NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

34TH CONSTITUTIONAL REGULAR SESSION, 2013

BILL NO.:22

P.L. 2013-7

AN
ACT

to amend Title 47 of the Marshall Islands Revised Code, by amending sections109, 115, 152, 153, 225, 233, 235, 313, 607, 709, 821, 822, 827, 831,842, 849, 850, 852, and 863of the Republic of the Marshall Islands Maritime Act 1990 (the "Principal Act").

**BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:**

Section 1. **Short Title**

This Act may be cited as the Maritime (Amendment) Act (No.2), 2013.

Section 2. **Amendments**

(1) Section 109 of the Principal Act is amended to read as follows:

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

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

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

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

(4) Failure of an owner of a vessel of the Republic to ensure that each officer employed on the vessel is the holder of a valid license of competence of the Republic to fill the position held by him shall subject the owner to a fine of one thousand five hundred US dollars (US$1,500) for each officer so employed who is not the holder of such license of the Republic. If, however, a proper license of the Republic for each such officer is obtained within thirty (30) days of notice from the Maritime Administrator, the fine with respect thereto may be waived by the Maritime Administrator. Until paid, such fine(s) shall constitute a maritime lien on the vessel.

(2) Section 115 of the Act shall be amended as follows:

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

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

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

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

(a) the nature and seriousness of the offence, including the risk of harm to human life and the environment;

(b) timely, voluntary, and complete disclosure of wrongdoing, including a willingness to cooperate in any subsequent investigation(s);

(c) the existence and effectiveness of a pre-existing compliance program;

(d) remedial actions, including any efforts to implement an effective compliance program or to improve an existing one;

(e) the pervasiveness of wrongdoing, including the complicity in, or the condoning of, the wrongdoing by the Master, seafarer, crewing agent, vessel owner, vessel operator, vessel manager, or any other party;

(f) history of similar misconduct or any prior criminal, civil, or regulatory enforcement actions.

(3) Section 152 of the Act shall be amended as follows:

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

Every pilot, engineer, mate, Master, or other person in charge of any vessel, yacht, boat, canoe, or nondescript local craft who neglects or refuses to observe the provisions of this Part shall be subject to a penalty of not more than ten thousand US dollars (US$10,000) and for all damages sustained by any passenger in his person or baggage resulting from such neglect or refusal, provided, that nothing herein shall relieve any vessel, owner, corporation, or other person from any liability incurred by reason of such neglect or refusal.

(4) Section 153 of the Act shall be amended as follows:

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

Every vessel that shall be navigated without complying with the provisions of this Part shall be subject to a monetary penalty as prescribed under section 115(1) of this Title, for which sum the vessel so navigated shall be liable and may be seized and proceeded against before any Court of competent jurisdiction in this Republic, and, until paid, such fine shall constitute a maritime lien on the vessel.

(5) Section 225 of the Act shall be amended as follows:

**§ 225. New document.**

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

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

(3) Any vessel required by this Part to be documented anew, which is not so documented, shall not be deemed a vessel of the Republic. If a former document has not been delivered up,

except where it has been lost or destroyed and the oath thereto has been taken, the owner of such vessel shall be subject to a penalty of not more than five thousand US dollars (US$5,000) and, until paid, such penalty shall constitute a maritime lien on the vessel.

(6) Section 233 of the Act shall be amended as follows:

**§ 233. Inspection of document.**

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

(7) Section 235 of the Act shall be amended as follows:

**§ 235. Perjury.**

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

(2) A Master who commits perjury in taking such oath or affirmation shall be subject to a penalty of not more than ten thousand US dollars (US$10,000), or imprisonment for a term not exceeding one (1) year, or both; but the vessel shall not thereby be forfeited.

(8) Section 313 of the Act shall be amended as follows:

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

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

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

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

(9) Section 607 of the Act shall be amended as follows:

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

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

(10) Section 709 of the Act shall be amended as follows:

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

In the event of any casualty or incident involving a vessel of the Republic where there is personal injury or loss of life or there is loss of or damage to property or the vessel, the Master shall immediately forward a report thereon to the Maritime Administrator in accordance with such Rules and Regulations as the Maritime Administrator may make from time to time. Where there is a failure to execute and file a report as required hereunder, the Master shall be subject to a fine of not more than two thousand US dollars (US$2,000).

(11) Section 821 of the Act shall be amended as follows:

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

If any person fraudulently alters or makes false entry in any Shipping Articles, or if any person aids in committing or procures to be committed any such offense, he shall, in respect of each offense, be subject to a fine not exceeding five thousand US dollars (US$5,000).

(12) Section 822 of the Act shall be amended as follows:

**§ 822. Penalty for shipment without Shipping Articles.**

If any person shall be carried to sea as an officer or one of the crew on board any vessel making a voyage as hereinbefore specified, without entering into Shipping Articles with the Master of such vessel in the form and manner and at the place and times in such cases required, the vessel shall be subject to a penalty of not more than two thousand US dollars (US$2,000). 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.

(13) Section 827 of the Act shall be amended as follows:

**§ 827. Payment of wages.**

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

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

(3) A seafarer is entitled to receive in local currency, on demand, from the Master one-half of his wages actually earned and payable at every intermediate port where the vessel shall load or

deliver cargo before the voyage is ended, but not more than once in any ten (10) day period. In the event of the wrongful failure to pay a seafarer wages on demand, the seafarer shall be entitled to a payment of full wages earned.

(4) Every Master shall deliver to the seafarer, before paying off, a full and true account of his wages and all deductions to be made therefrom on any account whatsoever, and in default shall, for each offense, be subject to a penalty of not more than two hundred and fifty US dollars (US$250).

(5) In lieu of Subsections (1) through (4) above, the shipowner may implement a fixed salary plan which establishes a practical, modern salary system that will ensure a regular monthly income to the seafarer whilst on active service and during leave periods. For the purpose of the penalty provision in the preceding Section 827(4), it shall be deemed that no default has occurred provided that such arrangements are agreed between the Master and the seafarer and are reflected as an addendum to the Shipping Articles between the Master and seafarer.

(14) Section 831 of the Act shall be amended as follows:

**§ 831. Advances and allotment of wages.**

(1) It shall be unlawful to pay any seafarer wages in advance of the time when they are actually earned, or to pay such advance wages or make any order or note or other evidence of the indebtedness therefore to any other person, or to pay to any person for the shipment of any seafarer when payment is deducted or to be deducted from a seafarer's wages. Any person violating any of the provisions of this Section shall be subject to a fine of not more than two hundred and fifty US dollars (US$250).

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

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

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

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

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

(15) Section 842 of the Act shall be amended as follows:

**§ 842. Working hours, rest hours and overtime.**

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

(a) the normal hours of work in port and at sea shall be eight (8) hours per day;

(b) work performed over and above the eight (8) hour period shall be considered as overtime and shall be compensated for at overtime rates;

(c) a sufficient number of crewmembers shall be employed to promote safety of life at sea and to avoid excessive overtime; and

(d) whenever the Master of any vessel shall fail to comply with this Section, he shall be subject to a penalty not exceeding one thousand US dollars (US$1,000).

(16) Section 849 of the Act shall be amended as follows:

**§ 849. Incitement of seafarer to revolt or mutiny.**

Whoever, being of the crew of a vessel of the Republic, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires, or confederates with any other person on board to make such revolt or mutiny, or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the Master or other officers of such vessel, or to refuse or neglect his proper duty on board thereof, or betray his proper trust, or assemble with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the Master or other commanding officer thereof, shall subject to a monetary penalty and/or imprisonment as prescribed under section 115(2) of this Title.

(17) Section 850 of the Act shall be amended as follows:

**§ 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 subject to monetary penalty and/or imprisonment as prescribed under section 115(2) of this Title.

(18) Section 852 of the Act shall be amended as follows:

**§ 852. Abandonment of seafarer.**

(1) Whoever, being Master or in charge of a vessel of the Republic, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the Articles any member of the crew of such vessel, and such member of the crew is in a condition and willing to proceed when the Master is ready to proceed, shall subject to a penalty not more than ten thousand US dollars (US$10,000), or imprisonment for a term not exceeding one (1) year, or both.

(2) The abandoned seafarer shall retain his right to repatriation.

(19) Section 863 of the Act shall be amended as follows:

**§ 863. Accommodations.**

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

(2) If the provisions of any Rule or Regulation made under this section are contravened in the case of a ship, the owner or Master shall be subject to a penalty of not more than ten thousand US dollars (US$10,000).

Section 3. **Effective Date**

P.L. 2013-7

This Act shall take effect in accordance with the Constitution and the Rules of Procedures of the Nitijela.

## CERTIFICATE

**I hereby certify:**

1. That Nitijela Bill No.22 was passed by the Nitijela of the Republic of the Marshall Islands on the 28th day of February, 2013; and
2. That I am satisfied that Nitijela Bill No.22 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 5th day of April 2013.

**Attest:**

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| **Hon. Donald F. Capelle** | **Tadashi Lometo** |
| Speaker | Clerk |
| Nitijela of the Marshall Island | Nitijela of the Marshall Islands |