

熱門商情

商情內容

列印 | 分享：

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關於媒體報導「中國涉臺系統：先服貿後貨貿，馬政府自己說的」回應

關關自由時報登載「中資壓境 婚紗業沒有明天」、「中資吃人夠夠/先取技術 再削價搶市」，經濟部說明

關關自由時報登載「中資壓境 婚紗業沒有明天」、「中資吃人夠夠/先取技術 再削價搶市」，經濟部說明

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## [Act] The Seafarer Act

日期：2011/08/29

Date 2011-06-29

- 1.Total 93 articles Promulgated by Presidential Order Hua Zong No.8800142720 on June 23, 1999.
- 2.Article 77、80、84、88 amended and Promulgated by Presidential .Order Hua Zong No.09100019030 on January 30, 2002；augment article 70-1
- 3.Article 51、93 amended and Promulgated by Presidential Order Hua Zong No.09800166541 on July 8, 2009.Enacted on November 23,2009.
- 4.Article 1~3、6、9、10、12、17、20、45、46、53、77~80、84、90 amended and Promulgated by Presidential Order Hua Zong No.10000020611 on February 1,2011；augment article 10-1、25-1、25-2、75-1~75-7、84-1~84-7、Chapter6；deletion article 83、88.
- 5.Article 51 amended and Promulgated by Presidential Order Hua Zong No.10000133871 on June 29.

### Chapter 1 General Principles

Article 1 This Act is enacted for purposes of protecting rights and interests, maintaining physical and mental health, reinforcing cultivation and training of seafarers, harmonizing the employer-employee relationship, and enhancing the development of the shipping industry. It also aims at reinforcing the training and management of yachtmasters and power-driven small ship masters, in order to promote the development of yacht activities.

### Article 2 Terms used in this Act shall have the meanings defined below:

- 1.“Ship” means a ship, which navigates on the surfaces of waters or in waters.
- 2.“Yacht” means a ship intended exclusively for entertainment, not for transporting passengers or goods, nor fishing, and the ship is mainly driven or ancillary driven by mechanical means.
- 3.“Power-driven small ship” means a power-driven ship installed with mechanical devices for navigation, with tonnage under twenty (20) gross tonnages.
- 4.“Employer” means the registered owner of a ship or any person or party who has the right to employ seafarers.
- 5.“Seafarer” means the master and seamen of a ship.
- 6.“Master” means the person who is employed by the employer to take charge of all matters of a ship.
- 7.“Seaman” means the person who is employed by the employer to provide services on a ship under direction of the master of the ship.
- 8.“Wage” means the remuneration paid for services earned by seafarers during normal working time.
- 9.“Allowance” means, in addition to the wage, the payments of navigation allowances, fixed overtime charges, and other various types of regular payments.
- 10.“Average Wage” means the amount computed by dividing the total wage amount of the latest three months by three. If a seafarer’s working time is less than three months, the average wage shall be the amount computed by dividing the total wage amount of the working period by actual total working days, then multiplying it by thirty.
- 11.“Average Wage and Allowance” means the amount computed by dividing the total wage plus allowances of the latest three months by three. If a seafarer’s working time is less than three months, the average wage and allowance shall be the amount computed by dividing the total wage plus allowances of the working period by actual total working days, then multiplying it by thirty.
- 12.“Yachtmaster” means the person who skippers a yacht.

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植物保護活化物質

菸酒法規

漁產品法規

動物飼料

13. "Power-driven small ship master" means the person who skippers a power-driven small ship.

14. "Assistant" means a person assisting the yachtmaster or power-driven small ship master in handling relevant matters.

Article 3 This Act shall not apply to seafarers serving on the following ships, provided that those involving navigation safety and dealing of maritime casualties:

1. Military vessels and boats.

2. Fishing ships.

This Act shall not apply to the seafarers serving on ship exclusively for the governmental services, except for the matters in respect of their qualifications, practice, cultivation and training, and dealing of navigation safety and maritime casualties.

Article 4 The competent authority specified in this Act means the Ministry of Transportation & Communications (the MOTC).

Chapter 2 Qualification, Vocation, and Cultivation of Seafarers

Article 5 All seafarers shall be not less than 16 years of age.

All masters shall be the nationals of the Republic of China (the ROC).

Article 6 The qualification of seafarers shall be in conformity with the provision of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and any amendments hereto.

Seafarers shall also pass the Seafarer Examination or verification of the Seafarer Training.

Provisions for the application, annulment, cancellation and other matters concerning the training, verification, and issuance of certificate for seafarers shall be prescribed by the competent authority.

Anyone who has been convicted under final and unappealable judgment of a violence under the Act Governing the Control and Prohibition of Gun, Cannon, Ammunition, and Knife, the Punishment of Smuggling Act or the Drug Prevention and Control Act, and sentenced to 6-month imprisonment or above shall not be a seafarer.

Article 7 Any person, who meets the requirements set forth in the preceding Article, can practice as a seafarer only after the issuance of a competency certificate from the MOTC.

Article 8 A seafarer can serve aboard a ship only when he qualified through a medical fitness examination and possesses a seafarer service book in accordance with relevant regulations.

A seafarer who is working on a ship shall undergo periodic health examinations. The seafarer, who is unqualified by or refused to undergo such examination, shall not be permitted to work on board.

Expenses for the medical health examinations for seafarers as provided by the preceding paragraph shall be on the employer's account, affiliated to the Commission.

Seafarers' physical examination and health examinations shall be performed by the medical institutions which meet the prescribed conditions, or the medical institutions affiliated to the department of the organisation where the seafarers serve, and the examination records shall be well kept.

The MOTC shall coordinate the central government authorities which are in charge of labour safety and sanitation to set down the stipulations concerning seafarers' fitness and health examinations, as well as the requirements of the medical institutions.

Article 9 In order to cultivate seafarers, the competent authority shall consult and coordinate with the Ministry of Education (the MOE) to establish maritime colleges or adjust the relevant schools and departments of existing maritime universities or colleges.

The competent authority shall assist in the arrangement of the students from maritime universities or colleges to go on board ships for practices. The ship's registered owner or the parties who have the right to employ seafarers shall not refuse to do so without due reasons.

Article 10 In order to foster technical manpower for maritime professionals, to enhance working technology and to promote national employment, the competent authority shall establish or assist in the establishment of seafarer vocational training centres, or entrust other relevant professional organisations, to conduct pre-service and in-service training for seafarers.

The costs required for the vocational training as mentioned in the preceding paragraph, in addition to be budgeted and paid by the competent authority, may be paid by the seafarers or employers.

Article 10-1 Regulations on the programme of seafarer training transacted by professional organisations as mentioned in Paragraph 1 of the preceding article, as well as the students' and instructors' qualifications, the curriculum of training, facilities and expenses, imposition of certification fee, management of training and other relevant matters shall be prescribed by the competent authority.

The professional organisations may perform supervision over the professional organisations offering seafarer training, and the professional organisations shall not evade, impede or avoid such supervision, and

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即時匯率

台灣銀行牌告匯率

天氣預報			
 <span style="float: right;">台北市 ▾</span>			
日期	天氣	最高	最低
04/12 (六)		31	21
			0 %
04/13 (日)		30	20
			60 %
04/14 (一)		25	19
			60 %

will be notified of deficiencies if any, and shall improve within a certain period of time when so advised.

Article 11 When a seafarer is required to participate in training or qualification examinations held by the MOTC, the employer shall provide the appropriate cooperation.

#### Chapter 3 Employment of Seafarers

Article 12 When employing a seafarer, the employer shall sign a written employment contract with the seafarer. The seafarer employed shall not work on board a ship until the contract is sent to the competent authority for future reference. The same shall apply for the contract is terminated thereto.

Article 13 The exemplar of the employment contract for employing seafarers shall be prescribed by the MOTC.

Article 14 When employing a minor as a seafarer, the employer shall obtain the written approval of the minor's guardian.

Article 15 The employer shall provide on board the ship of the texts of the relevant laws and regulations, the necessary medicines and medical equipment.

The standards for the provision mentioned in the preceding paragraph shall be prescribed by the MOTC.

Article 16 The employer shall provide proper quantity and quality of foods, bedrooms, bedding and tableware, working protectors, clothes, and those hats and shoes appropriate for various weather conditions.

Article 17 The employer shall establish seafarers' working regulations and submit the same to the competent authority for future reference.

Seafarers shall obey the employer's instructions given within the scope of its supervision.

Article 18 The lower rank seafarers are obliged to obey the orders given by the higher rank ones within the scope of their supervision. Nevertheless, the lower rank seafarers are entitled to state their opinions, if any.

No seafarer shall leave the ship without permission.

Article 19 The employment contract will immediately be terminated upon occurrence of the ship is sunk, missing or becomes unseaworthy, provided that the seafarers of that ship survive.

The seafarers who need to work in order to salvage a ship, human lives or cargoes in emergencies condition, their contracts shall remain effective for the said working period.

If any seafarers survive as provided in Paragraph 1 and the employer has no other ship or position for the seafarer to work continually, the employer is entitled to terminate the employment contract by offering severance pays in accordance with Article 39 of This Act.

If there is no any news or information about a ship for two months, the ship shall be deemed as missing.

Article 20 The employer is entitled to terminate the employment contract if a seafarer commits any of the following situations:

1. Where misrepresents any fact at the time of signing of the employment contract in a manner which might mislead his employer and cause him to sustain damage therefrom.
2. Where commits a violent act against or grossly insults the employer, his (or her) agent, or a fellow worker or family members of the above persons.
3. Where has been sentenced to temporary imprisonment in a final and conclusive judgment, and is not granted a suspended sentence or permitted to commute the sentence to payment of a fine.
4. Where is in serious breach of the employment contract or in serious violation of work rules.
5. Where deliberately destroying or stealing ship equipment, accessories or cargoes.
6. Where is, without good cause, disobey the employer's or master's instructions to go on board the ship.

Where the employer desires to terminate the employment contract pursuant to the preceding paragraph, shall give the seafarer a written notice.

Where the employer desires to terminate the employment contract pursuant to tems 1 and 2, Items 4 to 6 of the preceding paragraph, shall do so within thirty days from the date he (or she) becomes aware of the particular situation.

Article 21 The seafarer is entitled to terminate the employment contract if any of the following situations occur:

1. The ship loses its nationality.
2. Where the employer misrepresents any fact at the time of signing of the employment contract in a manner which might mislead the seafarer and cause him to sustain damage therefrom.
3. It is proved that the seafarer is unable to continue to work because of injury or illness certified by a doctor.
4. Where the employer, his (or her) agent, or family members of the above persons commits violence or grossly insults or threat to the seafarer.
5. Where the environment of work is likely to be injurious to the seafarer's health and the seafarer has

without success requested his (or her) employer to improve working conditions.

6. Where the employer breaches the employment contract or violates any labor statute or administrative regulation in a manner likely to adversely affect the rights and interests of the seafarer.

7. Where the employer fails to pay wage and allowance in accordance with the employment contract.

8. Where the other fellow workers carrying epidemic disease and there is a possibility that the seafarer may contract this disease.

Article 22 The employer shall not, even by advance notice to the seafarer, terminate the employment contract unless one of the following situation arises:

1. The business ceases to operate or has been transferred.

2. The business suffers an operating loss or contraction.

3. Business suspension for more than one month is necessitated by force majeure.

4. A change in business nature requires a reduction of seafarers and the particular seafarers cannot be assigned to another suitable position.

5. The seafarer is clearly not able to perform satisfactorily the duties required of the position held.

Where the employer terminates the contract pursuant to the preceding paragraph, the stipulations described below shall govern the minimum period of advance notice:

1. Where the seafarer has worked continuously for more than three months but less than one year, the notice shall be given ten days in advance.

2. Where the seafarer has worked continuously for more than one year but less than three years, the notice shall be given twenty days in advance.

3. Where the seafarer has worked continuously for more than three years, the notice shall be given thirty days in advance.

When a seafarer is on maternity leave, or in medical treatment of injury or illness resulted from performing the duties, the employer shall not terminate the employment contract, unless the employer cannot continue the business or the ship sunk, missed or became totally unseaworthy caused by acts of god, accidents or force majeure.

Where the employer terminates the contract without serving an advance notice within the time limit prescribed in the second paragraph of this Article, he shall pay the wage and allowance for the advance notice period.

In the case of the seafarer terminating a non-fixed term contract, the provisions of Paragraph 2 of this Article pertaining to the prescribed time limit for serving advance notice shall apply mutatis. The seafarer who intends to terminate a fixed term contract, shall give the employer or the master thirty days advance notice.

Where the seafarers agree the transfer of serving ships owned by the same employer, the original contract shall remain effective before the new contract is signed.

Article 23 If a fixed term employment contract expires during the period of voyage, the contract is to be terminated at 48 hours after the ship arrives at the first calling port.

Article 24 Where the employment contract was suspended for cause but the seafarer resumes to perform the contract continuously, or an existing contract is renewed, within three months after the expiration of a fixed-term contract for cause, the seafarers' service period which accrued before the execution or renewal of the contract shall be combined with the service period of the new or renewed contract in any computation of service period. Computation of seniority of service shall include all the years of a seafarer who works on the same ship or different ships owned or operated by the same corporate body, except that the seafarer who has received a severance pay or retirement pension upon termination of contract.

Article 25 Foreign employers can hire the R.O.C. seafarers only after applying to the MOTC for approval. The regulations on permission of employment shall be prescribed by the MOTC.

Article 25-1 An employer hiring non-R.O.C. seafarer shall apply to the competent authority for permission. The regulations on the application qualifications and procedures, conditions of permission, annulment, cancellation, duties, employment, employment management and other related matters shall be prescribed by the competent authority.

Article 25-2 Seafarers, cadets, probationary workers serving on board a ship shall apply to the local vessel administration authority for permission. The regulations on the application qualifications and procedures, repeal of permission, cancellation, employment, duties, management of seaworthiness rules and other related matters shall be prescribed by the competent authority.

#### Chapter 4 Working Conditions and Welfares

Article 26 Remuneration for seafarers who work on board a ship shall be as follows:

1. Wages and allowances: including wages and allowances, in which the wages shall be more than 50% of

the total amount of the wages plus allowances.

2.Special bonuses: including the remuneration paid for special works, non-fixed overtime charges, annual bonuses and the bonus given from the profit in business operation earned by the employer.

Article 27 The minimum standards of seafarer wages, on-shore pay and overtime charges shall be prescribed by the MOTC.

The minimum wages mentioned in the preceding paragraph shall be not less than the wages stipulated by the basic work criteria of the Labour Standard Law.

Article 28 Seafarers less than 18 years old and female seafarers shall not perform his/her work between 8:00 p.m. and 6:00 a.m. next day except for the following:

1. Seafarers over 16 years who have already taken a rest consecutively for 9 hours.
2. Seafarers have to take part in fire drills, lifeboat exercises or other similar operations.
3. It is necessary to assign them in work stations because of shortage of manpower due to an accident.
4. It is necessary for them to take turns in watchkeeping during the time the ship is navigating.
5. It is necessary for them to operate the ship when entering or leaving a port.
6. It is necessary for them to deal with maritime casualties.
7. It is necessary for them to deal with other unexpected event.

Article 29 The employer shall not hire pregnant women to work on board a ship, provided that those having been well examined and approved by a doctor.

In case a female seafarer is confirmed in pregnancy during the voyage, she is entitled to do light duties as well as the jobs necessary for navigation safety.

Article 30 The employer shall not hire a female who has delivered a child less than 8 weeks ago to work on board a ship.

Article 31 The employer shall not instruct the seafarers under 18 years of age, or female seafarers in pregnancy or within one year after childbirth or are menstruating to conduct dangerous or harmful works.

Criteria for determining the dangerous or harmful works mentioned in the preceding paragraph shall be prescribed by the MOTC.

Article 32 Regular working hours for a seafarer is 44 hours per week. Provided that the seafarer is taking turns at watchkeeping because of navigation needs.

Seafarers' regular working hours per week exceeding 44 hours shall be deemed as overtime hours, for which the employer shall pay overtime charges.

Article 33 Seafarers shall have at least one regular day off in every seven days, unless the seafarer is taking turns at watchkeeping because of navigation needs.

For the case mentioned in the proviso of the preceding paragraph, the employer shall arrange for taking leaves by turns.

Article 34 If it is necessary to navigate on a national holiday or the Navigation Day, the master is entitled to arrange the seafarers to undertake the necessary works by taking turns at watchkeeping, entering or leaving ports and serving meals. The employer shall pay holiday overtime charges for such works based on the normal wage.

Article 35 If a seafarer has to extend working hours because of navigation need, he/she shall fill in and submit an overtime application form to the master or department head for validation before performing his/her works.

Article 36 It may be set down in the employment contract that the seafarers' overtime charges shall be computed based on the normal wage per hour and paid as a fixed overtime charge. Nevertheless, the hours for overtime computation charge shall be at least 85 working hours per month.

Article 37 The employer shall give 30-day annual paid leaves to seafarers who have worked for one year on the ship, and the paid leaves shall be computed pro rata in accordance with working months for those who have worked less than one year.

When obtaining consents from seafarers to work during paid leaves, the employer shall pay them extra daily wage per day. The employer shall pay wage and allowance for leave days that are not taken because of year ending or termination of the contract.

Article 38 After signing an employment contract, the employer shall pay seafarers the remuneration equivalent to the wage during the period of stand-by ashore while waiting to board a ship.

The employer shall pay remuneration equivalent to the seafarers' wage during the periods of examination or training as assigned by the employer.

Article 39 Except the seafarers agree the transfer of serving ships owned by the same employer, the employer, who terminates employment contracts in accordance with Paragraph 1 and proviso of Paragraph

3 of Article 22, or the reasons not attributable to seafarers, shall give severance pays based on the followings criteria:

1. For seafarers paid on monthly basis: a three-month severance pay based on the average wage.
2. For seafarers paid on voyage basis: the full amount of remuneration.
3. For seafarers having worked consecutively for three years on the ships owned by the same employer: in addition to the payment made in accordance with Item 1, one-month severance pay based on average wage for every one year from the fourth year. The working year less than one full year shall be computed on a pro rata basis, and less than one full month shall be computed as one month.

Article 40 Upon termination of an employment contract, the employer and the master shall, in all events, repatriate the seafarers, whose contracts are terminated at places beyond the place of employment, under escort back to the place where they are engaged. It is also applicable to those injured or ill seafarers going ashore.

The obligations of repatriation under escort back to the place where they are engaged mentioned in the preceding paragraph shall include the cost of transportation, accommodation, meals and other necessary expenses.

The employer is entitled to request the seafarers, who are repatriated under escort back to the place where they are engaged based on seafarers' personal reasons, to pay the expenses as provided in the preceding paragraph.

Article 41 The employer shall be responsible for medical expenses for injured or ill seafarers during their employment period, unless the non-work related injuries or illnesses were caused by alcoholic, gross negligence or indiscipline.

Article 42 The employer is entitled to stop bearing medical expenses for a seafarer's injuries or illnesses, which were not caused by undertaking his/her duties, after three months therefrom.

Article 43 The employer shall also pay the original wage during the period of bearing medical expenses.

Article 44 The employer shall pay disability compensations to the seafarers who get recovered from injuries or illnesses suffered during the period of undertaking their duties but become disabled later, or who do not totally get recovered after two years, and for such disabilities remaining in their bodies after they are examined and certified by an approved medical institution. The disability compensations shall be on a lump-sum basis in accordance with the average wage and the conditions of disabilities. Criteria of the payment of disability compensations shall be in accordance with the Labour Insurance Statute.

The degree of disability remaining in the seafarers' body, if certified by an assigned doctor as 50 percent or more, and that in the same time ranked as the 7th grade or higher, or the 11th grade or higher as prescribed in the Labour Insurance Statute, and proved to be unsuitable for working on board, the seafarers shall be paid the highest level of disability compensation.

Article 45 If a seafarer who died not in the performance of duties during service period or died because of injuries or illnesses not arising from the performance of duties, the employer shall pay a lump sum of death compensation equivalent to 20-month average wage to the survivors of the seafarers.

Article 46 If a seafarer who died in the performance of duties during service period or died because of injuries or illnesses arising from the performance of duties, the employer shall pay a lump sum of death compensation equivalent to 40-month average wage to the survivors of the seafarers.

If the ship is sunk or missing and thus causing seafarers missing, the employer shall pay survivors of the seafarer death compensations in accordance with the provisions of the preceding paragraph.

Article 47 The seafarers death compensation shall be paid to survivors in the following order:

1. Spouse and children.
2. Parents.
3. Grandparents.
4. Grandchildren.
5. Brothers and sisters.

Article 48 If the seafarer died during service period, the employer shall pay funeral expenses equivalent to 6-month average wage.

Article 49 The injury, illness or death of a master during his/her service period shall be prima facie caused by performing his/her duties, unless the injury, illness or death resulted from his/her gross negligence or indiscipline.

Article 50 The right to claim the medical expenses provided in Article 41, disability compensations provided in Article 44, death compensations provided in Article 45 and 46, and funeral expenses provided in Article 48 shall be extinguished by prescription if not exercised within two years from the date the rights is granted.

The rights provided in the preceding paragraph shall not be affected by resignations of seafarers, and shall not be assigned, mortgaged, offset, seized or pledged.

Article 51 A seafarer may apply for voluntary retirement under either of the following conditions:

1. Where has worked on ships for fifteen years and attains the age of fifty-five.
2. Where has worked on ships for more than twenty years.

A seafarer shall be forced to retire under either of the following conditions:

1. who attains the age of 65.
2. who is under guardianship or has declared assistantship.
3. who becomes incompetent of performing the duties due to physical disability.

A retired seafarer at the age of 65 can be hired in case he/she complies with the standard of physical examination.

The seniority of service and the payment of retirement pension of a seafarer prior to the enactment of This Act shall be computed in accordance with the Maritime Law before the enactment of This Act.

Article 52 In order to protect seafarers' security and livelihood, the employer shall insure the Labour insurance and National Health Insurance for the seafarers and reserve seafarers employed by him.

Article 53 In order to protect the retirement benefit of seafarers, the retirement system prescribed by the Labour Pension Act shall apply to the retirement matters for seafarers of R.O.C. nationality, unless those who have not opted for the retirement system under the Labour Pension Act pursuant to Article 9 of the Labour Pension Act.

For the standard for payment of employee's pension as mentioned in the proviso of the preceding paragraph, the seniority of service before the enactment of this Act shall be computed in accordance with Paragraph 3 of Article 51, while the seniority of service after the enactment of This Act shall be computed in accordance with Article 55 of the Labour Standard Law.

For seafarers who are employed by the same employer after applying the retirement system prescribed in the Labour Pension Act, their seniority of service before such application shall be reserved. For the standard of payment of their pension, the seniority of service before the enactment of this Act shall be computed in accordance with Paragraph 3 of Article 51, while the seniority of service after the enactment of This Act shall be computed in accordance with Article 55 of the Labour Standard Law.

The employer shall allocate a pension reserve for seafarers in the preceding two paragraphs pursuant to Article 56 of the Labour Standard Law.

For the seafarers who apply to the retirement system under the Labour Pension Act, the severance pay shall be paid in accordance with Articles 39 and 54.

For seafarers hired by the same employer for on-shore work, the seniority of service shall be combined for computation as the retirement conditions, and the pension shall be computed on the average wage specified in Article 2 of the Labour Standard Law according to their onboard and on-shore work respectively.

The right to claim the pension payment shall be extinguished by prescription if not exercised within five (5) years commencing from the month following retirement.

Article 54 If, according to this Act, the severance pays, overtime charges and disability/death compensations, and the salaries/expenses that shall be paid during treatment of injury/illness, as well as the funeral and burial expenses, are less than the severance pays, extended working hour wages and vocational casualty compensations provided by the Labour Standard Law, the payment shall be made in accordance with the standard provided by the Labour Standard Law.

Article 55 The employer shall insure liability insurance covering medical expenses, disability/death compensations, and funeral expenses for which the employer shall be liable to pay in accordance with this Act.

Article 56 All seafarers and reserve seafarers to be employed shall be included in the employees' welfare fund arrangements effected by the employer in accordance with the Employers' Welfare Fund Statute.

Article 57 The competent authority may afford assistance for establishing seafarer welfare facilities in any appropriate ports, including seafarer welfare, cultural, recreational and informational equipment.

#### Chapter 5 Master

Article 58 The master of a ship is responsible for commanding the ship. The master, in order to carry out his/her duties, has rights to command and administrate the seafarers and other persons on board the ship.

For assuring safety of the ship and protecting human lives or bodies, a master is entitled to take necessary measures to deal with any danger or casualty possibly occurred on the ship.

Article 59 The master is entitled, during the voyage, to take emergency action in order to maintain security on the ship and to protect national legal interest.

Article 60 A master shall prepare various ship documents and the relevant documents concerning passengers and cargoes carried by the ship.

When the competent authority, according to law, inspects the ship documents and relevant documents as provided in the preceding paragraph, the master shall submit them immediately for inspection.

Article 61 Before and at beginning of a voyage, a master shall inspect the ship and make the ship ready for the voyage.

Article 62 The master shall not alter the scheduled route of the ship unless encountering accidents or force majeure.

Article 63 The master shall not open the cabins or unload cargoes unless necessary.

Article 64 The master shall not rescind himself/herself from undertaking or cease his/her duties during a voyage even when his/her term of employment has expired.

Article 65 The master shall take the most advantageous measures for the ceased seafarer's heir to dispose the personal effects left on the ship by the seafarers who died or have been missing.

Article 66 A master shall prepare the sea protests and submit it to the competent authority in details regarding the accident of sinking, stranding, collision, forced docking, or other accidents, and extraordinary occurrences to cargoes, seamen or passengers.

The sea protests in the preceding paragraph, are effective only after having been authenticated by the seamen or passengers, provided that the sea protests were made while the master survived alone from the accident.

Article 67 The master shall be held responsible for any negligence while in performing his/her duties. The burden of proof shall be on the master who alleges no fault of his own.

Article 68 If a master is incapable of exercising his/her duties because of death or accidents during the voyage, and there are no successors are available, then the highest rank seafarer among deck officers shall act for on behalf of the master.

#### Chapter 6 Navigation Safety and Dealing of Casualties

Article 69 The seafarers shall not use the ship for smuggling of cargoes. If the smuggled cargoes are contraband, or are likely to cause damage to the ship, persons or cargoes on board the ship, the master or the employer is entitled to jettison the said cargoes.

A master or an employer shall have rights to dispose of or jettison the ammunition, explosives or other dangerous goods carried on board by seafarers.

The disposal or jettisoning provided in the preceding two paragraphs shall be done in the manner and at the place that would cause minimum pollution to the sea.

Article 70 The watchkeeping seafarer shall observe the rules of the collision regulation, and signal siren or hang up signals as provided.

Article 70-1 To ensure the safety of the ship and navigation, the employer shall, before and at the beginning of the voyage, man the ship with sufficient and qualified seafarers in accordance with relevant provisions

The minimum standard of safe manning for various routes, types and sizes of ships shall be prescribed by the MOTC.

Article 71 A master shall report to the competent authority his/her findings, in the present routing, of oil pollution, newly formed sand beach, submerged reefs, severe weather changes or other accidents, which may obstruct navigation.

Article 72 In case a maritime casualty or other accident incurred to a ship, the master shall immediately take any emergency measures to prevent the ship from danger and report to the competent authority in priority manner for salvage if necessary.

If a ship was stranded, sunk, or malfunctions because of a maritime casualty or other accident, the master shall not only deal with it in accordance with the preceding paragraph, but also prevent oil from spilling or leaking in order to avoid pollution to the coasts and waters.

Article 73 If a ship is in imminent danger, the master shall endeavor to adopt any necessary measures to save the human lives, ship and cargoes.

No matter what danger occurs during navigation, the master shall not abandon the ship unless has consulted with other key seafarers. Nevertheless, the master has the right to make final decision.

When the ship shall to be abandoned, the master shall endeavor to rescue the passengers, seamen, ship documents, mails, moneys and precious articles.

The master, if violates the regulations stipulated in Paragraphs 1 and 2, shall be responsible for the measures adopted by him/her.

Article 74 After a collision, the master of each of the ships in collision is bound, so far as he can do so

without serious danger to his ship and persons on board, to render assistance to shipmaster, seafarer and passengers on board the other ship.

The master of each of the ships shall, except there is a force majeure circumstance, stand by at the site of the disaster until it is obvious that the assistance to the ship continually would be useless.

The masters of each of the ships in collision is likewise bound so far as possible to make known to the other ship the name of his ship, its port of registry, and the places where she had departed from and is bound for.

Article 75 Every master is bound, so far as he can do so without serious danger to his ship, crews and passengers thereon, to render assistance to any persons in danger of being lost at sea or in distress.

#### Chapter 6-1 Masters and Assistants of Yachts and Power-driven Small Ships

Article 75-1 The yachtmaster or a power-driven small ship master shall be at the age of 18 or above, with no maximum age restriction. However, the business-use power-driven small ship masters shall not exceed 65 years of age.

Assistants shall be at the age of 16 or above, with no maximum age restriction.

Article 75-2 The yachtmasters and power-driven small ships masters shall pass physical examination, and hold a master's license as stipulated before he/she is allowed to skipper.

Anyone who has been convicted under final and unappealable judgment of a violence under the Act Governing the Control and Prohibition of Gun, Cannon, Ammunition, and Knife, the Punishment of Smuggling Act or the Drug Prevention and Control Act, and sentenced to 6-month imprisonment or above shall not be a yachtmaster and power-driven small ships master.

Article 75-3 Yachts and power-driven small ships may sail only when they are manned with qualified masters and assistants. Provided that no assistant is needed in a ship with a gross tonnage below five or ship with a gross tonnage is five or above but with a passenger quota under 12.

Article 75-4 Any person desiring to engage in establishing a yachtmaster or power-driven master training organisation, shall, by enclosing business plan, apply to the local shipping administration authority for passing the joint review and then submitting to the competent authority for approving the establishment of the organization.

The training organisation shall complete the establishment within six months from the date the permission was given, and report to the local vessel administration authority for transferring the same to the competent authority for permission of operation. Then the organisation may start recruiting students therefrom.

If the training organisation fails to complete establishment within six month after being given permission of establishment due to reasons not attributable to the organisation, it may apply to the local vessel administration authority one month before the deadline for transferring the same to the competent authority for permission of one extension with a maximum period of six months. The permission shall be revoked in case the establishment is not completed within the extended period.

The organisations permitted by the competent authority to offer training for power-driven small ship masters before the enactment of the amendment on 11 January 2011 may continue to offer various training for power-driven small ship masters.

Article 75-5 The local vessel administration authority may from time to time dispatch a delegation to examine the personnel, training and equipment of the training organisations for yachtmasters or power-driven small ship masters, and supervise their operation, as well as conduct annual assessment based on the annual plan and other related information submitted. The training organisation shall not evade, impede or avoid such requests.

The content of assessment as mentioned in the preceding paragraph shall include administration and management, instructors' qualification, ships for training purpose, classrooms, training venues, teaching materials, teaching tools, fees, class condition of academic and technical subjects, research and development, etc.

For the training organisations who fail the annual assessment, the local vessel administration authority shall order the organisations to make necessary rectification within a given time limit and to then effect the re-assessment. The organisation concerned shall not recruit or train students before it passes the re-assessment.

Article 75-6 Regulations on the qualifications of the yachtmasters and power-driven small ship masters, their standard for physical examination, training, testing, issuance of master's license, imposition of licensing fee, safety quota, assistants' standard for physical examination, safety quota, and the establishment of an master training organisation, application/annulment/cancellation of permission, offering of classes, admission procedures, qualifications of the students under training, training programs, training facilities, instructors' qualifications, imposition of training fee, refund of fees, annual assessment, training

management and other matters shall be set down by the competent authority.

Article 75-7 Articles 69, 70 and 71 to 75 shall apply mutatis mutandis to yachts and power-driven small ships.

#### Chapter 7 Penalties

Article 76 Any master who commits the provisions of Paragraph 3 of Article 73, shall be subject to an imprisonment under seven years; and subject to imprisonment from 3 to 10 years for causing death to another.

Article 77 The penalties for violating this Act against the seafarer are as follows:

1. Warning
2. Demerit
3. Degrading: degraded by one grade lower than the current one for three months or more up to one year of actual service time.
4. Calling back the seafarer service book: three months to five years.

For the penalties provided by the preceding paragraph, issuing of three warnings are equal to one demerit, and issuing of three demerits within a period of two years, the seafarer service book shall be called back for three months.

When the penalty of calling back of the seafarer service book is punished, the competent certificate, if any, shall also be called back.

The period of calling back the seafarer service book is computed from the date when the seafarer submits that book.

Article 78 Any master who commits the provisions of Articles 60 to 65, Paragraph 1 of Article 66, or Article 71, shall be subject to warning or demerit.

Article 79 Any seafarer shall be subject to warning or demerit if any of the following conditions occur:

1. It violated the regulations stipulated in Paragraph 1 of Article 8, or Article 18.
2. It violated the regulations stipulated in Article 25-2 concerning the duties of on-board service, things to be observed during navigation and regulations for management, in a mild offense.
3. It violated the regulations stipulated in Paragraph 1 of Article 69, by using the ship for smuggling of goods, in a mild offense.
4. It violated the regulations stipulated in Article 70, in a mild offense.
5. Failure to report or disclose the smuggled or untaxed cargoes found on the ship.

Article 80 Any seafarer shall be subject to degrading or withdrawal of seafarer service book for three months or more up to five years if any of the following conditions occur:

1. It violated the regulations stipulated in Article 25-2 concerning the duties of on-board service, things to be observed during navigation and regulations for management, in a serious offense.
2. It violated the regulations stipulated in Paragraph 1 of Article 69, by using the ship for smuggling of goods, in a serious offense.
3. It violated the regulations stipulated in Article 70, in a serious offense.
4. It violated the regulations stipulated in Article 72, Paragraphs 1 and 2 of Article 73, Article 74 or Article 75.
5. Disturbing the order on ship and thus affecting navigation safety.
6. Undertaking duty by using an assumed name.
7. It violated the laws and regulations provided by the government, relating to navigation restrictions.
8. Intentionally destroyed the ship, damaged or stole the ship's equipment, accessories, and cargoes or caused the ship to sink.
9. Any behaviour that would cause danger to national security.
10. Smuggling of the guns, ammunition and drugs or assisting the stowaways.

Article 81 The employer who fails to pay the severance pays in accordance with Paragraph 3 of Article 19 or Article 39 shall be punished a penalty of no more than ninety thousand New Taiwan Dollars (NT\$90,000).

Article 82 The employer who violates Articles 28 to 31 shall be punished with imprisonment not exceeding six months, or detention in lieu thereof, or in addition thereto, a penalty not exceeding sixty thousand New Taiwan Dollars (NT\$60,000).

Article 83 (Deleted)

Article 84 Any employer shall be subject to a fine from sixty thousand New Taiwan Dollars (NT\$60,000) to three hundred thousand New Taiwan Dollars (NT\$ 300,000), and the ship concerned may also be subject to a 30-day maximum suspension of sailing if any of the following conditions occur:

1. It violated the regulations stipulated in Paragraph 3 of Article 8, Paragraph 2 of Article 9, Article 12, Article 14, Paragraph 1 of Article 15, Paragraph 1 of Article 17, Paragraphs 1 to 4 of Article 22, Article 32, Article 33,

the proviso of Article 34, Article 37, Article 38, Paragraph 1 or 2 of Article 40, Article 41, Articles 43 to 46, Article 48 or Paragraph 1 of Article 70-1.

2. It violated the things mentioned in Subparagraph 2, 4, 5 or 7 of Article 21.

3. It violated the minimum standard specified in Paragraph 1 of Article 27.

4. Employing persons who are not eligible for practicing as a seafarer or unqualified seafarers to undertake duties on a ship without permission.

5. Covering, instigating or taking any other injustice means causing a seafarer to engage in smuggling of persons.

The employer who is permitted to hire non-R.O.C. seafarers but commits one of the things provided by the preceding paragraph, in a serious offense, shall also be subject to revoke their permission to hire non-R.O.C. seafarers.

Article 84-1 When the employer hiring any non-R.O.C. seafarers violates the regulations stipulated in Article 25-1 concerning the duties, employment, revocation and cancellation of permission, or employment management, their eligibility to apply for hiring non-R.O.C. seafarers shall be suspended for three months or more up to five years, depending on severity of the offense.

Article 84-2 Any training organisations for yacht or power-driven small ship masters shall be ordered to make improvement within the specified time limit, and may have to suspend all or part of the classes if any of the following conditions occur:

1. Evading, impeding or avoiding the inspection stipulated in Paragraph 1 of Article 75-5, or any deficiencies are found in the inspection.

2. It violated the regulations stipulated in Article 75-6 concerning the offering of classes, admission procedures, imposition of training fees, refund of fees or training management.

For those which are ordered to make improvement within the specified time limit subject to the preceding paragraph, but fail to improve within the time limit, or those fail to observe the class suspension penalty subject to the preceding paragraph, their permission shall be revoked.

The maximum period of suspension of the classes stipulated in paragraph 1 of this article is six months.

Article 84-3 Yacht or power-driven small ship masters shall be subject to warning or demerit if any of the following conditions occur:

1. It violated the regulations stipulated in Article 75-7 apply mutatis mutandis to Paragraph 1 of Article 69, using the yacht or power-driven small ship for smuggling of goods.

2. It violated the regulations stipulated in Article 75-7 apply mutatis mutandis to Article 70 or 71.

3. Skippering without permission upon expiry of his/her master's license and without renewing the license.

For the penalties provided by the preceding paragraph, issuing of three warnings are equal to one demerit, and issuing of three demerits within a period of two years, the master's license shall be called back for three months.

Article 84-4 Yacht or power-driven small ship masters shall be subject to calling back of the master's license if any of the following conditions occur:

1. It violated the regulations stipulated in Article 75-7, apply mutatis mutandis to Article 72, Paragraph 1 or 2 of Article 73, Article 74 or 75, causing death of other persons or affecting navigation safety.

2. Disturbing the order on ship and thus affecting navigation safety.

3. Smuggling of the guns, ammunition and drugs or assisting the stowaways

The period of calling back the master's license as mentioned in the preceding paragraph is three months or more up to five years from the date when the license is submitted.

Article 84-5 Any yacht and power-driven small ship masters are subject to a fine of six thousand New Taiwan Dollars (NT\$6,000) or more up to thirty thousand New Taiwan Dollars (NT\$30,000), and shall be stopped from skippering on the spot if any of the following conditions occur:

1. It violated the regulations stipulated in Article 75-2, skippering a yacht or power-driven small ship without passing the physical examination and obtaining a master's license.

2. Teaching others to skipper a yacht or power-driven small ship without obtaining a master's license.

3. Operating a yacht or power-driven small ship against other licensing conditions of the master's license.

Article 84-6 Those who holding a learner's license for skippering a yacht or power-driven small ship, if not being guided and monitored by a licensed master of a yacht or business-use power-driven small ship when learning to skipper, shall be fined six thousand New Taiwan Dollars (NT\$6,000) or more up to thirty thousand New Taiwan Dollars (NT\$30,000), and be stopped from skippering on the spot.

Article 84-7 Owners of a yacht or power-driven small ship who violated the regulations stipulated in Article 75-3 and set sail without permission shall be fined eight thousand New Taiwan Dollars (NT\$8,000) or more

up to forty thousand New Taiwan Dollars (NT\$40,000), and shall be ordered to make immediate improvement. For those who fail to improve, the ship concerned shall be subject to a 30-day maximum suspension of sailing. Three violations within one year will result in the ship concerned being suspended of sailing for six months or below.

Owners of a yacht or power-driven small ship who cover, instigate or take any other injustice means and cause the master or assistant of the yacht or power-driven small ship to engage in smuggling of persons, shall be fined thirty thousand New Taiwan Dollars (NT\$30,000) or more up to one hundred and fifty thousand New Taiwan Dollars (NT\$150,000), and the ship concerned is subject to a 30-day maximum suspension of sailing. Three violations within one year will result in the ship concerned being suspended for sailing for six months or below.

Article 85 Any foreign vessel carrier who violates Article 25, shall be subject to a fine from sixty thousand New Taiwan Dollars (NT\$60,000) up to three hundred thousand New Taiwan Dollars (NT\$300,000); and it may also be prohibited to enter or depart from the R.O.C. ports for a certain period. The R.O.C. seafarers employed by them, in the absence of approval, shall be forced to leave the ship.

Article 86 If the fines imposed in accordance with This Act are not paid within the specified period of time shall be referred to the court for compulsory collection.

#### Chapter 8 Supplementary Rules

Article 87 Assignment of seafarers on board a ship to a war zone shall be agreed upon by the seafarers in a written agreement. The danger allowance, insurance, and the disability and death compensations for such seafarers shall be negotiated by the relevant organisations of employees and employers, and reported to the MOTC for approval before coming into effect.

Article 88 (Deleted)

Article 89 For matters not provided herein which involving in international transactions, the MOTC may adopt and implement the rules, regulations, guidelines, standards, recommendations and programs set forth under the relevant international conventions or agreements and their protocols thereof.

Article 90 The competent authority is entitled to authorise local shipping administration authorities to deal with matters relating to seafarer administration, management of seafarer training and their professional organisations, yachtmasters and assistants, power-driven small ship masters and assistants, management of the yachtmasters training organisations and power-driven small ship masters training organisations, review of employment contracts, sea protests, navigation safety, handling of maritime casualties, ship inspection and penalties.

Article 91 The competent authority is entitled to collect reviewing fees, and certificate and license fees while reviewing the application for a permit, or issuance of certificate or license. The schedule of fees shall be prescribed by the MOTC.

Article 92 The by-laws of This Act shall be prepared by The MOTC and submit them to the Executive Yuan for approval.

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