

TITLE 47 - MARITIME

CHAPTER 8.

MERCHANT SEAFARERS

ARRANGEMENT OF SECTIONS

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An Act to govern generally, the rights, duties, responsibilities and treatment of merchant seafarers (Rev2003). [The Legislation in this Chapter 8 was previously codified as Part X of 34 MIRC 3]

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PART I - GENERAL

§801. Short title.

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

§802. Application.

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

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

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

§803. Definitions.

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

- (a) “Master” means any person having command of a vessel;
- (b) “seafarer(s)” means any or all members of the crew and officers other than the Master and pilots, employed or engaged in any capacity on board any vessel;
- (c) “crew” means collectively the persons, other than officers and the Master, serving in any capacity on board a vessel;
- (d) “shipowner” includes the charterer of any vessel where he mans, victuals and navigates such vessel at his own expense or by his own procurement;
- (e) “vessel” means any vessel registered under this Title;
- (f) “fishing vessel” means a decked vessel used for catching fish, whales, seals, walrus and other living creatures at sea;
- (g) “processing vessel” means a vessel used exclusively for processing fish and other living resources of the sea;
- (h) “foreign trade” means trade between foreign countries or between the Republic and foreign countries;
- (i) “domestic commerce” means any vessel exclusively engaged in coastwise trade or transportation between atolls, islands and/or ports within the waters of the Republic;
- (j) “overriding operational conditions”, in the context of hours of rest, means essential shipboard work which cannot be delayed for safety reasons and which could not reasonably have been anticipated at the commencement of a voyage; and
- (k) “accommodations” means sleeping rooms; mess rooms; sanitary, hospital, recreation, store room and catering accommodations provided for the use of seafarers and the Master but does not include any accommodation which is also used by or provided for the use of passengers. [P.L. 1990-92, §151; P.L. 2001-27, § 803. Additional definitions for clarification.]

§804. Full complement required.

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

§805. Officers' licenses.

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

§806. Penalty for misuse of licenses or certificates.

Any person who shall receive or shall have in his possession any Republic license, certificate or document issued to officers or crew by the Maritime Administrator, or any certificate or document issued pursuant to Chapter 9 of this Title, to which he is not lawfully entitled, or any false license, certificate or document, with intent to use the same unlawfully; or who without lawful authority shall alter or change any genuine license, certificate or document; or who shall in any manner transfer or arrange for the transfer of any such license, certificate or document; or who shall aid or abet the perpetration of any of the foregoing acts shall, for each offense, be liable to a fine of not more than ten thousand dollars (US\$10,000), or imprisonment for not more than one (1) year, or both, and forfeit the right to continued possession of or any future seafarer certification and documentation for service aboard vessels of the Republic. [P.L. 1990-92, § 154; P.L. 2001-27, §806.]

§§807-809. *Reserved.*

PART II - RIGHTS AND DUTIES OF THE MASTER

§810. Termination of employment.

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

§811. Duties of the Master.

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

- (a) to enter into Shipping Articles with seafarers as hereinafter provided;
- (b) to maintain discipline on board the vessel and to take all such steps as are necessary and appropriate in connection therewith;
- (c) to assume responsibility for the receipt of cargo by the vessel, stowage of cargo on board the vessel insofar as such stowage affects the safety or navigability of the vessel, and for the discharge of cargo from the vessel;
- (d) to assume full responsibility for the safety of the members of the crew and passengers, if any, and to take all necessary and appropriate steps in connection therewith;

- (e) to assume full responsibility for the navigation of the vessel at all times;
- (f) to assume full responsibility for the vessel's funds and the disbursement thereof;
- (g) to see that the vessel's log books are properly and accurately kept;
- (h) to keep in his custody all of the vessel's documents;
- (i) to make all reports required by laws or Regulations of the Republic or by the Regulations of any port at which the vessel may call;
- (j) to render assistance in the saving of life and property at sea; and
- (k) to protect the health of seafarers and ensure their prompt access to medical care onboard and ashore. [P.L. 1990-92, §156; P.L. 2001-27, §811][Amended by P.L.2009-16]

§812. Special powers of Masters.

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

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

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

Except as otherwise provided, the Master of a vessel of the Republic shall enjoy the same rights and shall have same lien upon the vessel in respect of wages, maintenance and cure and repatriation as are provided for seafarers.[P.L. 1990-2, §158]

§814. Master's wrongful death.

The personal representative of the Master of a vessel of the Republic shall enjoy the same rights and shall have the same liens upon the vessel in case of the Master's wrongful death as are provided in respect of seafarers. [P.L. 1990-2, §159]

§815-819. Reserved

PART III - RIGHTS AND DUTIES OF SEAFARERS

§820. Shipping Articles required.

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

§821. Penalty for alteration of Shipping Articles.

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

§822. Penalty for shipment without Shipping Articles.

If any person shall be carried to sea as an officer or one of the crew on board any vessel making a voyage as hereinbefore specified, without entering into Shipping Articles with the

Master of such vessel in the form and manner and at the place and times in such cases required, the vessel shall be held liable for such offense to a penalty of not more than two hundred dollars (US\$200). But the vessel shall not be held liable for any person carried to sea, who shall have secretly stowed himself away without the knowledge of the Master, mate or of any of the officers of the vessel, or who shall have falsely personated himself to the Master or officers of the vessel, for the purpose of being carried to sea. [P.L. 1990-92, §162.]

§823. Duration and extension of Shipping Articles.

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

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

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

(4) Where Shipping Articles are not for a stated period they shall be deemed to be for a period of not less than one (1) year and shall terminate at the expiration of the one (1) 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 terminated thereafter upon at least five (5) days notice by either party. Nothing in this Subsection (4) shall apply to or preclude Shipping Articles for a stated period of time. [P.L. 1990-92, §162.]

§824. Termination of Shipping Articles.

Where the Shipping Articles have terminated because of:

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

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

§825. Required documents for seafarers.

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

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

§826. Minimum age at sea.

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

(2) Persons under the age of eighteen (18) years shall not be employed or work on coalburning vessels as trimmers or stokers. [P.L. 1990-92, §166.][Amended by P.L.2009-16; original subsection (2) and (3) deleted]

§827. Payment of wages.

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

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

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

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

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

§828. Wages for unjustifiable discharge.

Any seafarer who has signed Shipping Articles and is afterward discharged before the commencement of the voyage or before one (1) 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 (1) month's wages as compensation. [P.L. 1990-92, §168.]

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

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

§830. Grounds for discharge.

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

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

perform assigned duties;

- (e) mutiny or desertion;
- (f) habitual intoxication, quarreling or fighting;
- (g) possession of dangerous weapons, narcotics or contraband articles;
- (h) intentional concealment from the shipowner or Master at or prior to

engagement under the Shipping Articles of a condition which resulted in sickness or injury;

- (i) assistance to stowaways; and
- (j) willful violation of the laws of the Republic or applicable local criminal

laws

[P.L. 1990-92, §170.]

§831. Advances and allotment of wage.

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

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

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

(a) deductions from the wages of a seafarer pursuant to the laws of the country at whose port the seafarer signed on or of which he is a national;

(b) requirements of a labor organization of which the seafarer is a member if such deductions represent dues or other obligations to a labor organization of which the seafarer is a member and are remitted to such organization; or

(c) the written consent of the seafarer, if such deductions are paid into a fund established for the exclusive benefit to seafarers and their families and dependents or for the purpose of providing medical or hospital care, pensions on retirement or death of the seafarer, life insurance, unemployment benefits or compensation for illness or injuries. [P.L. 1990-92, §171.]

§832. Wages and clothing exempt from attachment.

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

§833. Vacation allowance and holidays.

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

(2) Every seafarer shall be entitled to a minimum of five (5) paid holidays per year. [P.L. 1990-92, §173][Original paragraphs (a) and (b) of subsection (1) deleted by P.L.2009-16]

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

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

§835. Wages not dependent on freight earned.

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

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

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

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

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

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

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

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

§837. Benefit of compensation for loss of life.

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

§838. Wrongful death.

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

§839. Death on board.

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

§840. Issuance of death certificate.

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

§841. Burial expenses.

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

§842. Working hours, rest hours and overtime.

In relation to all seafarers on a vessel engaged in foreign trade:

- (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-hour period shall be considered as overtime and shall be compensated for at overtime rates;
- (c) a sufficient number of seafarers shall be employed to promote safety of life at sea and to avoid excessive overtime; and
- (d) whenever the Master of any vessel shall fail to comply with this Section, he shall be liable to a penalty not exceeding one hundred dollars.[P.L.1990-92,§182; P.L.2001-27,§842][Amended by P.L.2009-33]

§843. Repatriation.

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

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

- (a) at the shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port of the seafarer's own country; or
- (b) to another port, agreed upon between the seafarer and the shipowner or the

Master.

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

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

§844. Loss of right of repatriation.

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

- (a) desertion;
- (b) entering into a new agreement with the same owner after his discharge;
- (c) entering into a new agreement with another owner within one (1) week after his discharge;
- (d) criminal offenses under Sections 847, 849, and 850 of this Chapter; or
- (e) unjustifiable repudiation of the Shipping Articles; or
- (f) failure of the seafarer to request repatriation within one week from the time that he is in condition to be repatriated. [P.L. 1990-92, §184; P.L. 2001-27, § 844.]

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

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

- (a) for neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within 24 hours of the vessels' sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time, 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 amount sufficient to defray any expenses which shall have been properly incurred in hiring a substitute;
- (b) for quitting the vessel without leave before she is placed in security, by forfeiture from his wages of not more than one month's wages;
- (c) for intoxication or willful disobedience to any lawful command by being placed in restraint until such intoxication or disobedience shall cease, and by forfeiture from his wages of not more than four (4) days wages;
- (d) for continued intoxication or willful disobedience to any lawful command or continued willful neglect of duty being placed in restraint until such intoxication, disobedience or neglect shall cease, and by forfeiture, for every 24 hours' continuance of such intoxication, disobedience or neglect, of a sum of not more than twelve (12) days wages;
- (e) for willfully damaging the vessel or embezzling or willfully damaging any part of the stores or cargo, whether on board the vessel, in boats or ashore, by forfeiture out his wages of a sum equal in amount to the loss thereby sustained;
- (f) for any act of smuggling, whereby loss or damage is occasioned to the Master or shipowner, by payment to such Master or shipowner of such a sum is sufficient to

reimburse the Master or shipowner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability;

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

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

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

§846. Prohibition of corporal punishment.

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

§847. Barratry; drunkenness; neglect of duty.

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

§848. Desertion.

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

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

§849. Incitement of seafarer to revolt or mutiny.

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

§850. Revolt or mutiny of seafarer.

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

92, §190].

§851. Entry of offenses in Log Book.

Upon the commission of any offense, an entry thereof shall be made in the official Log Book of the vessel of the day on which the offense was committed, and any penalty or fine imposed, and shall be signed by the Master and by the mate or one of the crew; and the offender, if still on the vessel, shall, before her next arrival at any port or, if she is at the time in port, before her departure therefrom, be furnished with a copy of such entry and have the same read over distinctly and audibly to him, and may thereupon make such a reply thereto as he thinks fit; and a statement that a copy of the entry has been furnished or the same has been so read over, together with his reply, if any, made by the offender, shall likewise be entered and signed in the same manner. [P.L. 1990-91, §191].

§852. Abandonment of seafarer.

- (1) Whoever, being Master or in charge of a vessel of the Republic, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the Articles any member of the crew of such vessel, in condition and willing to proceed when the Master is ready to proceed, shall be fined not more than five thousand dollars (US\$5,000).
- (2) The abandoned seafarer shall retain his right to repatriation. [P.L. 1991-92, §192; P.L. 2001-27, §852. Penalty provisions increased].

§853. Contracts for seafaring labor.

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

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

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

§855. Freedom of association.

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

§856. Bargaining and execution of labor contract.

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

(2) A copy of any labor contract between the employer and an organization representing seafarers employed on a vessel shall be placed on board the said vessel and shall be made

available to maritime or judicial authorities when requested. [P.L. 1990-92, §196.]

§857. Provisions authorized in labor contracts.

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

§858. Provisions prohibited in labor contracts.

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

§859. Protection of labor contract.

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

(a) for the employer or employer organization to bargain with or enter into a labor contract pertaining to such seafarers with any other labor organization; or

(b) for any other labor organization to attempt to bargain with or enter into a labor contract pertaining to such seafarers with the employer or employer organization; prior to thirty (30) days before the termination of such agreement or before the expiration of three (3) years from the effective date of such agreement, whichever event shall first occur.

[P.L. 1990-92, §199. Format was modified for consistency with the format and style of the Code.]

§860. Strikes, picketing and like interference.

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

(a) a majority of seafarers on the vessel involved have voted by secret ballot that such action be taken; and

(b) at least thirty (30) days written notice of intention to take such action has been given to the employer or the Master; and

(c) the procedures of conciliation, mediation and arbitration under Section 861 of this Chapter, have been followed to conclusion.

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

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

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

(2) In the event that an agreed settlement between the parties to any dispute, differences or grievance is not effected, the following conciliation, mediation and arbitration procedures, as

may be further implemented by Regulation, shall apply:

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

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

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

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

§862. Timer-bar.

(1) Claims arising out of the Shipping Articles are subject to a one (1) 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 seafarer caused by wrongful act, neglect or default on the high seas;

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

(c) all other tort claims.

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

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

§863. Accommodations.

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

(2) If the provisions of any Rule and Regulation made under this section are contravened in the case of a ship, the owner or Master shall be subject to a penalty of not more than one thousand dollars (US\$1000). [P.L. 2001-27, §863.]

§864. Maritime Administrator to make rules and regulations.

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

§865. Uniformity of application and construction.

In this Title unless the context otherwise requires:

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

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

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