its cargo and accessories. [*P. L. 1987-17, § 94. This Section has been renumbered.*]

§ 96. Time limit for salvage suits.

An action for recovery of remuneration for rendering assistance or salvage services shall not be

maintained 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. 1987-17, § 95. This Section has been renumbered.*]

§ 97. Recovery for salvage services rendered by Government vessels.

The Commissioner or his 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 Commissioner, or his 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. 1987-17, § 96. This Section has been renumbered.*]

§ 98. Marine casualties.

In the event of any casualty involving a Republic's vessel where there is a loss of life or damage to property estimated to be in excess of \$50,000, the master shall immediately forward a report thereon to the Commissioner or Deputy Commissioner in accordance with such regulations as the Authority on the recommendation of the Commissioner may make from time to time. Where there is a failure to execute and file a report as required hereunder, the master and vessel shall each be liable to a fine of \$250 upon notice from the Commissioner. [*P. L. 1987-17, § 97. This Section has been renumbered.*]

§ 99. Marine casualty investigation.

The Authority on the recommendation of the Commissioner may, from time to time, make such rules and regulations as are deemed by him necessary and appropriate to the investigation of marine casualties involving vessels registered under this Act or otherwise occurring within the jurisdiction of the Republic. [*P. L. 1987-17, § 98. This Section has been renumbered.*]

PART XI – MERCHANT SEAMEN

§ 100. Application.

(1) The rights and obligations of every person employed on any oceangoing merchant vessel registered under this Act and any persons 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 Part.

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

- (a) persons employed on vessels of less than seventy-five (75) net tons;
- (b) persons employed solely in ports in repairing, cleaning, stevedoring and loading or unloading the vessels; and
- (c) pilots. [*P. L. 1987-17, § 99. This Section has been renumbered.*]

§ 101. Interpretation.

In this Part unless the context otherwise requires:

- (a) "crew" means collectively the persons, other than the officers and the master, serving in any capacity on board the vessel;

(b) "fishing vessel" means a vessel used for catching fish, seals, walrus and other living creatures at sea;

(c) "master" means any person having command of a vessel;

(d) "officer" means a member of the crew, including the person having command of the ship, designated as such by law or regulation or in the absence of such, designated by collective agreement or customs;

(e) "seamen" 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;

(f) "shipowner" includes the charterer of any vessel where he mans, victuals and navigates such vessel at his own expense or by his own procurement. [*P. L. 1987-17, § 100. This Section has been renumbered.*]

§ 102. Full complement required.

A vessel 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 Authority on the recommendation of the Commissioner may, from time to time, make such rules and regulations as are deemed by it necessary and appropriate to ensure compliance with this Section. [*P. L. 1987-17, § 101. This Section has been renumbered.*]

§ 103. Officers' licenses.

Except when prevented by force majeure, all officers of vessels shall obtain licenses to fill their relative positions from the Commissioner or any Deputy Commissioner authorized to issue licenses. [*P. L. 1987-17, § 102. This Section has been renumbered.*]

§ 104. Penalty.

Any person:

(a) who shall receive or shall have in his possession any license or certificate of competency issued to officers or crew by the Commissioner or Deputy Commissioner to which he is not lawfully entitled, with intent to use the same unlawfully;

(b) who, without lawful authority, shall alter or change any such certificate or license by addition, interpolation, deletion or erasure;

(c) who shall in any manner transfer or arrange for the transfer of any such license or certificate; or

(d) who shall aid or abet the perpetration of any of the foregoing acts, shall, for each offense, be liable to a fine of not exceeding \$500 or to a term of imprisonment not exceeding one year, or both. [*P. L. 1987-17, § 103. This Section has been renumbered.*]

§ 105. Termination of employment of master.

Notwithstanding anything to the contrary in any contractual provision the shipowner, with or without good cause, may at any time terminate the employment of and dismiss the master of any ship. [*P. L. 1987-17, § 104. This Section has been renumbered.*]

§ 106. Duties of the master.

The master shall, among other things, have the following duties:

- (a) to enter into shipping articles with seamen as hereinafter provided;
- (b) to maintain discipline on board the vessel and 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 ascertain whether the vessel's logbooks are properly and accurately kept;
- (h) to keep in his custody all the vessel's documents;
- (i) to make all reports required by or under this Act or by any regulation made hereunder or by the regulations of any ports at which the vessel may call; and
- (j) to render assistance in the saving of life and property at sea. [*P. L. 1987-17, § 105. This Section has been renumbered.*]

§ 107. Special power of master.

When a vessel is at sea, the master is authorized to marry passengers of other persons aboard; issue certificates of birth for children born at sea; and bury persons who have died on board the vessel while at sea. [*P. L. 1987-17, § 106. This Section has been renumbered.*]

§ 108. Certain rights of seamen provided for master.

Except as otherwise provided, the master of a vessel shall, in the case of his wrongful death, have the same rights with respect to seamen as hereinafter provided. [*P. L. 1987-17, § 107. This Section has been renumbered.*]

§ 109. Wrongful death of master.

The personal representative of the master of a vessel of the Republic shall, in case of the master's wrongful death, have the same rights with respect to seamen as hereinafter provided. [*P. L. 1987-17, § 108. This Section has been renumbered.*]

§ 110. Shipping Articles required for seamen.

Before the master of a vessel of seventy-five (75) net tons or more shall sail from any port, there shall be in force Shipping Articles with respect to every seaman on board his vessel, (excepting persons who are apprenticed to, or servants of, himself or the vessel's owner). The Shipping Articles shall be written or printed and shall be subscribed by every seaman shipping on the vessel and shall state the

period of engagement or voyage and the term or terms for which each seaman shall be shipped and rate of pay for each and such other items as may be required by regulations. [*P. L. 1987-17, § 109. This Section has been renumbered.*]

§ 111. Exemptions with respect to Shipping Articles.

Notwithstanding anything to the contrary in the rest of the provisions of this Act, Shipping Articles between the master and crew shall not be a requirement with respect to vessels engaged in the search for and development of offshore oil, gas or mineral resources or in the support thereof, where the master and crew of such vessels have entered into written contracts of employment with the owners or operators of such vessel; provided, that such contracts meet the requirements established by the Commissioner or a Deputy Commissioner. In the event such employment contracts take the place of Shipping Articles as provided in this Act, all references in this Act to Shipping Articles shall, except to the extent that it would be inconsistent with this Section, be deemed to refer to such employment contract. [*P. L. 1987-17, § 110. This Section has been renumbered.*]

§ 112. Penalty for alteration of Shipping Articles.

If any person fraudulently alters, or makes any false entry in any Shipping Articles, and if any person aids in committing, or procures to be committed, any such offense, he shall with respect to such offense be liable to a fine not exceeding \$500. [*P. L. 1987-17, § 111. This Section has been renumbered.*]

§ 113. Penalty for shipping 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 time in such cases required, the vessel shall be held liable for each such offense to a fine not exceeding \$200. However, the vessel shall not be held liable for any person carried to sea, who shall have secretly stowed himself away without the knowledge of the master, mate or of any of the officers of the vessel, or who shall have falsely impersonated himself to the master or officers of the vessel, for the purpose of being carried to sea. [*P. L. 1987-17, § 112. This Section has been renumbered.*]

§ 114. 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.
- (2) Shipping Articles for the duration of a round voyage terminate as soon as unloading of the cargo is completed at the port where the seamen were engaged.
- (3) If the voyage is extended to a port other than the port designated in the Shipping Articles as the end of the voyage, the Shipping 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 the 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 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 its destination, and the wages shall be continued accordingly. [*P. L.*

1987-17, § 113. This Section has been renumbered.]

§ 115. 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 seaman shall be entitled to compensation equal to fifteen (15) days wages or the base wages until the expiration of the period for which he was engaged, whichever shall be the lesser amount; provided, however, that the seaman is not employed as a seaman during such period; and provided further, that during such period that seaman has not refused substantially equivalent seagoing employment in any other vessel. [*P. L. 1987-17, § 114. This Section has been renumbered.*]

§ 116. Certificate of Service.

(1) The master shall sign and give to a seaman discharged from his vessel, either on his discharge or payment of his wages, a Certificate of Service in a form approved by the Commissioner, specifying the period of his service and the time and place of his discharge.

(2) Every person who forges or fraudulently alters any Certificate of Service shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both. [*P. L. 1987-17, § 115. This Section has been renumbered.*]

§ 117. Minimum age at sea.

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

(2) The master of the vessel shall keep a register of all persons under the age of sixteen (16) years employed on board his vessel. [*P. L. 1987-17, § 116. This Section has been renumbered.*]

§ 118. Payment of wages.

(1) Wages shall commence on the day specified and agreed to in the Shipping Articles or at the time of arrival on board the vessel for the purpose of commencing work, whichever occurs first, and shall terminate on the day of discharge or termination of the Shipping 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 days after the termination of the Shipping Articles, or at the time when the seaman is discharged, whichever occurs 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 (10) day period. In case of wrongful failure to pay a seaman wages on demand, the seaman shall become entitled to a payment of

full wages earned.

(4) Every master shall deliver to the seaman, before payment, 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 fine not exceeding \$25. [*P. L. 1987-17, § 117. This Section has been renumbered.*]

§ 119. Wages for unjustified 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. [*P. L. 1987-17, § 118. This Section has been renumbered.*]

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

A stowaway signing the vessel's Shipping Articles is entitled to wages, but not to maintenance and cure as herein provided in Section 127 of 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. [*P. L. 1987-17, § 119. This Section has been renumbered.*]

§ 121. Discharge of seaman.

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, quarrelling or fighting;
- (g) possession of dangerous weapons, narcotics or contraband articles; or
- (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. [*P. L. 1987-17, § 120. This Section has been renumbered.*]

§ 122. Advances 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 advanced wages, or to 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 seaman when payment is deducted or to be deducted from a seaman's wages. Any person who violates any of the provisions of this Section shall be liable to a fine not exceeding \$50.

(2) It shall be unlawful 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. [*P. L. 1987-17, § 121. This Section has been renumbered.*]

§ 123. Wages and clothing exempt from attachment.

The wages and clothing of a seaman shall not be subject to attachment or arrest by any court, and any assignment or sale of wages or of salvage made prior to the accruing thereof shall not bind the seaman, except allotments. [*P. L. 1987-17, § 122. This Section has been renumbered.*]

§ 124. Vacation allowance 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 an annual vacation allowance equivalent to:

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

(2) Every seaman shall be entitled to a minimum of five (5) paid holidays per year in addition to the above. [*P. L. 1987-17, § 123. This Section has been renumbered.*]

§ 125. Agreement 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 to which he may have obtained in the nature of salvage shall be wholly void and inoperative. [*P. L. 1987-17, § 124. This Section has been renumbered.*]

§ 126. Wages not dependant on freight earned.

No right to wages on the part of any seaman shall be dependant on the earnings of freight by the vessel. [*P. L. 1987-17, § 125. This Section has been renumbered.*]

§ 127. Wages, maintenance and cure for sick and injured seaman.

(1) Subject to Subsection (3) of this Section, 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 in the event of disabling sickness or injury, 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 therapeutic appliances, until medically declared to have reached a complete cure, but in no event more than thirty (30) weeks from the day of the injury or commencement of 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 133 of this Act and 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 benefits provided under Subsection (1) of this Section if:

- (a) such sickness or injury resulted from his willful act, default or misconduct;
- (b) such sickness or injury developed from a condition which was intentionally concealed from the employer at or prior to his engagement under the Shipping Articles;
- (c) he refuses medical treatment for such sickness or is denied such treatment because of his misconduct or default; or
- (d) 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 to him under this Section. [*P. L. 1987-17, § 126. This Section has been renumbered.*]

§ 128. Wrongful death.

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 an action for damages, for the exclusive benefit of the deceased's spouse, parent, child or dependant relative, against the vessel, person or corporation which would have been liable if death had not ensued. [*P. L. 1987-17, § 127. This Section has been renumbered.*]

§ 129. Death on board.

In the event of a death on board a vessel, an entry shall be made in the vessel's logbook by the master and one of his officers. The master shall also report the death to the authorities at the first port of arrival and shall submit a statement signed by him to the Commissioner or to the Deputy Commissioner. The logbook entry and statement shall contain the first and last names, 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 the name of the vessel. If the deceased person is a seaman, the entry and statement shall contain, in addition, his rank of 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 person effects and amounts of money left on board the vessel shall be attached. [*P. L. 1987-17, § 128. This Section has been renumbered.*]

§ 130. Issuance of Death Certificate.

Upon the request of anyone having legal interest and where a death has been reported in accordance with the requirements of Section 129 of this Act, the office of the Commissioner or the Deputy Commissioner shall issue a Death Certificate containing the particulars set forth in Section 129. When the deceased was a citizen or a resident of the Republic, such Certificate shall be recorded in the Republic as required by law. [*P. L. 1987-17, § 129. This section has been renumbered.*]

§ 131. Burial expenses.

In the case of the death of a seaman occurring on board the vessel or in the 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. [*P. L. 1987-17, § 130. This section has been renumbered.*]

§ 132. Working hours overtime.

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

- (a) the normal hours of work in port and at sea shall be eight (8) 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 men shall be employed to promote safety of lift at sea and to avoid excessive overtime; and
- (d) whenever the master of any vessel shall fail to comply with the provisions above, he shall be liable to a fine not exceeding \$100 for every offence under this Section. [*P. L. 1987-17, § 131. This Section has been renumbered.*]

§ 133. Repatriation.

(1) Any seaman who is put ashore at a port 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 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. [*P. L. 1987-17, § 132. This Section has been renumbered.*]

§ 134. Loss of right of repatriation.

A seaman shall forfeit his right of repatriation in any of the following events:

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

- (c) entering into a new agreement with another owner after his discharge;
- (d) contravening Sections 136, 138 and 139 of this Act; or
- (e) unjustifiable repudiation of the Shipping Articles. [*P. L. 1987-17, § 133. This Section has been renumbered.*]

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

(1) Any seaman on a vessel who commits any of the following offenses may, in addition to any other penalty provided herein, be punished by the master:

(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 a sufficient amount 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 or continued willful neglect of duty, 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, 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 boards or ashore, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained;

(f) for any act or smuggling, whereby loss or damage is occasioned to the master or shipeowner, 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; or

(g) 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 shipeowner 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 Commissioner or Deputy Commissioner. [*P. L. 1987-17, § 134. This Section has been renumbered.*]

§ 136. Prohibition of corporal punishment

Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel, and any master who shall violate this Section shall be guilty of an offense. [*P. L. 1987-17, § 135. This*

Section has been renumbered.]

§ 137. Drunkenness, neglect of duty.

Whoever, being a master, seaman or other person on any vessel, who 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 the life or limb of any person belonging to or on board of 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 liable to a fine not exceeding \$2,500. [*P. L. 1987-17, § 136. This Section has been renumbered.*]

§ 138. Desertion.

(1) Any seaman 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 Consul, or, if there be no Consul at the port, with the office of the Deputy Commissioner. The local authorities of the port shall be notified and requested to apprehend and deliver the deserted. [*P. L. 1987-17, § 137. This Section has been renumbered.*]

§ 139. Incitement of seaman to revolt or mutiny

Whoever, being of the crew of a 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 riots on boards thereof, or unlawfully confines the master or other commanding officer thereof, shall be guilty of an offense to incite a revolt or mutiny and be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding five (5) years, or both. [*P. L. 1987-17, § 138. this Section has been renumbered.*]

§ 140. Revolt or mutiny of seaman.

Whoever, being a crew of a vessel unlawfully and with force, or by fraud or intimidation, usurp the command of such vessel from the master or other lawful officer in command thereof, or deprives him of authority and command on board, 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 be guilty of an offense to revolt and to mutiny, and liable to a fine not exceeding \$2, 000 or to a term of imprisonment not exceeding ten (10) years, or both. [*P. L. 1987-17 §139. This Section has been remembered.*]

§ 141. Entry of the offenses in logbook.

Upon the commission of any offense, any entry thereof shall be made in the official logbook of the vessel on the day on which the offense was committed and any penalty or fine imposed 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 the vessel's next arrival at any port or, if the vessel is still 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 the offender may thereupon make such a reply thereto as he thinks fit, along with a statement that a copy of the entry has been so furnished or the same has been read over, together with

his reply, if any, and such statement and reply shall likewise be entered and signed in the same manner. [*P. L. 1987-17, § 140. This Section has been renumbered.*]

§ 142. Abandonment of seaman.

(1) Whoever, being master or in charge of a vessel, maliciously and without justifiable causes 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 Shipping Articles any member of the crew of such vessel in condition and willing to proceed when the master is ready to proceed, shall be liable to a fine not exceeding \$500.

(2) The abandoned seaman shall retain his right to repatriation. [*P. L. 1987-17, § 141. This Section has been renumbered.*]

§ 143. 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, always subject to the jurisdiction of the Republic. [*P. L. 1987-17, § 142. This Section has been renumbered.*]

§ 144. Protection of freedom of association.

It shall be unlawful for any employer, employer organization or labor organization to coerce any seaman in the exercise of his choice whether to establish, become a member or participate in any labor organization; provided, that any provision in a labor contract entered into pursuant to Section 145 of this Act shall not be deemed to be in violation of this Section. [*P. L. 1987-17, § 143. This Section has been renumbered.*]

§ 145. Bargaining and execution of labor contract.

It shall be lawful for any employer or employer organization and any labor organization representing seaman to bargain and enter into a labor contract concerning wages and other terms and conditions and employment; provided, that no labor contract provision may be contrary to the laws or regulations of the Republic or deprive the Republic of any jurisdiction over labor relations. [*P. L. 1987-17, § 144. This Section has been renumbered.*]

§ 146. 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 of a labor contract; provided, that such provisions are not prohibited by the law of regulations of the Republic. [*P. L. 1987-17, § 145. This Section has been renumbered.*]

§ 147. Provisions prohibited in labor contracts.

It shall be unlawful for any employer or employer organization or labor organization to attempt to bargain for, or to enter into, any labor contract containing any provision which violate the law of the Republic which prescribes terms or conditions of employment less favorable to seaman than those set forth in this Part, or which discriminates as to terms and conditions of employment on the basis of race, color or creed, or any other basis referred to in Article II, Section 12 of the Constitution of the Marshall Islands. [*P. L. 1987-17, § 146. This Section has been renumbered.*]

§ 148. 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 the sole bargaining representative of seamen

pursuant to Section 145 of this Act it shall be unlawful:

- (a) for the employer or employer organization to bargain with or enter into a labor contract pertaining to such seaman with any other labor organization; or
- (b) for any labor organization to attempt to bargain with or enter into a labor contract pertaining to such seaman 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 occur first. [*P. L. 1987-17, § 147. This Section has been renumbered.*]

§ 149. Strikes, picketing and like interference.

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

- (a) takes place at a port at which the Shipping Articles are terminate;
- (b) a majority of seaman on the vessel involved have voted by secret ballot that such action be taken; and
- (c) at least thirty (30) days written notice of intention to take such action has been given to the employer or master.

(2) Nothing contained in Subsection (1) of this Section shall be deemed to permit any strike, picketing or like interference with the internal order or operation of a vessel contrary to the provisions in any existing labor contract. [*P. L. 1987-17, § 148. This Section has been renumbered.*]

§ 150. Conciliation and mediation of labor disputes.

It is declared to be the policy of the Republic to place the primary responsibility upon employers and employer organizations, and employees and labor organizations for the avoidance of any interruption in foreign maritime commerce. To this end, upon application to the Authority of all parties to any dispute, the Commissioner and Deputy Commissioner are authorized to hold themselves available to assist in efforts of conciliation, mediation and final resolution. [*P. L. 1987-17, § 149. This Section has been renumbered.*]

§ 151. 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 claims in tort.

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

(4) The period of prescription of the claims, set forth in the preceding Subsections, runs from the time when the right of action accrues. [*P. L. 1987-17, § 150. This Section has been renumbered.*]

PART XII - FINANCE

§ 152. The Fund.

(1) A Marshall Islands Maritime Authority Fund (hereinafter referred to as "the Fund") is hereby established.

(2) The Fund is a fund other than the Marshall Islands General Fund, within the meaning and for the purposes of Article VIII, Section 3(2) of the Constitution of the Marshall Islands. [*P. L. 1988-18, § 6, introducing new § 152.*]

§ 153. Payments into the Fund

(1) There shall be paid into the Fund:

(a) any money appropriated by the Nitijela for the purposes of the Authority, either generally or in relation to any particular purpose; and

(b) any other announcements received by the Authority under or for the purposes of this Act or any other law, or agreement, including but not limited to amounts collected by the Authority from licenses, fees, fines and penalties. [*P. L. 1988-18, § 6 introducing new § 153*]

§ 154. Payments out of the Fund.

(1) Payments may be made out of the Fund for:

(a) the purposes of the Authority, including for purposes of working capital and petty cash, distribution of profits, and similar purposes; and

(b) the costs and expenses of the Authority; and

(c) the costs of the administration of this Act and any other Act that confers functions on the Authority.

(2) No money may be withdrawn from the Fund except in accordance with regulations made under the Act, and with the authority of the Secretary of Finance and Commissioner of Maritime Affairs, who shall satisfy themselves that the withdrawal is made in accordance with this Act, the regulations, and any other applicable law.

(3) A delegation under Article VIII, Section 5(1) of the Constitution of the Marshall Islands to expend money out of the Fund is given to the Secretary of Finance and Commissioner of Maritime affairs. [*P. L. 1988-18, § 6, introducing new § 154.*]

§ 155. Borrowing.

(1) The Authority may for its purposes borrow money, on overdraft or otherwise, and accept advances, grants, contributions, gifts, and other forms of assistance.

(2) Where any money is borrowed, or any advance, grant, contribution, gift, or assistance is received, for a specific purpose or subject to conditions, it may be expended or used only for that purpose or subject to those conditions. [*P. L. 1988-18, § 6, introducing new § 155*]

§ 156. Bank Accounts.

(1) The Authority shall open a bank account or accounts with a bank approved by the Minister of Finance for the purpose.

(2) Any money (other than petty cash) withdrawn from the Fund and not immediately required shall be kept in an account opened under Subsection (1). [*P. L. 1988-18, § 6, introducing new § 156*].

§ 157. Accounts and records.

(1) The Authority shall cause to be maintained proper accounts and records, to the satisfaction of the Secretary of Finance, of:

(a) the Fund; and

(b) the disposition of money paid out of the Fund, including money held in accounts created in Section 156; and

(c) the property and financial transaction of the Authority generally.

(2) The accounts to be laid before the Nitijela by the Minister of Finance under Article VIII, Section 5(4) of the Constitution of the Marshall Islands shall include accounts relating to the Authority.

(3) The accounts and records referred to in Subsection (1) of this Section, are subject to audit under Article VIII, Section 15 of the Constitution of the Marshall Islands. [*P. L. 1988-18, § 6, introducing new § 157.*]

§ 158. Taxation

The income, property and transactions of the Authority are not subject to any tax, rate, charge or impost under any of the law. [*P. L. 1988-18, § 6, introducing new § 158.*]

§ 159. Reports

(1) The Authority shall, at least once a year and at such other times as the Nitijela or the Cabinet directs, make a report to the Cabinet on its operation and on the administration of this Act, and of any other act with which the Authority is concerned, with any comments and recommendations for improvement that is considers desirable.

(2) The Cabinet shall present any report made by the Authority under Subsection (1) to the Nitijila, together with its comments. [*P. L. 1988-18, § 6, introducing new § 159.*]

PART XIII - MISCELLANEOUS

§ 160. The Authority to make rules and regulations.

The Authority may make rules and regulations not inconsistency with the provisions of this Act relating to conditions and terms of employment, wages, vacation and leave, hours or work, repatriation, minimum age, compensation for sickness, injury or death of masters, seamen and

seagoing laborers, and employees on vessels documented under the provisions of this Act. [*P. L. 1987-17, § 152; renumbered by P. L. 1988-18, § 7.*]

§ 161. Seamen's Protection Act.

This Seamen's Protection Act, shall not apply to the vessels registered under the provisions of this Act. [*P. L. 1987-17, § 153; renumbered by P. L. 1988-18, § 7.*]

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