

Open Ship Registry, RPPL 8-17 2010

PALAU

**EIGHTH OLBIL ERA KELULAU
Seventh Regular Session, July 2010 RPPL No. 8-17
Passed As Senate Bill No. 8-46, SD6, HD1,PD1**

AN ACT

To amend Title 7 of the Palau National Code, to establish an Open Ship Registry in the Republic of Palau, and for other related purposes.

**THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA
KELULAU DO ENACT AS FOLLOWS:**

Section 1. Amendment. Title 7 of the Palau National Code is hereby amended to add new Chapter 6 to 13 as follows:

Chapter 6

Open Ship Registry Administration

Subchapter I.

General Provisions.

Section 601. Statement of Policy; Application; Uniformity of Application and Construction.

(a) Chapters 6 through 13 of this Title are intended, and shall be construed, to encourage and foster the growth and development of the foreign commerce; to promote and protect the national defense and security of the Republic of Palau; to preserve and protect the marine environment; and to regulate a uniform national program of marine safety, inspection and documentation.

(b) All matters affecting the internal order and economy of vessels registered under the laws of the Republic, including labor relations, shall be governed by this Title.

(c) In this Title, unless the context otherwise requires:

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

(2) 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.

Section 602. Definitions. As used in Chapters 6 through 13 of this Title, the following words or expressions shall be understood to have the meaning set forth below:

(a) "Accommodations" shall mean sleeping rooms, mess rooms, bathrooms, hospital, recreation, store rooms, and catering accommodations provided for the use of seafarers and the Master, but does not include any accommodation that is also used by or provided for the use of passengers;

(b) "Administrative Procedures Act" shall mean Chapter 1 of Title 6 of the Palau National Code, as amended from time to time;

(c) "Administrator" or "Ship Registry Administrator" shall mean the officer appointed by the Minister;

(d) "Cabin luggage" shall mean luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except as may otherwise be provided herein, cabin luggage includes luggage which the passenger has in or on his vehicle;

(e) "Carrier", when the sense so indicates, shall mean the owner or the charterer who enters into a contract of carriage with a shipper, or a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;

(f) "Carriage of goods" shall mean the period from the time when the goods are loaded on, to the time when they are discharged from the ship;

(g) "COL.REGS" shall mean the *International Regulations for Preventing Collisions at Sea 1972*, as amended and revised from time to time;

(h) "Commercial yacht(s)" shall mean a yacht engaged in trade, commerce or on charter for hire;

(I) "Contract of carriage" shall mean and apply only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same;

(j) "Court", when the sense so indicates, shall mean within the Supreme Court of Republic, sitting in Admiralty; and without the Republic shall mean a court of competent maritime jurisdiction.

(k) "Crew" shall mean collectively the persons, other than the officers and the Master, serving in any capacity on board a vessel;

(l) "Decked vessel" shall mean a vessel that has a fixed structural deck covering the entire hull;

(m) "Document", in addition to its normal meanings, shall, as applicable, mean the Certificate of Registry issued to a vessel;

(n) "Domestic commerce" shall mean coastwise trade or transportation between atolls, islands and/or ports within the waters of the Republic;

(o) "Fishing vessel" shall mean a vessel used for catching fish, whales, seals, walrus and other living creatures at sea;

(p) "Foreign trade" shall mean trade between foreign countries or between the Republic and a foreign country;

(q) "Goods" shall mean goods, wares, merchandise, and articles of every kind whatsoever, except live animals, and cargo which by the contract of carriage is stated as being carried on deck and is so carried;

®) "International carriage" shall mean any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the Scheduled itinerary, there is an intermediate port of call in another State;

(s) "Loss of or damage to luggage" shall mean pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labor disputes;

(t) "Luggage" shall mean any article or vehicle carried by the carrier under a contract of carriage, excluding:

(1) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods; and

(2) live animals;

(u) "Master" shall mean any person having command of a vessel;

(v) "Minister" shall mean the Minister of the Ministry designated by the President to administer this Act and, where appropriate and to the extent the Minister delegates his authority, the Administrator authorized by the Minister, or a Special Agent appointed hereunder;

(w) "Ministry" shall mean the Ministry within the Executive Branch of the Government of the Republic of Palau designated by the President to administer this Act;

(x) "Overriding operational conditions", in the context of hours of rest, shall mean essential shipboard work that cannot be delayed for safety reasons and could not reasonably have been anticipated at the commencement of a voyage;

(y) "Owner" shall mean the owner of a vessel, and the charterer of any vessel where he mans, victuals and navigates such vessel at his own expense or by his own procurement, or their duly appointed agent;

(z) "Part", when capitalized and used alone, shall mean Chapters 6 through 13 of Title 7 of the Palau National Code;

(aa) "Palau" shall mean the Republic of Palau;

(bb) "Palau Ship Registry" shall mean the public registry established hereunder to record all documents pertaining to vessels;

(cc) "Passenger" shall mean any person carried in a ship:

(1) under a contract of carriage; or

(2) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Title;

(dd) "Performing carrier" shall mean a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

(ee) "Private yacht(s)" shall mean any yacht not for hire, not engaged in trade or commerce, and used solely for private use, pleasure or recreational purposes by its owner;

(ff) "Processing vessel" shall mean a vessel used exclusively for processing fish and other living resources of the sea;

(gg) "Qualified person" shall mean:

(1) a natural person, whether or not a citizen of Palau;

(2) a corporation in good standing under the laws of the jurisdiction in which it is incorporated; or

(3) the Palau national government or any state government of Palau;

(hh) "Republic" shall mean the Republic of Palau;

(ii) "Salvor" shall mean any person rendering services in direct connection with salvage operations.

(jj) "Salvage operations" shall include operations referred to in Chapter 11 of this Title.

(kk) "Ship" shall mean only a seagoing vessel used for the carriage of goods, excluding an air-cushion vehicle;

(ll) "Shipping Articles" shall mean a contract between the crew and owner or Master of a ship.

(mm) "STCW Convention" shall mean the *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers*, as amended and revised from time to time;

(nn) "Seafarer" shall mean any person, other than the Master and pilots, employed or engaged in any capacity on board any vessel;

(oo) "Shipowner" shall mean the owner, charterer, manager and operator of a seagoing ship;

(pp) "Ship Registry Administrator" shall have the same meaning as Administrator;

(qq) "Title", when capitalized and used alone, shall mean Title 7 of the Palau National Code;

(rr) "Vessel" shall mean a craft for traveling on water; a ship or boat;

(ss) "Vessel of the Republic" shall mean any vessel registered under this Title;

(tt) "Vessel under oars" as set forth in Rule 25 of the *International Regulations for Preventing Collisions at Sea, 1972*, as amended, shall be interpreted to include canoes and various nondescript local craft;

(uu) "Waters of the Republic" shall mean the internal, archipelagic and all the territorial waters and water areas of the Republic extending to a two hundred nautical miles exclusive economic zone, including all reefs and shoals contained therein, as such waters are defined by Section 1 of Article I of the Constitution of the Republic of Palau, its amended;

(vv) "Yacht" shall mean a decked vessel normally used for private cruising, racing, or other noncommercial purposes.

Section 603. Creation of Registry; Authority of Minister. There is hereby is created a Republic of Palau Open Ship Registry to be administered by the Minister. To accomplish the objectives and to carry out the duties prescribed hereby, the Minister, in addition to any other powers conferred upon him by this Title, may administer an oath or affirmation to any person, may take all acknowledgments and make all proofs of due execution required by this Title, either in or outside of the Republic, may conduct hearings in aid of any investigation or inquiry, and may

prescribe such forms and promulgate such standards, rules and regulations, not inconsistent with the provisions of this Title, as may be necessary to fully implement and enforce the provisions of this Title, which rules and regulations shall have the force of law. The Minister is authorized to and shall establish all necessary and proper fees, except in cases where the fee is already specifically provided for in this Title. All rules and regulations and fees established and promulgated, and all hearing held, by the Minister shall be subject to the approval of the President and shall be established, promulgated or held pursuant to the Administrative Procedures Act.

Section 604. Appointment of Ship Registry Administrator; Duties of Administrator.

With the approval of the President, the Minister may appoint a Ship Registry Administrator, who shall be employed by the Ministry at a pay level and grade deemed appropriate by the President, but in no event to exceed the pay level or grade of a director of a bureau within the Ministry. Subject to the provisions of this Title, the Minister, with the approval of the President, may, by a written instrument, generally or specifically delegate all or a portion of his authority, power, and functions under this Title to the Administrator, including but not necessarily limited to the authority to promulgate fees, standards, rules and regulations necessary to carry out the provisions of this Title.

Section 605. Special Agents. The Minister may, from time to time, appoint one or more special agents (hereinafter sometimes referred to as a "Special Agent(s)") to register and document vessels, to inspect and record instruments in relation thereto, and to inspect and measure vessels.

Section 606. Records Relating to Vessels.

(a) The Minister shall establish and maintain the Palau Ship Registry, which shall be a public register consisting of appropriate books, volumes and indexes wherein there shall be recorded or filed in properly allocated and accessible form, all documents of the following nature:

- (1) bills of sale and other instruments of conveyance of vessels;
- (2) mortgages of vessels;
- (3) assignments of mortgages of vessels;
- (4) certificates of permanent and provisional registry;
- (5) licenses and certificates of Masters, officers and the crew of a vessel; and
- (6) all other documents relating to vessels that the Minister deems to be entitled to recordation.

(b) No transfer of or encumbrance upon title to a vessel of the Republic or any interest therein shall be valid against any subsequent purchaser or mortgagee of the same vessel or interest, or any part thereof, in good faith for a valuable consideration without notice of such transfer or encumbrance, or against any person claiming under them, if the transfer to the subsequent purchaser or mortgagee is first duly recorded.

Section 607. Authority to Issue Licenses, Certificates and Other Documents.
Subject to the STCW Convention, the Minister is authorized to issue all such licenses, certificates, or other documents for the Masters, officers and crews of vessels of the Republic engaged in foreign trade, necessary or proper for carrying

out the purposes of this Title, and any rule or regulation promulgated in furtherance hereof, or of any international convention, code or agreement to which the Republic is a party.

Section 608. Authority of Minister to Suspend or Revoke Registration and to Impose Fines. The Minister may, after a hearing held pursuant to the Administrative Procedures Act, suspend or revoke any licenses, certificates, permits or documents issued, and impose any fines authorized, under the provisions of this Title. Specifically, but without limitation, the Minister may suspend or revoke the registration of a vessel of the Republic upon a finding that the vessel has been used to commit any of the following activities:

- (a) the storage or transportation of illegal drugs;
- (b) people smuggling, trafficking in persons or unlawful carriage of refugees;
- (c) involvement in any war or armed conflict;
- (d) supporting civil unrest in any state of the Republic;
- (e) terrorism or activities in support of terrorism; or

(f) any other activity which contravenes the laws of the Republic of Palau, the rules and regulations promulgated pursuant hereto, or any international convention to which Palau is a party.

Section 609. Appeal from Decisions of the Minister. Any party aggrieved by a decision of the Minister made pursuant to the provisions of this Title or of any rules and regulations issued hereunder, may appeal such decision as provided in the Administrative Procedures Act.

Section 610. Jurisdiction. All causes of action arising out of, or under this Part are hereby declared to and shall be cognizable before the Supreme Court of the Republic of Palau, sitting in Admiralty.

Section 611. Immunity from Liability and Suit. In the performance of their duties, the Minister, the Administrator, any appointed Special Agent, and any other person, natural or corporate, who has been authorized, recognized, or designated by any of them and is acting on their behalf to administer the provisions of this Title or any rule or regulation promulgated pursuant hereto, together with any affiliate of any such person, its stockholders, members, directors, officers and employees, wheresoever located, shall have full immunity from liability and from suit with respect to any act or omission or thing done by any of them in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed upon any of them under or in connection with this Title or any rule or regulation, or any other law, rule or regulation applicable to the performance of any of their duties.

Section 612. Severability. If any provision of this Title, or the application of any such provision to any circumstances or persons, natural or corporate, shall be held invalid, the validity of the remainder of this Title and the applicability of such provisions to other circumstances, or to persons, natural or corporate, shall not be affected thereby.

Sections 613-619. Reserved.

Subchapter II.

Radio Authority.

Section 620. Radio Station Licenses. The Minister, in consultation with other national government entities possessing statutory or regulatory authority related to radio frequencies, *et cetera*, may promulgate regulations respecting the issuance of radio station licenses radio transmitting apparatus, maritime mobile radio stations, and Point of Service Activation (PSA) for Inmarsat maritime mobile stations, located on board vessels registered under this Title.

Sections 621-629. Reserved.

Subchapter III.

Vessel Inspection.

Section 630. Marine Safety Inspection. All vessels registered under this Title shall be required to undergo inspection and shall at all times carry on board such proof of inspection as may be required by law.

Section 631. Rules and Regulations. The Minister shall promulgate rules and regulations respecting the inspections of vessels registered under this Title.

Section 632. Vessel Owners to Bear Costs of Inspection. The owner of vessels subject to this Title shall bear all costs associated with compliance, including the cost of all inspections.

Sections 633-639. Reserved.

Subchapter IV.

Rules of Navigation.

Section 640. Regulations for Preventing Collisions. The COLREGS shall be followed by all vessels and seaplanes navigating the waters of the Republic; and shall be followed by all vessels of the Republic and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels except as provided in Rule 1 of the foregoing Regulations; and the foregoing Regulations, as may be amended from time to time, shall have effect in the Republic as if specifically enacted by statute and fully set forth herein.

Section 641. Fine for Violation of Rules by Pilot, Engineer, Mate or Master. Every pilot, engineer, mate, Master or other person in charge of any vessel, including canoes or nondescript local craft, who violates, neglects or refuses to observe the provisions of the COLREGS shall be liable to a fine of up to but not more than One Thousand Dollars (\$1,000.00), and for all damages sustained by any passenger in his person or baggage resulting from such violation, neglect or refusal; provided, that nothing herein shall relieve any vessel, owner, corporation, or other person from any civil liability incurred by reason of such violation, neglect or refusal.

Section 642. Fine for Violation by Vessel. Every vessel that is navigated without complying with the provisions of the COLREGS shall be liable to a fine of up to but not more than Two Thousand Dollars (\$2,000.00), and may be seized and proceeded against before any court of competent jurisdiction in the Republic. Until paid in full, each such fine shall constitute a maritime lien on the vessel.

Section 643. Assistance in Case of Collision. In every case of collision between two vessels, it shall be the duty of the Master or person in charge of each vessel, if and insofar as he can do so without serious danger to his own vessel, crew, and passengers (if any), to stand by the other vessel until he has ascertained that it needs no further assistance; to render to the other vessel, and to its Master, crew, or passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision; and to report to the Master or person in charge of the other vessel the name of his own vessel, its port of registry or the port to which it belongs, and the names of the ports from which and to which it is bound. If the Master or person in charge of each vessel fails to do so without reasonable cause for such failure, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Section 644. Implementation and Compliance. The international conventions, treaties and agreements to which the Republic is a party, shall be complied with by all vessels of the Republic engaged in foreign trade and, to the extent determined applicable, to all fishing vessels and yachts. The international conventions, treaties and agreements, as such may be amended, shall have effect in Palau as if specifically enacted by statute and fully set forth herein.

Sections 645-649. Reserved.

Subchapter IV.

Transition and Effective Date.

Section 650. Transition and Effective Date.

(a) All provisions of the Palau National Code existing on the date this Act becomes effective that are in conflict, or inconsistent with any of the provisions of this Act, are hereby repealed, except for such rights and duties that have matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

(b) The owner of a vessel duly registered under this Title on the effective date of this Act that would otherwise be eligible for registration under this Part may elect to have the vessel registered under this Part and, upon such election, the vessel shall be deemed to be duly registered under this Part; provided that the election is made and all applicable fees are paid within sixty (60) days after the effective date of this Act.

(c) Nothing contained herein shall impair or otherwise affect the status, including but not limited to, the validity and enforceability of any instrument or document issued, filed or recorded or any act taken prior to the date hereof in respect of a vessel duly registered under the laws of the Republic on or before the effective date of this Act. Every instrument or document so issued, filed or recorded shall have the same status hereunder as it had immediately prior to the effective date hereof, e.g., a vessel mortgage which was a preferred mortgage under the laws of the Republic in effect immediately prior to the effective date hereof shall be deemed a preferred mortgage hereunder. Every instrument or document issued, filed or recorded and every act taken after the effective date of this Act in respect of a vessel duly registered under this Title shall be in accordance with the terms and provisions of this Title.

Sections 651-700. Reserved.

Chapter 7

Documentation and Identification of Vessels

Subchapter I.

Vessel Registration.

Section 701. General Provisions. No vessel eligible to be documented or re documented under this Chapter shall be accorded the rights and privileges of a vessel of the Republic unless such vessel shall be registered in accordance with the

provisions of this Chapter. The home port of every vessel of the Republic shall be Malakal Harbor, Palau, and the name of the home port shall be shown on the Certificate of Registry. It shall be the responsibility of the owners and Masters of vessels documented or otherwise registered under this Title to ensure that their vessels are in compliance with the requirements of this Act and with all applicable international agreements, conventions or treaties.

Section 702. Vessels Eligible to be Documented or Re-documented.

(a) Vessels of the following classes, owned by a qualified person, at least twenty-five (25) feet (7.62 meters) or more in length, wherever built, are eligible to be documented or re-documented under the provisions of this Chapter:

(1) Any vessel engaged in foreign trade;

(2) Any decked commercial fishing vessel;

(3) Any commercial yacht; and

(4) Any private yacht.

(b) The foregoing vessels will not be eligible for initial documentation or re documentation if, on January 1 of the year in which initial documentation or re documentation is sought, such vessels are over twenty (20) years of age, computed from completion of first construction, unless such vessels are surveyed by and inspected by a surveyor or inspector certified by the International Maritime Organization, or by an equivalent certified surveyor, and reported as seaworthy.

(c) Anything in this Section to the contrary notwithstanding, the ownership requirement; the minimum length restrictions; and the 20-year maximum age limitation, may be waived by the Minister at his discretion and a vessel may be documented or re-documented where:

(1) the vessel meets all other applicable requirements for registration; and

(2) it has been satisfactorily demonstrated that there is a genuine need for such waiver.

(d) The Minister may, for good cause shown, including but not limited to cases of international, civil, political or military crisis, temporarily suspend or modify the requirements of this Chapter with respect to registration of a vessel as well as related requirements for recordation of instruments under this Title and, for good cause shown, permit the vessel to be documented under this Chapter or cause such instruments to be recorded.

(e) The Minister may, upon written application, certify any person or corporation as a qualified person.

(f) The Minister shall forthwith promulgate rules and regulations respecting the implementation of this Section.

Section 703. Vessels Not Eligible to be Documented.

(a) Any vessel not eligible for registration under the provisions of Section 702, and any vessel engaged exclusively in domestic commerce, shall not be documented under the provisions of this Chapter. If they otherwise met the requirements thereof, such vessels may be documented under the provisions of Chapter 1 of this Title.

(b) Notwithstanding that any vessel in respect of which an application for registration has been made is otherwise entitled to be documented under this Chapter, the Minister may refuse registration to the vessel if after due consideration, the Minister is satisfied that the registration of the vessel would be detrimental to the interests of the Republic or to international shipping.

©) Except as otherwise provided hereunder, no vessel shall be permitted to be registered under this Chapter unless, on or before the registration of the vessel by the Republic, all previous registrations of the vessel in foreign countries have been legally canceled or otherwise terminated.

Section 704. Registration and Registration Fees. The Minister shall promulgate rules and regulations respecting the registration of vessels and the registration fees to be paid by vessels registered under this Chapter.

Section 705. Annual Tonnage Fee; Tax Status of Owner and Vessel.

(a) The Minister shall promulgate rules and regulations respecting annual tonnage fees to be paid by vessels for registration under this Chapter.

(b) The owner of a vessel registered under this Part shall not, by virtue of such registration only, be considered as a tax resident of the Republic.

©) Any income earned from a vessel registered under this Part shall not, by virtue of such registration only, be considered as being derived, earned, received or sourced in the Republic.

Section 706. Title of Vessel's Document. The vessel's document shall be called the Certificate of Registry.

Section 707. Conditions Precedent to Issuance of Permanent Certificate of Registry. Upon receipt of a written application by the owner of a vessel for the issuance of a Permanent Certificate of Registry, accompanied by the oath hereunder, the Minister may issue a Permanent Certificate of Registry to a vessel engaged in foreign trade, to a commercial or private yacht, or to fishing vessel, provided that the owner of the vessel furnishes satisfactory proof of the following:

(a) the ownership of the vessel;

(b) that the vessel is eligible for registration;

(c) that any foreign marine document for the vessel has been surrendered with the consent of the government that issued it, or has been legally canceled or otherwise terminated;

(d) that the vessel is in seaworthy condition;

(e) that the owner has paid the required registration and tonnage fees;

(f) that the markings of the name, official number, home port and draft required by this Chapter have actually been made; and

(g) that a Certificate of Measurement as required by this Chapter has been issued.

Section 708. Oaths. An application for the issuance of a permanent Certificate of Registry, or of a temporary Certificate of Registry when the original Permanent Certificate of Registry has been lost or destroyed, shall be accompanied by an oath of such content and form as is required by regulation. The Minister shall promulgate rules and regulations respecting the oaths required by this Chapter.

Section 709. Forms of Documents. The Minister shall promulgate rules and regulations respecting the forms required by this Title and any endorsements thereon. A vessel's document shall be in the form prescribed.

Section 710. Numbering of Registry Certificates. The Certificates of Registry issued by the Minister shall be sequentially numbered, beginning anew at the commencement of each year, and shall be recorded in a book kept for that purpose. The Minister shall also retain permanent copies of all such documents issued by or surrendered to him.

Section 711. Provisional Certificates of Registry. Upon receipt of a written application by the owner of a vessel for the issuance of a Provisional Certificate of Registry, accompanied by the oath required hereunder, the Minister may issue a Provisional Certificate of Registry to a vessel abroad engaged in foreign trade, to a commercial or private yacht abroad, or to a fishing vessel abroad. Unless sooner revoked or suspended, a Provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of the Republic engaged in foreign trade for a period not to exceed two (2) years, as endorsed thereon. The Minister shall promulgate rules and regulations respecting the conditions in accordance with which Provisional Certificates of Registry shall be issued and renewed and the manner in which they shall be surrendered in exchange for permanent Certificates of Registry.

Section 712. Conditions Precedent to Issuance of Provisional Certificate of Registry.

(a) Upon receipt of a written application for the issuance of a Provisional Certificate of Registry, accompanied by the oath required hereunder, the Minister may issue a Provisional Certificate of Registry for the vessel provided that the owner of the vessel furnishes satisfactory proof of the following:

(1) the ownership of the vessel;

(2) that the vessel is eligible for registration;

(3) that the issuing government of any outstanding foreign marine document for the vessel has consented to its surrender, and that said marine document either has been surrendered for cancellation; or that the owner has issued orders to the Master of the vessel to surrender said foreign marine document for cancellation immediately upon the receipt of the Provisional Certificate of Registry on board the Vessel; or that the outstanding foreign marine document has been cancelled;

(4) that the vessel is in seaworthy condition;

(5) that the owner has paid required registration and tonnage fees; and

(6) that the markings of the name, official number, home port, and draft required by this Chapter have either actually been made or that the owner has issued orders to the Master of the vessel to have said markings made immediately upon receipt of the Provisional Certificate of Registry of the Republic on board the vessel.

(b) If the owner of the vessel to which the Provisional Certificate of Registry has been issued does not, within thirty (30) days after issuance of the Provisional Certificate of Registry, furnish satisfactory proof to the Minister showing that the vessel's outstanding foreign marine document has actually been surrendered for cancellation and that the markings required by this Chapter have actually been made, or if before the end of such thirty (30) day period it is established that any of the aforesaid obligations will not or cannot be complied with, then the Minister may declare said Provisional Certificate of Registry to be null and void.

(c) As soon as reasonably practicable after the surrender for cancellation of any outstanding foreign marine document of the vessel and the making of the markings required by this Chapter, a measurement of the vessel will be made and a permanent Certificate of Registry shall be issued in place of any Provisional Certificate of Registry theretofore issued, and such Provisional Certificate of Registry shall be surrendered to the Minister as promptly as circumstances permit. When the permanent Certificate of Registry is issued, any fees originally paid shall be adjusted in accordance with the tonnage established by the Certificate of Measurement.

(d) For good cause shown, the Minister may, from time to time, issue a new Provisional Certificate of Registry for a period not exceeding two (2) years.

Section 713. Denial of Document. There shall be no Certificate of Registry issued to any vessel until all applicable provisions of this Chapter have been complied with.

Section 714. Sale of Document Forbidden. A Certificate of Registry shall be used solely on the vessel to which it is granted, and it shall not be sold, lent, or otherwise disposed of to any person.

Section 715. Sale or Transfer Abroad. A vessel of the Republic sold or transferred in whole or in part but without change of the country of registration, shall comply with the provisions of this Chapter relating to the documentation of vessels and a new Certificate of Registry shall be obtained.

Section 716. Transfer to Foreign Registry. The owner of a vessel of the Republic that desires to transfer the vessel to a foreign registry may do so provided that there are no unfulfilled obligations to the Republic in respect of the vessel. Before such transfer is accomplished the registered owner shall surrender the vessel's document to the Ministry.

Section 717. Application for Surrender of Documents. Before a Certificate of Registry shall be accepted for surrender, the owner of the vessel of the Republic shall submit to the Minister a written application specifying the name of the vessel, the reasons for the proposed surrender, the name and nationality of the proposed new owner, if any, and, if a transfer to foreign registry is contemplated, the name of the country to whose registry transfer is desired.

Section 718. Surrender and Cancellation of Registry.

(a) If a vessel of the Republic is lost, taken by an enemy, burned, broken up, or otherwise prevented from returning to the port to which it may belong, the Certificate of Registry, if preserved, shall be delivered to the Minister within eight (8) days after the arrival of the Master or person in command.

(b) If a vessel of the Republic is lost, broken up or transferred from the Palau Ship Registry, the Minister may, subject to the provisions of this Chapter, strike or delete the vessel from the Palau Ship Registry.

(c) When an application is made for new registry of a vessel, its former Certificate of Registry shall be delivered to the Minister.

(d) Where a Certificate of Registry is granted in lieu of one lost, the lost Certificate of Registry, if found, shall be delivered to the Minister, who shall thereupon cancel it.

(e) The continued validity of a Certificate of Registry shall be contingent upon:

(1) the good standing of the owner,

(2) the payment of all applicable fees and fines when due, and

(3) the completion of periodic safety inspections, if applicable, verifying compliance with the relevant requirements of this Chapter and any rules and regulations promulgated by the Minister.

Section 719. Surrender of Document of Vessel Subject to Preferred Mortgage. The Certificate of Registry of a vessel of the Republic subject to a Preferred Mortgage shall not be accepted for surrender without the consent of the mortgagee, except in the case of a Provisional Certificate of Registry surrendered for the purpose of issuance of a Permanent Certificate of Registry.

Section 720. New Document.

(a) Whenever a vessel of the Republic 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, the vessel shall be documented anew, by its former name. Every such sale or transfer shall be evidenced by a written instrument in the nature of a bill of sale 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.

(b) When the Minister determines that any vessel of the Republic has been sold or transferred by process of law, and that its document is retained by the former owner, the Minister may grant a new document under such sale upon the new owner complying with the requirements of this Chapter, 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.

(c) Any vessel required by this Chapter 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 liable to a fine up to but of not more than Five Hundred Dollars (\$500.00), and until paid each such fine shall constitute a maritime lien on the vessel.

Section 721. Builder's Certificate. In order to register for the first time a vessel newly built and previously undocumented under any flag, the builder, by whom or under whose direction the vessel has been built, shall certify as follows:

(a) that the vessel was built by him or under his direction;

(b) the place where the vessel was built;

(c) the date delivered;

(d) the person for whom the vessel was built;

(e) the build;

(f) the number of decks and masts;

(g) the length;

(h) the breadth;

(I) the depth;

(j) the tonnage or tonnages; and

(k) such other circumstances as are usually descriptive of the identity of a vessel.

Section 722. Names, Numbers and Marks on Vessels.

(a) Every vessel of the Republic shall have its name marked upon each bow and upon the stern. The home port of the vessel shall also be marked upon the stern. The name shall be painted or gilded upon beaded or cast Roman letters in light color on a dark background, or in a dark color on a light background, permanently affixed and distinctly visible. The smallest letters used shall not be less than six inches in height.

(b) Every vessel of the Republic, in addition to having its name painted on its stern, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in height, on each outer side of the pilot house.

(c) The Minister may prescribe a system of numbering and marking on documented vessels. The designated number(s) of every vessel of the Republic shall be marked permanently on its main beam.

(d) The draft of every vessel of the Republic shall be marked upon the stem and stern post, in English feet or in decimeters, in Arabic numerals. The bottom of each numeral shall indicate the draft to that line.

Section 723. Numbering of Vessels. Upon the initial registration of a vessel, the Minister shall assign an official number to the vessel.

Section 724. Change in Name of Vessel.

(a) The Minister may change the name of a vessel of the Republic on application of the owner.

(b) Upon granting permission, the Minister shall cause the order for changing of name to be published in at least four (4) issues of a newspaper at the place of documentation. The owner of the vessel shall pay the cost of procuring evidence and advertising.

(c) The owners of the vessel shall pay any fee prescribed by the Minister for securing change in name. The fee shall be based on the tonnage of the vessel.

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

(e) The Minister shall promulgate rules and regulations respecting changes in name of a vessel taking care to prevent injury to public or private interests.

Section 725. Inspection of Documents. The Minister may at all times inspect the Certificate of Registry and tonnage fee receipt of a vessel of the Republic. A Master who fails to exhibit the same when required by the Minister shall be liable to a fine of up to but not more than One Thousand Dollars (\$1,000.00).

Section 726. Display of Ship's Papers.

(a) Upon the arrival of a vessel of the Republic at any foreign port where there is a Special Agent appointed by the Minister, the Master, vessel's agent or other authorized person shall, upon request, display to the Special Agent, on board the vessel during customary business hours and without payment of any fee, the vessel's Certificate of Registry and annual tonnage fee receipt.

(b) Only the Certificate of Registry and annual tonnage fee receipt shall be required to be so displayed, and this requirement shall be waived when the vessel's papers have been so displayed in the same port within ninety (90) days previously.

(c) Where a request has been made and the ship's papers have not been properly displayed, the vessel shall not be detained by the Special Agent, but such non-compliance shall be immediately reported to the Minister.

(d) Whether or not local port regulations require clearance of a vessel from a Special Agent appointed by the Minister, it shall not be required in relation to such clearance that the signing on or off of crew or the execution of any vessel's papers or documents be done before a Special Agent appointed by the Minister, or that any ship's papers or documents be witnessed, stamped or otherwise legalized by a Special Agent.

Section 727. Perjury.

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

(b) A Master who willfully and knowingly commits perjury in taking such oath or affirmation shall be guilty of perjury and upon conviction thereof shall be imprisoned for not more than six (6) months, or fined not more than One Thousand Dollars (\$1,000.00), or both; but the vessel shall not thereby be forfeited.

Section 728. Standards of Seaworthiness. The Minister shall promulgate rules and regulations respecting standards of seaworthiness required for the registration of vessels under this Chapter.

Section 729. Fees: Collection, Penalties and Liens.

(a) Except for yachts, fishing vessels, and as otherwise provided herein, the tonnage fee imposed by this Chapter, while due and payable by no later than the first business day of January in each year, may be paid without penalty in installments as follows:

(1) fifty percent (50%) on or before the first business day of January of the year in respect of which such fees are due; and

(2) the balance on or before July 1 of the year in respect of which such fees are due.

(b) There shall be no rebate or proration of a tonnage fee and the entire annual tonnage fee shall be due in respect of a vessel that remains on the Palau Ship Register for any portion of any calendar year. Any and all annual fees shall be paid in advance by the first business day of January of the year in respect of which such fees are due. A penalty at the rate established by regulation shall be imposed for late payment of such fees. If payment is delayed beyond July 1 of the year in respect of which such fees are due, the Certificate of Registry of the vessel in question may be suspended and confiscated until all outstanding fees and penalties are paid, or, in the alternative, the Certificate of Registry may be canceled by the Minister.

(c) The Minister is authorized to issue official receipts for the payment of fees and any penalties relating thereto.

(d) All unpaid fees, penalties and other charges arising under this Act shall constitute a maritime lien on the vessel in respect of which such amounts are due, and anything in this Title to the contrary notwithstanding, such lien shall have priority over all others save those for wages and salvage.

(e) No Certificate of Registry shall be returned to the owner or Master of a vessel by the Minister with whom it may have been deposited until proof is furnished that all applicable fees for the then current year have been paid.

Section 730. Jurisdiction and Control of Republic Exclusive. From the time of issuance of a Certificate of Registry under this Chapter until its expiration, termination, revocation or cancellation, whichever first occurs, the vessel shall be granted and shall enjoy the right to fly the Flag of the Republic of Palau exclusively, unless its Certificate of Registry is specifically endorsed so as to withdraw that right. At all times during the period that a vessel has the right to fly the Flag of the Republic of Palau, the vessel shall be subject to the exclusive jurisdiction and control of the Republic of Palau as the Flag State, in accordance with the applicable international agreements, conventions and treaties and with the provisions of this Act and any rules or regulations promulgated hereunder.

Subchapter II.

Vessel Measurement.

Section 731. Measurement. A vessel shall not be issued a Permanent Certificate of Registry until the vessel has been measured as provided herein.

Section 732. Certificate of Measurement. The Certificate of Measurement shall certify the build of the vessel, its number of decks and masts, length, breadth, depth, tonnage or tonnages, and such other particulars usually descriptive of the identity of a vessel, and that the markings required by this Chapter have actually been made.

Section 733. Measurement of Vessels. The Minister shall promulgate rules and regulations respecting the method of measurement for all vessels registered under this Title.

Section 734. Tonnage Statements in Permanent Certificate of Registry.

(a) Each vessel's Permanent Certificate of Registry shall state the gross and net tonnage or tonnages determined in accordance with such rules and regulations as the Minister may prescribe.

(b) Upon application by the owner or Master of a vessel of the Republic, for use in foreign ports, the Minister may attach to the Permanent Certificate of Registry an appendix stating separately the measurement of such space or spaces as are permitted to be deducted from the vessel's gross tonnage or tonnages.

Bareboat Charter - Republic of Palau Registration.

Section 735. Recording of Bareboat Charter Party.

(a) A qualified person desiring to obtain the provisional registration under this Act of a vessel that such qualified person possesses by bareboat charter, and which in all respects other than ownership, complies with the requirements of this Chapter, must cause a true copy of the charter party to be duly recorded in the Palau Ship Registry. At a minimum, the charter party must disclose:

(1) the name of the vessel;

(2) the names of the bareboat charterer, the owner of the vessel, and the holders of any registered mortgages, hypothecations or similar charges;

(3) the time and date of recording of the charter party;

(4) the period of duration of the charter party; and

(5) the foreign state of registration of the vessel.

(b) The following documents must be filed with the Minister:

(1) an official certificate from the foreign State of registration setting forth the ownership of the vessel and any recorded encumbrances;

(2) the written consents of the vessel's owner and of the mortgagee(s), if any, to the provisional registration of the vessel in the Republic under this Chapter; and

(3) satisfactory evidence that the foreign State of registration will withdraw from the vessel the right to fly the flag of that State while the vessel is subject to the bareboat charter recorded under this Section.

(c) Any subsequent amendments or addenda to the charter party recorded under this Section and any and all present or subsequent bareboat sub-charter parties shall be submitted for recording within thirty (30) calendar days of execution.

Section 736. Undertaking of Bareboat Charterer. The bareboat charterer shall execute under oath or affirmation an undertaking that, while the vessel is granted the right to fly the Flag of the Republic, the vessel will not fly any other flag nor show any home port other than Malakal Harbor, Palau, and that the bareboat charterer will without delay notify the Minister if any foreign State shall accord the vessel the right to fly its flag.

Section 737. Bareboat Charter; Certificate of Registry.

(a) When the charter party has been recorded and an application for registration of the vessel has been executed and filed by the bareboat charterer together with all necessary documents and payment of all applicable fees, the Minister shall issue to the vessel a Provisional Certificate of Registry, valid for a period not exceeding two (2) years or until the date of termination of the bareboat charter, whichever first occurs.

(b) Prior to the expiration of the current Provisional Certificate of Registry, the bareboat charterer may obtain a new Provisional Certificate of Registry, valid for a period not exceeding two (2) years. In no case may a Provisional Certificate of Registry reissued under this Section bear an expiration date later than or remains valid beyond the date of termination of the bareboat charter.

Section 738. Penalty for Flying Foreign Flag; Termination of Republic of Palau Registration.

(a) If the bareboat charterer breaches any undertaking given under this Chapter, or if a vessel while registered under any provisions of this Chapter shall be found flying or pretending entitlement to fly the flag of a foreign State without first complying with this Chapter, the owner and/or bareboat charterer shall be liable to pay a fine of up to but not more than Five Thousand Dollars (\$5,000.00), which fine shall, until paid, constitute a maritime lien upon the vessel. Such fine may be imposed without regard to any other penalty for perjury or fraud.

(b) The bona-fide grant by a foreign State of the right to fly the flag of that State shall, from the time of such grant, terminate the provisional registration of a vessel in the Republic under this Chapter.

Section 739. Recognition and Recordation of Notice of Foreign Ship Mortgage.

(a) Without prejudice to the continuing foreign legal status of a ship mortgage, hypothecation or similar charge made and registered in accordance with the laws of a foreign State, a notice may be recorded with the Minister that such mortgage exists.

(b) No notice in respect of a ship mortgage, hypothecation or similar charge, or any other instrument related thereto shall be accepted for recording under this Section unless it has first been duly and validly executed and registered in the foreign State of registration of the vessel. If there is more than one such mortgage, hypothecation or similar charge, then notices in respect of all such instruments may be recorded under the provisions of this Section in the same order as they are registered in the foreign State of registration.

(c) If notice in respect of a foreign mortgage, hypothecation or similar charge has been recorded pursuant to this Section, then any subsequent mortgage, hypothecation or similar charge and any other instrument related thereto which is subsequently registered in accordance with the laws of the foreign State of registration of the vessel shall also be recorded forthwith in accordance with the provisions of this Title.

Subchapter IV.

Bareboat Charter - Foreign Registration.

Section 740. Bareboat Charter Registration in Foreign State. No vessel of the Republic may obtain a valid bareboat charter registration in a foreign State unless the owner first applies for and receives from the Minister a Certificate of Permission to obtain such registration.

Section 741. Consent of Mortgagee. In the event the vessel is subject to one or more Preferred Ship Mortgages, the written consent of each mortgagee to the foreign bareboat charter registration shall be duly filed prior to issuance of a Certificate of Permission.

Section 742. Right to Fly the Flag of the Republic of Palau Withdrawn.

(a) The Certificate of Permission for bareboat charter registration in a foreign State shall declare that the right to fly the Flag of the Republic and to show the home port of Palau is withdrawn while the vessel is subject to the bareboat charter identified in the Certificate. The Certificate shall also state that the Republic recognizes the named foreign State as the competent authority to exercise exclusive jurisdiction and control over the vessel in accordance with the applicable international agreements, conventions and treaties.

(b) Notwithstanding that the right to fly the Flag of the Republic shall have been withdrawn during the period of bareboat charter registration in the foreign State, in the event that the vessel remains subject to one or more Preferred Ship Mortgages recorded under this Title, such mortgage shall, unless satisfied, released or discharged of record, remain in full force and effect and be governed solely and exclusively by the laws of the Republic.

Section 743. Restricted Certificate of Registry.

(a) Once a Certificate of Permission has been issued the owner of the vessel shall surrender its current Certificate of Registry, and a new Provisional Certificate of Registry shall be issued to the vessel, boldly endorsed to show that the right to fly the Flag of the Republic has been withdrawn. The endorsed Provisional Certificate

of Registry, together with all other documents and certificates issued by the Republic to the vessel, shall be surrendered to and retained by the Minister.

(b) Prior to the expiration of the current Provisional Certificate of Registry, the owner may obtain a new Provisional Certificate of Registry valid for a further period not exceeding two (2) years. In no case may a Provisional Certificate of Registry issued under this Section bear an expiration date later than or remain valid beyond the date of termination of the bareboat charter.

Sections 744-800. Reserved.

Chapter 8

Subchapter I.

General.

Section 801. Application.

(a) The rights and obligations of every person employed on any vessel registered under this Part, 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.

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

(1) persons employed solely in ports in repairing, cleaning, stevedoring and loading or unloading vessels;

(2) persons employed on private yachts; and

(c) pilots.

Section 802. 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 Minister shall promulgate rules and regulations respecting compliance with this requirement.

Section 803. Officers' Licenses. Except when prevented by *force majeure*, all officers of vessels of the Republic subject to compliance with the STCW Convention shall obtain from the Minister licenses to fill their relative positions.

Section 804. Penalty for Misuse of Licenses or Certificates. Any person who shall willfully receive or have in his possession any license or document issued hereunder by the Minister to the officers or crew of a vessel of the Republic, or any certificate or document issued pursuant to Chapter 7 of this Title, to which the person is not lawfully entitled, or any false license, certificate or document, with intent to use the same unlawfully; or who without lawful authority shall willfully alter or change any genuine license, certificate or document; or who shall aid or abet the perpetration of any of the foregoing acts shall, for each offense be misdemeanor and upon conviction thereof shall be imprisoned for not more than one (1) year, or fined not more than Five Thousand Dollars (\$5,000.00), or both; and shall forfeit the right to possession of or any future seafarer certification and documentation for service aboard a vessel of the Republic.

Section 805. Employment of Properly Trained Palauan Citizens. In seeking to hire its officers and crew, a vessel of the Republic shall first seek to employ qualified and properly trained Palauan citizens. For the purposes of this Section, "qualified and properly trained" shall mean successful graduation from an accredited, international recognized maritime academy. The Minister shall promulgate rules and regulations respecting the implementation of this Section.

Sections 806-809. Reserved.

Subchapter II.

Rights and Duties of the Master.

Section 810. Termination of Employment. Any contractual provisions to the contrary notwithstanding, the owner of a vessel, with or without good cause, may at any time terminate the employment of and dismiss the Master.

Section 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 of the Republic or by the regulations of any ports at which the vessel may call; and

(j) to render assistance in the saving of life and property at sea.

Section 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.

Section 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 the same liens upon the vessel in respect of wages, maintenance and cure, and repatriation as are provided for seafarers.

Section 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.

Sections 815-819. Reserved.

Subchapter III.

Rights and Duties of Seafarers.

Section 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 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.

Section 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, such person shall, in respect of each offense, be subject to a fine of up to but not more than Five Hundred Dollars (\$500.00).

Section 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 of the Republic making a voyage as specified in this part, 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 fine of up to but not more than Two Hundred Dollars (\$200.00); provided that 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.

Section 823. Duration and Extension of Shipping Articles.

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

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

(c) 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 is shortened, the wages shall be paid to the date of termination of the voyage.

(d) 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-year period; provided that at least five (5) days prior notice has been given. In the absence of such notice the Shipping Articles shall continue but shall be terminable thereafter upon at least five (5) days notice by either party. Nothing in this Subsection shall apply to or preclude Shipping Articles for a stated period of time.

(e) When Shipping Articles expire while the voyage is still incomplete, they shall be extended until the vessel arrives at the port of its destination, and the wages shall be continued accordingly.

Section 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.

Section 825. Required Documents for Seafarers.

(a) The Minister 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 STCW Convention.

(b) 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 804 of this Chapter.

Section 826. Minimum Age at Sea.

(a) 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, except on vessels upon which only members of the same family are employed, school-ships or training ships; provided that such persons may occasionally take part in the activities on board such vessels during school holidays, subject to the conditions that the activities in which they are engaged:

(1) are not harmful to their health or normal development;

(2) are not such as to prejudice their attendance at school; and

(3) are not intended for commercial profit.

(c) [sic] The Master shall keep a register of all persons under the age of sixteen (16) years employed on board his vessel, as required by regulation.

(b) Persons under the age of eighteen (18) years shall not be employed or work on coal-burning vessels as trimmers or stokers.

Section 827. Payment of Wages.

(a) 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 Shipping Articles.

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

(c) 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.

(d) Every Master shall deliver to the seafarer, before paying off, a full and true account of his wages and all deductions from them on any account whatsoever, and in default shall, for each offense, be liable to a fine penalty of up to but not more than Twenty-five Dollars (\$25.00).

(e) In lieu of subsections (4a) through (d) above, the owner of the vessel may implement a fixed salary plan, which establishes a practical, modern salary system that will ensure a regular monthly income to the seafarer while on active service and during leave periods. For the purpose of the penalty provision in subsection d of this Section, 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.

Section 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.

Section 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 the stowaway at the first convenient port of call. Nothing in this Section shall require a stowaway to be signed on Shipping Articles.

Section 830. Grounds for Discharge. The Master may discharge a seafarer for justifiable cause, including any of the following grounds:

(a) unjustified failure to report on board at such times and dates as may be specified by the Master;

(b) incompetence to perform duties for which the 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 or quarreling or fighting;

(g) possession of dangerous weapons, narcotics or contraband articles;

(h) intentional concealment from the owner 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.

Section 831. Advances and Allotment of Wages.

(a) 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 for those wages 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 liable to a fine of up to but not more than Fifty Dollars (\$50.00).

(b) 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.

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

(1) 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;

(2) 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

(3) 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.

Section 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.

Section 833. Vacation Allowance and Holidays.

(a) Every Master and seafarer shall be entitled, after twelve (12) months of continuous service on a vessel or for the same employer, to receive an annual vacation allowance equivalent to:

(1) not less than twelve (12) days base wages, in the case of Masters and officers;
and

(2) not less than eight (8) days base wages, in the case of other members of the crew.

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

Section 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.

Section 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.

Section 836. Wages, Maintenance and Cure for Sick and Injured Seafarer.

(a) 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:

(1) full wages, as long as he is sick or injured and remains on board the vessel;

(2) medical and surgical treatment and supply of proper and sufficient medicines and therapeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than thirty (30) weeks from the day of the injury or commencement of the sickness;

(3) 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

(4) repatriation as provided in Section 843 including, in addition, all charges for the seafarer's transportation, accommodation and food during the journey and maintenance up to the time fixed for his departure.

(b) The owner or Master shall take adequate measures for safeguarding property left on board by a sick, injured or deceased seafarer.

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

(1) if such sickness or injury resulted from his willful act, default or misconduct;

(2) 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;

(3) if he refuses medical treatment for such sickness or injury or is denied such treatment because of misconduct or default; or

(4) if at the time of his engagement he refused to be medically examined.

(d) The seafarer shall have a maritime against the vessel for any wages due him under this Section.

Section 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 838 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 owner's obligation to provide such benefit free of any charge to the seafarer.

Section 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.

Section 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 the officers. The Master shall also report the death to the authorities at the first port of arrival and shall submit to the Minister a statement signed by him. 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 vessel's officers. A list of personal effects and amounts of money left on board the vessel shall be attached.

Section 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 Minister 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.

Section 841. Burial expenses. In the case of death of a seafarer occurring on board a vessel of the Republic or in case of his death occurring on shore, if at the time he was entitled to medical care and maintenance at the owner's expense, the owner 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.

Section 842. Working Hours, Rest Hours and Overtime. In relation to members of the crew on a vessel of the Republic:

(a) the normal hours of work in port and at sea shall be eight 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 men shall be employed to promote safety of life at sea and to avoid excessive overtime;

(d) whenever the Master of any vessel shall fail to comply with this Section, he shall be liable to a fine of up to but not exceeding One Hundred Dollars (\$100.00).

Section 843. Repatriation.

(a) 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).

(b) 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:

(1) at the owner'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

(2) to another port, agreed upon between the seafarer and the owner or the Master. However, in the event that the seafarer's contract period of service has not expired, the owner shall have the right to transfer him to another of the owner's vessels to serve thereon for the balance of the contract period of service.

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

Section 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;

(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.

Section 845. Offenses Against the Internal Order of the Vessel.

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

(1) for neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within twenty four (24) hours of the vessel's sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time, without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than two (2) days wages or the amount sufficient to defray any expenses which shall have been properly incurred in hiring a substitute;

(2) for quitting the vessel without leave before it is placed in security, by forfeiture from his wages of not more than one month's wages;

(3) 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;

(4) for continued intoxication or willful disobedience to any lawful command or continued willful neglect of duty, by being placed in restraint until such intoxication, disobedience or neglect shall cease, and by forfeiture, for every twenty-four (24) hours' continuance of such intoxication, disobedience or neglect, of a sum of not more than twelve (12) days wages;

(5) for willfully damaging the vessel or embezzling or willfully damaging any part of the stores or cargo, whether on board the vessel, in boats or ashore, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained;

(6) for any act of smuggling, whereby loss or damage is occasioned to the Master or owner, by payment to such Master or owner of such a sum as is sufficient to reimburse the Master or owner 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;

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

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

(b) All earnings forfeited as a result of penalties imposed by the Master pursuant to this Section shall be applied to reimburse the Master or owner 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 Minister.

Section 846. Prohibition of Corporal Punishment. Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel of the Republic.

Section 847. Barratry; Drunkenness; Neglect of Duty. Whoever, being a Master, officer, 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 its 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 its cargo from immediate loss, destruction or serious damage or for preserving any person on such vessel from immediate danger to life or limb, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for not more than six (6) months, or fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or both.

Section 848. Desertion.

(a) 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 owner as a consequence of such desertion.

(b) The Master shall make an entry of all desertions in the logbook and file a report with the Minister. The local authorities of the port shall be notified and requested to apprehend and deliver the deserter.

Section 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 officer thereof, shall be guilty of a felony and upon conviction thereof shall be shall be[sic] guilty of perjury and upon conviction thereof shall be imprisoned for not more than five (5) years, or fined not more than One Thousand Dollars (\$1,000.00), or both.

Section 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 upon conviction thereof shall be shall be[sic] guilty of perjury and upon conviction thereof shall be imprisoned for not more than ten (10) years, or fined not more than Two Thousand Dollars (\$2,000.00), or both.

Section 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 its next arrival at any port or, if it is at the time in port, before its departure therefrom, be furnished with a copy of such entry and have the same read over distinctly and audibly to him, and may thereupon make such a reply thereto as he thinks fit; and a statement that a copy of the entry has been so furnished or the same has been so read over, together with his reply, if any, made by the offender, shall likewise be entered and signed in the same manner.

Section 852. Abandonment of Seafarer.

(a) 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 Shipping Articles any member of the crew of such vessel, in condition and willing to proceed when the Master is ready to proceed, shall be liable to a fine of up to but not more than Five Thousand Dollars (\$5,000.00).

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

Section 853. Contracts for Seafaring Labor.

(a) The following clause shall appear, or be by force of law included, in all contracts for seafaring labor on board vessels 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 Palau. Any dispute as to the terms and conditions of this contract shall be resolved in accordance with the laws and regulations of the Republic of Palau."

(b) All contracts relating to service aboard a vessel registered under this Part shall be governed in interpretation and application by the laws of the Republic, including this Chapter and any regulations thereunder.

Section 854. Freedom of Association. Seafarers and their employers, without distinction whatsoever, shall have the right to establish, and to become members of, organizations of their choosing, always subject to the jurisdiction of the Republic.

Section 855. Protection of Freedom of Association. In respect to vessels of the Republic, it shall be unlawful for any owner, 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 violate of this Section.

Section 856. Bargaining and Execution of Labor Contract.

(a) In respect to vessels of the Republic, it shall be lawful for any owner 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 on board a vessel of the Republic; 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.

(b) A copy of any labor contract between the owner and an organization representing seafarers employed on a vessel of the Republic shall be placed on board the said vessel and shall be made available to maritime or judicial authorities when requested.

Section 857. Provisions Authorized in Labor Contracts. In respect to vessels of the Republic, it shall be lawful for any owner or employer organization and any labor organization to agree to be bound by any provisions in entering into a labor contract, provided that the laws or regulations of the Republic do not prohibit such provisions.

Section 858. Provisions Prohibited in Labor Contracts. In respect to vessels of the Republic, it shall be unlawful for any owner 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 violates 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.

Section 859. Protection of Labor Contract. In respect to vessels of the Republic, whenever an owner 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 owner 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.

Section 860. Strikes, Picketing and Like Interference.

(a) 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:

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

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

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

(b) Nothing contained in Subsection (a) 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.

Section 861. Conciliation, Mediation and Arbitration of Labor Disputes, Differences or Grievances.

(a) In respect to vessels of the Republic, it is declared to be the policy of the Republic to place upon owners and employer organizations and employees and labor organizations the primary responsibility for avoidance of any interruption in foreign or domestic maritime commerce.

(b) In the event that an agreed settlement between the parties to any dispute, difference or grievance is not effected, the following conciliation, mediation and arbitration procedures, as may be further implemented by regulation, shall apply:

(1) if the dispute is not resolved, crew members shall present their case to the owner through the Master or his appointee, or, if the matter is to the prejudice of the Master, then directly to the owner. Crewmembers 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 crewmembers. Efforts shall be made to conciliate the matter and to find an agreeable solution thereto;

(2) if a conciliation acceptable to both parties cannot be made at this stage, either party may call upon the Minister, or a Special Agent appointed by the Minister, to

act as mediator to endeavor to find a solution to the matter satisfactory to the parties;

(3) 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 arbitrators, the matter shall be finally determined by the Minister or his Special Agent, acting as sole arbitrator.

(c) Any arbitration award may be enforced, if necessary, by any Court of competent jurisdiction.

Section 862. Time-bar.

(a) Claims arising out of the Shipping Articles are subject to a one-year's prescription.

(b) The following rights of action are subject to a two (2) year prescription;

(1) the right of action for death of a seafarer caused by wrongful act, neglect or default on the high seas;

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

(3) all other tort claims.

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

(d) The period of prescription of the claims laid down in the preceding Subsections runs from the time when the right of action accrues.

Section 863. Accommodations.

(a) The Minister may promulgate 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.

(b) If the provisions of any rule or regulation made under this Section are contravened in the case of a vessel, the owner or Master shall be subject to a penalty of up to but not more than One Thousand Dollars (\$1,000.00).

Section 864. Minister to Make Rules and Regulations. The Minister may promulgate rules and regulations with respect 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.

Sections 865-900. Reserved.

Chapter 9

Subchapter I.

Preferred Mortgages and Maritime Liens.

Section 901. Recording and Contents.

(a) A sale, conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid in respect of such vessel, against any person other than the grantor or mortgagor, his heirs or devisees and persons having actual notice thereof until the instrument evidencing such transaction is recorded in the Palau Ship Registry.

(b) Each Special Agent of the Minister, wherever located, shall have full authority to record such instrument or instruments.

(c) The Minister shall record such instruments in the order of their reception in appropriate books, volumes or indexes to be kept for that purpose, showing:

(1) the name of the vessel;

(2) the names of the parties;

(3) the time and date of reception of the instrument affected;

(4) the interest in the vessel transferred or affected; and

(5) the amount or amounts of the direct or contingent obligations that are or may become secured by the mortgage.

Section 902. Preferred Mortgage.

(a) A valid mortgage, whenever made, which at the time it is made includes the whole of any vessel, shall have a preferred status in respect of such vessel as of the date of its recordation if the mortgage is recorded as provided herein. The preferred status of a mortgage under this Chapter shall not be prejudiced or impaired by reason of the fact that such instrument secures the payment, pledge or assignment of monies or rights, due or to become due, such as, but not limited to, guarantee fees, insurance options, charter hire, freight revenues or any other fees, costs or charges, direct or contingent, incidental to the sale, purchase or operation of a vessel of the Republic; or the applicability of or compliance with any other provision of this Chapter; or by reason of the fact that no advance of monies is or has been made at the time of its recordation.

(b) Notwithstanding the provisions of the first sentence of subsection (a) of this Section, a valid mortgage whenever made which:

(1) includes the whole of any vessel;

(2) is recorded as provided herein; and

(3) is granted in continuation of a prior recorded mortgage, hypothecation or similar charge on such vessel, whether granted under the laws of the Republic or the laws of another nation under which the vessel was documented at the time such prior mortgage was recorded;

shall have preferred status in respect of such vessel as of the date of recordation of such prior mortgage. For purposes of this subsection, a mortgage "granted in continuation of a prior recorded mortgage, hypothecation or similar charge" shall mean a mortgage on a vessel of the Republic where:

(1) The vessel covered by such mortgage is a vessel covered by the prior mortgage, hypothecation or similar charge;

(2) The obligations secured by such mortgage are obligations secured by the prior mortgage, hypothecation or similar charge;

(3) Such mortgage is granted by the current vessel owner whether or not the owner is the vessel owner which granted the prior mortgage, hypothecation or similar charge to secure obligations secured by the prior mortgage, hypothecation or similar charge; and

(4) For a vessel of the Republic, such mortgage is recorded during the period defined in subsection (c).

Nothing in this subsection (b) shall be construed to pre-empt any non-statutory precept of law which, taking into account the foregoing or other circumstances, would recognize the preferred status of a mortgage on a vessel of the Republic prior to the date of recording thereof.

(c) For a vessel of the Republic, the preferred status of a mortgage, hypothecation or similar charge on such vessel recognized hereunder shall continue for a period of thirty (30) days following registration of the vessel if the information with respect to such mortgage is furnished to the Minister in connection with the registration of the vessel. Such preferred status shall not be adversely affected by the deletion or release of the mortgage as a matter of record from the vessel's prior register in connection with, or as a condition to, deletion of the vessel from that register.

(d) In the interpretation and application of this Section, a certified extract of the Preferred Mortgage recorded with the Palau Ship Registry, a Certificate of Ownership and Encumbrance issued by such Minister or, in the case of a mortgage, hypothecation or similar charge recorded in another nation, similar documentation, including a transcript of registry, certified or issued by the appropriate governmental agency in such nation, shall be accepted as evidence of the granting and recordation of a mortgage, hypothecation or similar charge, including the date of recordation thereof.

Section 903. Termination of Mortgagee's Interest.

(a) The interest of a mortgagee in a vessel of the Republic shall not be terminated by a forfeiture of the vessel for a violation of any law of the Republic, unless the mortgagee authorized, consented, or conspired to affect the illegal act, failure, or omission which constituted such violation.

(b) The Certificate of Registry of a vessel of the Republic which is the subject of a Preferred Mortgage may not be canceled for so long as the indebtedness secured by the Preferred Mortgage remains unsatisfied or the Mortgage is not otherwise discharged; provided however, that the Minister may, not less than sixty (60) days

following the mailing of notice to all mortgagees of record at their last known mailing addresses of the Minister's intent to do so, strike a vessel from the Registry and Flag of the Republic as a result of receipt by it of evidence satisfactory to it that the vessel has been lost, destroyed, or transferred to another registry following sale by order of an Admiralty Court in a civil action *in rem*; such administrative action by the Minister shall not impair or affect the lien or status of any Preferred Mortgage recorded under this Chapter, nor shall it terminate the interest of a mortgagee in such a vessel.

Section 904. Ship Mortgage; Conditions Precedent. A mortgage shall not be recordable unless it states the interest of the mortgagor in the vessel, and the interest so mortgaged. A mortgage or instrument of release or discharge thereof shall not be recorded unless it has been acknowledged, or is submitted with such other proof of due execution as may be required by regulation, or bears an apostil issued by a competent authority of a State Party to The Hague Convention of 5 October 1961, as amended.

Section 905. Bill of Sale; Recording. The Minister may accept for recording any bill of sale or other conveyance of a vessel or a facsimile thereof, the original of which has been received by the Minister, which recites the interest of the seller in the vessel and the interests sold or conveyed, provided it has previously been acknowledged or is submitted with such other proof of due execution as may be required by regulation, and provided further that any bill of sale of a vessel already documented under the laws of Republic must have attached thereto a true copy of the vessel's latest Certificate of Registry.

Section 906. Mortgage; Recording.

(a) The Minister may accept for recording any mortgage on a vessel, whenever made, which recites the interest of the mortgagor in the vessel and the interest so mortgaged, unless it has been acknowledged, or is submitted with such other proof of due execution as may be required by regulation, or bears an apostil issued by a competent authority of a State Party to The Hague Convention of 5 October 1961, as amended.

(b) The Minister shall record a mortgage or related instrument submitted to the Minister in proper form, and shall, upon request, issue a certified extract of the Preferred Mortgage recorded with the Palau Ship Registry as evidence of recordation of a Preferred Mortgage under this Chapter.

(c) A Certificate of Ownership and Encumbrance shall upon timely request be issued by the Minister setting forth all recorded mortgages, encumbrances and related instruments with respect to a vessel registered under this Title as of the time and date of its issuance.

Section 907. Allocation of Mortgage Indebtedness.

(a) A mortgage which complies with the conditions enumerated in this Chapter is designated as a Preferred Mortgage.

(b) If a Preferred Mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

(c) If a vessel covered by a Preferred Mortgage that includes more than one vessel, or property that is not a vessel, is to be sold on the order of an Admiralty Court in a civil action *in rem* and the mortgage does not provide for separate discharge as provided in this Chapter, the Preferred Mortgage shall constitute a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and an allocation of mortgage indebtedness for purposes of separate discharge may not be made by such Court among the vessel and other property covered by the mortgage.

Section 908. Advances and Repayments.

(a) Advances or other value given pursuant to commitment:

(1) A Preferred Mortgage may secure future advances including contingent obligations and shall not be extinguished or lose its priority because all previously outstanding obligations secured thereby have been fully repaid or otherwise performed, provided that an advance or other value is to be given at a later time pursuant to commitment existing at the time the Mortgage is recorded. For the purpose of this subsection an advance or other value is given pursuant to commitment if the mortgagee or other person entitled to the benefit of the security of the mortgage has bound himself to give it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.

(2) When a Preferred Mortgage secures an obligation in respect of which one or more advances or repayments may be made from time to time in the future and the maximum amount outstanding under the obligation at any one time is limited to a certain amount, the amount to be recorded with respect to such obligation may be either:

(I) such maximum amount that may be outstanding at any one time, or

(ii) the aggregate of all possible advances that may be made.

(3) A Preferred Mortgage made pursuant to commitment shall clearly indicate whether the amount is the maximum amount that may be outstanding at any one time or is the aggregate of all possible advances.

(b) Advances or other value given pursuant to agreement:

(1) Notwithstanding any other provision of this Chapter, a Preferred Mortgage may secure an agreed-upon maximum amount representing all debts or obligations arising or that may arise between the debtor and the creditor within a specified period. Such maximum amount may exceed the value of the vessel or vessels, which may themselves represent only a part of all of the assets that are subject to the Preferred Mortgage. Only that indebtedness incurred on or prior to the maturity date or date of termination of a Preferred mortgage made pursuant to agreement shall retain its status and ranking as a preferred maritime lien under this Chapter. The indebtedness secured thereby shall include all expenses and interest associated with such indebtedness prior to maturity. A Preferred Mortgage made pursuant to agreement under this Subsection shall not be required to represent a commitment to lend on the part of the mortgagee, but shall secure all debts or obligations arising or that may arise between the parties as a result of transactions the nature of which are subject to the provisions of the mortgage deed, whether present or future, actual or contingent, and shall set forth in addition to other terms and conditions the maximum amount and the maturity date, or a statement of the date of termination if it is other than the maturity date thereof.

(2) Nothing contained in Subsection (b) of this Section shall be construed to impair the lien status, recordability, validity or enforceability with respect to a vessel of the Republic of a Preferred Mortgage granted by its owner that:

(I) secures obligations, in whole or in part, arising out of specific successive business contracts or other transactions, whether or not such contracts or transactions are related to or arise from the construction, purchase, sale or chartering of a vessel registered under this Title, or

(ii) secures all debts or obligations owed or to be owed thereunder, so long as the aggregate amount of such debts or obligations does not exceed at any one time the stated maximum amount of the Mortgage.

(c) The preferred status of a mortgage made pursuant to agreement in accordance with this Section, which may be secured by property that is not a vessel, or more than one vessel, shall not be impaired by reason of the fact that the mortgage does not provide for separate discharge thereof.

Section 909. Units of Account.

(a) The obligations secured by a Preferred Mortgage may be expressed in any unit or units of account to which the parties may agree, including but not limited to currency currently used by the Republic, currency or currencies of any foreign State or States, or in equivalents of any other unit or units of account established by intergovernmental organizations.

(b) If a Preferred Mortgage secures an obligation in one or more specified units of account and there is an option to have a unit of account altered from time to time, the principal amount of the mortgage to be recorded shall be denominated in one or more of the said specified units of account. The recordation may include as additional words "or an equivalent amount in any alternate unit of account," or similar language, and if such additional words are recorded, no change in the recorded amount shall be required to reflect the fact that the obligation or any portion thereof is subsequently denominated in a different unit or units of account, unless the parties otherwise agree.

(c) When a Preferred Mortgage secures an obligation in respect of which there is an option to have the obligation amount denominated from time to time in alternate units of account but which continues to be payable in, or by reference to, a specified unit of account:

(1) the amount of the obligation to be recorded shall be expressed in the specified unit of account; and

(2) notwithstanding any exercise of the option, no change in the recorded amount shall be required.

(d) A Preferred Mortgage as described in Subsections (b) or (c) of this Section may additionally secure any loss up to a specified amount arising out of fluctuations between a specified unit of account and any alternate unit of account in which the obligation amount may be denominated from time to time, and such specified amount shall also be recorded.

Section 910. Lien of Preferred Mortgage. A Preferred Mortgage shall constitute a maritime lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel. The lien of a Preferred Mortgage shall not be in any way impaired or affected because the vessel's document following recording of the mortgage has expired, or has been restrictively endorsed, suspended, revoked or canceled.

Section 911. Interest on Preferred Mortgage. Any other provision of law or regulation to the contrary notwithstanding, a Preferred Mortgage may secure such interest, including interest on interest, on an obligation secured by the mortgage as the parties may agree, which interest may be at fixed rates, variable rates, rates based upon formulas, or by adding margins to the mortgagee's cost from time to time of funding an obligation secured by the mortgage, or by any other method to which the parties may agree.

Section 912. Priority; Disclosure of Liens; Penalty.

(a) 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.

(b) 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 fees and other charges of the Minister in respect of the vessel.

(c) Whoever, being a mortgagor or the president or principal officer of a corporate mortgagor, willfully and knowingly 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 guilty of a felony and shall be imprisoned for a period of not more than two (2) years, or fined not more than Two Thousand Dollars (\$2,000.00), or both. The mortgage indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

Section 913. Certified Copies; Exhibition.

(a) Upon recording a Preferred Mortgage, two certified copies thereof shall be delivered to the mortgagor who shall place and use due diligence to retain one copy on board the mortgaged vessel, and cause such copy and the document of the vessel to be exhibited by the Master to any person having business which may give rise to a maritime lien or to the sale, conveyance, or mortgage of the vessel.

(b) The license of a Master who willfully fails to exhibit such documents and copy of mortgage may be suspended or revoked.

Section 914. Discharge of Mortgage. The mortgagor, upon a complete discharge of the mortgage indebtedness, shall forthwith file a certificate of such discharge duly executed by the mortgagee, his successors or assigns, with the Minister, which shall thereupon record the certificate; and the mortgagor may similarly file a certificate of partial discharge, which shall be similarly recorded.

Section 915. Foreclosure and Default; Jurisdiction and Procedure.

(a) The lien of a Preferred Mortgage may be enforced in the Republic by a suit *in rem* in the Supreme Court of the Republic, sitting in Admiralty, upon default of any term or condition. In addition to any notice by publication, actual notice of the commencement of suit shall be given by the libellant, in such manner as the Court directs, to the Master, other ranking officer, or caretaker of the vessel, and to any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the libellant satisfactory to the Court such person is not found within the Republic. Failure to give such notice shall not constitute a jurisdictional defect, but the libellant shall be liable to such person for damages in the amount of his interest in the vessel terminated by the suit.

(b) The lien of a Preferred Mortgage may also be enforced by a suit *in rem* in Admiralty or otherwise in any foreign country in which the vessel shall be found, pursuant to the procedure of said country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of said country.

(c) Notwithstanding anything in this Chapter to the contrary, the mortgagee may, in addition to all other remedies granted by this Chapter, bring suit *in personam* against the mortgagor, maker, co-maker, or guarantor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.

(d) The enforcement by suit *in rem* in Admiralty of the rights of the mortgagee with respect to a vessel or vessels covered by a Preferred Mortgage shall not be precluded or impaired, notwithstanding the enforcement of any rights that the mortgagee may have under the said mortgage to property that is not a vessel.

Section 916. Preferred Status. As used in Chapter, the term "Preferred Mortgage" shall include, in addition to a Preferred Mortgage made pursuant to the provisions of this Chapter, any mortgage, hypothecation or similar charge created as security upon any documented foreign vessel if such mortgage, hypothecation or similar charge has been duly and validly executed and registered in accordance with the laws of the nation where the vessel's ownership is documented; and the term "Preferred Mortgage lien" shall also include the lien of such mortgage, hypothecation or similar charge.

Section 917. Foreclosure; Priority of Preferred Mortgage Lien; Exemption. Upon the sale of any vessel in a suit *in rem* in the Supreme Court of the Republic of Palau, sitting in Admiralty for the enforcement of a Preferred Mortgage lien, all preexisting claims in the vessel, including any possessory common law lien, shall terminate and shall thereafter attach in like amount and in accordance with their respective priorities to the proceeds of sale; except that the Preferred Mortgage lien shall have priority over all claims against the vessel, except maritime liens for damages arising out of tort, maritime liens arising under Section 729 of this Title, maritime liens for crew's wages, for general average, and for salvage (including contract salvage) and expenses and fees allowed and costs awarded by the Court.

Section 918. Necessities; Lien; Enforcement.

(a) Whoever furnishes repairs, supplies, towage, use of dry dock or marine railway, or other necessities, to any foreign or domestic vessel upon the order of the owner or person authorized by the owner, shall have a maritime lien on the vessel.

(b) The managing owner, vessel's husband, Master, or any person to whom the management of the vessel at the port of supply is entrusted, including any such

appointed by a charterer, owner *pro hac vice* or agreed purchaser in possession, shall be presumed to have authority from the owner to procure such necessities; but a person tortuously or unlawfully in possession or charge of the vessel shall not have authority to bind it.

(c) This Section shall not confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering necessities was without authority to bind the vessel therefore.

Section 919. Necessities, Waiver of Lien. This Chapter shall not prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway or other necessities, or the mortgagee, from waiving his right to a lien or in the case of a Preferred Mortgage lien to the preferred status of such lien, at any time by agreement or otherwise.

Section 920. Abolition of Mortgage Endorsement.

(a) Except as provided in Subsection (b) of this Section, nothing previously contained in the Palau National Code, as amended, or in any other provision of law of the Republic, shall require, permit or be construed as requiring or permitting, endorsements upon any vessel's document in connection with the validity, recording, designation as a Preferred Mortgage, or preferred status of any mortgage in respect of any such vessel, or the clearance to be given to such vessel following the recording of any such mortgage.

(b) Notwithstanding the provisions of Subsection (a) of this Section, any vessel's document issued or reissued prior to the effective date of this Act and any instrument made, recorded and endorsed prior to the effective date of this Act shall remain subject to the endorsement requirements previously contained in this Title or any other Title of the Palau National Code, until such time as the vessel's document is surrendered or reissued or a new document is issued, as the case may be.

Section 921. Yacht Mortgage or Security Agreement; Recording. The Minister may accept for recording any mortgage or other document securing an installment loan or other debt with respect to the financing of a yacht, the original of which has been received by the Minister, provided it has been acknowledged or is submitted with such other proof of due execution as may be required by regulation.

Sections 922-1000. Reserved.

Chapter 10

Subchapter I.

Carriage Of Goods.

Section 1001. Short Title. This Chapter may be cited as the "Carriage by Sea Act."

Section 1002. Risks. Under every contract of carriage of goods by sea, the carrier, in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods, shall be subject to the responsibilities and liabilities and entitled to the rights and immunities hereinafter set forth.

Section 1003. Responsibilities and Liabilities.

(a) The carrier shall be bound, before and at the beginning of the voyage to exercise due diligence to:

(1) make the ship seaworthy;

(2) properly man, equip, and supply the ship; and

(3) make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation.

(b) The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

(c) After receiving the goods into his charge, the carrier, or the Master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things:

(1) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided, such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;

(2) either the number of packages or pieces, or the quantity or weight as the case may be, as furnished in writing by the shipper; and

(3) the apparent order and condition of the goods; provided that no carrier, Master, or agent of the carrier, shall be bound to state or show in the bill of lading any

marks, number, quantity, or weight, which he has reasonable ground for suspecting does not accurately represent the goods actually received, or which he has had no reasonable means of checking.

(d) Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with Subsections (c)(1), (2), and (3) of this Section. However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith. Nothing in this Chapter shall be construed as limiting the application of any section of the law governing bills of lading.

(e) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of the shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

(f) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading. If the loss or damage is not apparent, the notice must be given within three (3) days of the delivery. Said notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof. The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection. Subject to Subsection (g) of this Section, the carrier and the ship shall in any event be discharged from all liability whatsoever in respect of the goods, unless suit is brought within one (1) year of their delivery or of the date when they should have been delivered. This period may, however, be extended if the parties so agree after the cause of action has arisen. In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

(g) An action for indemnity against a third person may be brought even after the expiration of the year provided for in Subsection (f) of this Section, if brought within the time allowed for suit on causes of action sounding in contract. However, the time allowed shall be not less than three (3) months, commencing from the day when the person bringing such action of indemnity has settled the claim or has been served with process in the action against him.

(h) After the goods are loaded the bill of lading to be issued by the carrier, Master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped" bill of lading; provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, Master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this section be deemed to constitute a "shipped" bill of lading.

(I) Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, arising from negligence, fault, or failure in the duties and obligations provided in this Section, or lessening such liability otherwise than as provided in this Chapter, shall be null and void and of no effect.

(j) A benefit of insurance in favor of the carrier, or similar clause, shall be deemed to be a clause relieving the carrier from liability.

Section 1004. Rights and Immunities.

(a) Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part

of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make holds, refrigerating and cooling chambers, and all other parts of the ship in which the goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of Chapter. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other persons claiming exemption under this section.

(b) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from:

(1) act, neglect, or default of the Master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;

(2) fire, unless caused by the actual fault or privity of the carrier;

(3) perils, dangers, and accidents of the sea or other navigable waters;

(4) act of God;

(5) act of war;

(6) act of public enemies;

(7) arrest or restraint of princes, rulers, or people, or seizure under legal process;

(8) quarantine restrictions;

(9) act or omission of the shipper or owner of the goods, his agent or representative;

(10) strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general; provided that nothing herein contained shall be construed to relieve a carrier from responsibility for the carrier's own acts;

(11) riots and civil commotions;

(12) saving or attempting to save life or property at sea;

(13) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;

(14) insufficiency of packing;

(15) insufficiency or inadequacy of marks;

(16) latent defects not discoverable by due diligence; and

(17) any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

(c) The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

(d) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Chapter or the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom; provided, however, that if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable.

(e) Unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading, neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding 666.67 units of account per package or unit or 2 units of account per kilogram of gross weight of the goods lost or damaged, whichever is the higher.

(1) The total amount recoverable shall be calculated by reference to the value of such goods at the place and time at which the goods are discharged from the ship in accordance with the contract, or should have been so discharged. The value of the goods shall be fixed according to the commodity exchange price, or, if there be no such price, according to the current market price, or if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

(2) Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading as packed in such article of transport shall be deemed the number of packages or units for the purpose of this Subsection as far as these packages or units are concerned. Except as aforesaid such article of transport shall be considered the package or unit.

(3) The unit of account mentioned in this Section is the Special Drawing Right as defined by the International Monetary Fund. The dollar value in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

(4) Neither the carrier nor the ship shall be entitled to the benefit of the limitation of liability provided for in this Subsection if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

(5) The declaration mentioned in Subsection (5) of this Section, if embodied in the bill of lading, shall be prima facie evidence, but shall not be binding or conclusive on the carrier.

(6) By agreement between the carrier, Master or agent of the carrier, and the shipper, other maximum amounts than those mentioned in Subsection (5) of this Section may be fixed, provided, that no maximum amount so fixed shall be less than the appropriate maximum mentioned in Subsection (5) of this Section.

(7) Neither the carrier nor the ship shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

(f) Goods of an inflammable, explosive, or dangerous nature, to the shipment whereof the carrier, Master or agent of the carrier has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

Section 1005. Defenses.

(a) The defenses and limits of liability provided for in this Chapter shall apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.

(b) If such an action is brought against a servant or agent of the carrier (such servant or agent not being an independent contractor), such servant or agent shall be entitled to avail himself of the defenses and limits of liability which the carrier is entitled to invoke this Chapter.

(c) The aggregate of the amounts recoverable from the carrier, and such servants and agents, shall in no case exceed the limit provided for in this Chapter.

(d) Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of this Chapter, if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Section 1006. Surrender of Rights and Immunities, and Increase in Responsibilities and Liabilities.

(a) A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this Chapter, provided that such surrender or increase shall be embodied in the bill of lading issued to the shipper.

(b) The provisions of this Chapter shall not be applicable to charter parties, but if bills of lading are issued in the case of a ship under a charter party they shall comply with the terms of this Chapter. Nothing in this Chapter shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

Section 1007. Special Conditions.

(a) Notwithstanding the provisions of the preceding Sections, a carrier, Master or agent of the carrier, and a shipper shall, in regard to any particular goods, be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care or diligence of

his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea; provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a nonnegotiable document and shall be marked as such.

(b) Any agreement so entered into shall have full legal effect; provided that this Section shall not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed are such as reasonably justify a special agreement.

Section 1008. Contract Permitted as to Damage to Goods while not on Ship.

Nothing contained in this Chapter shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on, and subsequent to the discharge from, the ship on which the goods are carried by sea.

Section 1009. Effect of Chapter.

(a) The provisions of this Chapter shall not affect the rights and obligations of the carrier under the provisions of Chapter 11 of this Title, or under the provisions of any statute for the time being in force, relating to the limitation of the liability of the owners of sea-going vessels.

(b) This Chapter shall not affect the provisions of any international convention or national law governing liability for nuclear damage.

Section 1010. Discrimination Forbidden as to Competing Shippers. Nothing contained in this Chapter shall be construed as permitting a common carrier by water to discriminate between competing shippers similarly placed in time and circumstances, either:

(a) with respect to their right to demand and receive bills of lading subject to the provisions of this Chapter; or

(b) when issuing bills of lading, either in the surrender of any of the carrier's rights and immunities or in the increase of any of the carrier's responsibilities.

Section 1011. Bulk Cargo-weights Ascertained by Third Parties. Where under the customs of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in this Chapter, the bill of lading shall not be deemed to be prima facie evidence against the carrier on the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

Section 1012. Scope of Chapter. This Chapter shall apply to all contracts for carriage of goods by sea:

(a) on board vessels of the Republic in foreign trade; or

(b) to or from ports of the Republic in foreign trade, whatever may be the nationality of the ship, the carrier, the shipper, the consignee, or any other interested person.

Section 1013. Fire Damage. Any other provision of this Chapter to the contrary notwithstanding, no owner of any vessel shall be liable to answer for, or make good to any person, any loss or damage which may happen to any merchandise whatsoever, which shall be shipped, taken in, or put on board any such vessel, by reason or by means of any fire happening to or on board the vessel, unless such fire is caused by the actual fault or privity of such owner.

Subchapter II.

Carriage Of Passengers And Luggage.

Section 1014. Application of Terms. In this Chapter the following expressions or terms shall have the meanings hereby assigned to them:

(a) "Carrier" shall mean a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;

(b) "Carriage" shall cover the following periods:

(1) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his

cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;

(2) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been redelivered to the passenger;

(3) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;

Section 1015. Application of Chapter.

(a) This Chapter shall apply to any international carriage if:

(1) the ship is flying the flag of or is registered in the Republic of Palau;

(2) the contract of carriage has been made in a State Party to the *Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea*, 1974, as amended; or

(3) the place of departure or destination, according to the contract of carriage, is in a State Party to the *Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea*, 1974, as amended.

(b) Notwithstanding Subsection (a) of this Section, this Chapter shall not apply when the carriage is subject, under any international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

(c) This Chapter shall apply to commercial carriage undertaken by States or Public Authorities under contracts of carriage within the meaning of this Chapter.

Section 1016. Liability of the Carrier.

(a) The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

(b) The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.

(c) Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of loss of or damage to other luggage, such

fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant.

Section 1017. Performing Carrier.

(a) If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Chapter. In addition, the performing carrier shall be subject and entitled to the provisions of this Chapter for the part of the carriage performed by him.

(b) The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.

(c) Any special agreement under which the carrier assumes obligations not imposed by this Chapter or any waiver of rights conferred by this Chapter shall affect the performing carrier only if agreed by him expressly and in writing.

(d) Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.

(e) Nothing in this Section shall prejudice any right of recourse as between the carrier and the performing carrier.

Section 1018. Valuables. The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewelry, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in this Chapter, unless a higher limit is agreed upon in accordance with this Chapter.

Section 1019. Contributory Fault. If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

Section 1020. Limit of Liability for Personal Injury. The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 46,666 units of account per carriage. Where in accordance with the law of the court seized of the case damages are awarded in the form of periodic income payments, the equivalent capital value of those payments shall not exceed the said limit.

Section 1021. Limit of Liability for Loss of or Damage to Luggage.

(a) The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 833 units of account per passenger, per carriage.

(b) The liability of the carrier for the loss of or damage to vehicles including all luggage.

(c) The liability of the carrier for the loss of or damage to luggage other than that mentioned in Subsections (a) and (b) of this Section shall in no case exceed 1,200 units of account per passenger, per carriage.

(d) The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 117 units of account in the case of damage to a vehicle and not exceeding 13 units of account per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

Section 1022. Unit of Account. The Unit of Account mentioned in this Chapter is the Special Drawing Right as defined by the International Monetary Fund (IMF). The amounts mentioned in this Chapter shall be converted into U.S. Dollars on the basis of the value of the U.S. Dollars on the date of the judgment or the date agreed upon by the Parties. The value of the U.S. Dollars, in terms of the Special Drawing Right, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

Section 1023. Supplementary Provision on Limits of Liability.

(a) The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in this Chapter.

(b) Interest on damages and legal costs shall not be included in the limits of liability prescribed in this Chapter.

Section 1024. Defenses and Limits for Carrier's Servants. If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Chapter, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defenses and limits of liability which the carrier or the performing carrier is entitled to invoke under this Chapter.

Section 1025. Aggregation of Claims.

(a) Where the limits of liability prescribed in this Chapter take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.

(b) In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Part, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

(c) In any case where a servant or agent of the carrier or of the performing carrier is entitled under this Chapter to avail himself of the limits of liability prescribed in this Chapter, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

Section 1026. Loss of Right to Limit Liability.

(a) The carrier shall not be entitled to the benefit of the limits of liability prescribed in this Chapter, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(b) The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an

act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Section 1027. Basis of Claims. No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Chapter.

Section 1028. Notice of Loss or Damages to Luggage.

(a) The passenger shall give written notice to the carrier or his agent:

(1) in the case of apparent damage to luggage:

(i) for cabin luggage, before or at the time of disembarkation of the passenger;

(ii) for all other luggage, before or at the time of its re-delivery;

(2) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen (15) days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.

(b) If the passenger fails to comply with this Section, he shall be presumed, Unless the contrary is proved, to have received the luggage undamaged.

(c) The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

Section 1029. Time-bar for Action.

(a) Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of two (2) years.

(b) The limitation period shall be calculated as follows:

(1) in the case of personal injury, from the date of disembarkation of the passenger;

(2) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three (3) years from the date of disembarkation;

(3) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

(c) The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this

Chapter be brought after the expiration of a period of three (3) years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.

(d) Notwithstanding Subsections (a), (b) and (c) of this Section, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

Section 1030. Competent Jurisdiction.

(a) An action arising under this Chapter shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to the *Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea*, 1974, as amended:

(1) the court of the place of permanent residence or principal place of business of the defendant; or

(2) the court of the place of departure or that of the destination according to the contract of carriage, or

(3) a court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State; or

(4) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.

(b) After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

Section 1031. Invalidity of Contractual Provisions. Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Chapter, except as may otherwise be provided in this Chapter, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting any options specified in this Chapter, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Chapter.

Section 1032. Other Provisions on Limitation of Liability. This Chapter shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in this Chapter, or in international conventions relating to the limitation of liability of owners of seagoing ships.

Section 1033. Nuclear Damage. No liability shall arise under this Chapter for damage caused by a nuclear incident:

(a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on *Third Party Liability in the Field of Nuclear Energy* as amended by its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on *Civil Liability for Nuclear Damage*; or

(b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favorable to persons who may suffer damage as either the Paris or the Vienna Conventions.

Sections 1034-1100. Reserved.

Chapter 11

Limitation Of Liability For Maritime Claims

Subchapter I.

The Right Of Limitation.

Section 1101. Persons Entitled to Limit Liability.

(a) Owners and salvors may limit their liability in accordance with the rules of this Chapter for claims set out in this Chapter.

(b) If any claims set out in this Chapter are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Chapter.

(c) In this Chapter the liability of a shipowner shall include liability in an action brought against the vessel herself.

(d) An insurer of liability for claims subject to limitation in accordance with the rules of this Chapter shall be entitled to the benefits of this Chapter to the same extent as the assured himself.

(e) The act of invoking limitation of liability shall not constitute an admission of liability.

Section 1102. Claims Subject to Limitation.

(a) Subject to the provision of this Chapter, the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:

(1) claims in respect of loss of life or personal injury or loss or damage to property (including damage to harbor works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(2) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(3) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(4) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

(5) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship; and

(6) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Chapter, and further loss caused by such measures.

(b) Claims set out in Subsection (a) of this Section, shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under Subsections (a)(4), (5) and (6) of this Section, shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

Section 1103. Claims Excepted from Limitation.

(a) The rules of this Chapter shall not apply to:

(1) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the *International Convention on Salvage* 1989, as amended, or contribution in general average;

(2) claims for oil pollution damage within the meaning of the *International Convention on Civil Liability for Oil Pollution Damage*, dated 29 November 1969 or of any amendment or Protocol thereto which is in force;

(3) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(4) claims against the shipowner of a nuclear ship for nuclear damage;

(5) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Section 1106.

Section 1104. Conduct Barring Limitation. A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

Section 1105. Counterclaims. Where a person entitled to limitation of liability under the rules of this Chapter has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Chapter shall only apply to the balance, if any.

Subchapter II.

Limits Of Liability.

Section 1106. The General Limits.

(a) The limits of liability for claims other than those mentioned in Section 1007 of this Chapter, arising on any distinct occasion, shall be calculated as follows:

(1) in respect of claims for loss of life or personal injury,

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

(A) for each ton from 2,001 to 30,000 tons, 800 Units of Account;

(B) for each ton from 30,001 to 70,000 tons, 600 Units of Account; and

(C) for each ton in excess of 70,000 tons, 400 Units of Account;

(2) in respect of any other claims,

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in Clause (i) above:

(A) for each ton from 2,001 to 30,000 tons, 400 Units of Account;

(B) for each ton from 30,001 to 70,000 tons, 300 Units of Account; and

(C) for each ton in excess of 70,000 tons, 200 Units of Account.

(b) Where the amount calculated in accordance with Subsection (a)(1) of this Section is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with Subsection (a)(2) of this Section shall be available for payment of the unpaid balance of claims under Subsection (a)(1) of this Section, and such unpaid balance shall rank ratably with claims mentioned under subsection (b)(1) of this Section.

(c) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

(d) For the purpose of this Chapter the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the *International Convention on Tonnage Measurement of Ships*, 1969, as amended.

Section 1107. The Limit for Passenger Claims.

(a) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

(b) For the purpose of this Section "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

(1) under a contract of passenger carriage; or

(2) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

Section 1108. Unit of Account. The Unit of Account referred to in Sections 1106 and 1107 of this Chapter, is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in the various Sections of this Chapter shall be converted into U.S. Dollars according to the value of the U.S. Dollars at the date the limitation fund shall have been constituted, payment is made, or security is given which the Court deems equivalent to such payment. The value of the U.S. Dollars in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

Section 1109. Aggregation of Claims.

(a) The limits of liability determined in accordance with Section 106 of this Chapter, shall apply to the aggregate of all claims which arise on any distinct occasion:

(1) against the shipowner and any person for whose act, neglect or default he or they are responsible;

(2) against the shipowner of a ship rendering salvage services from that ship and a salvor operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(3) against a salvor who is not operating from a ship or who is operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

(b) The limits of liability determined in accordance with Section 1106 of this Chapter, shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the owner of a ship referred to in Section 1107 of this Chapter, and any person for whose act, neglect or default he or they are responsible.

Subchapter III

The Limitation Fund.

Section 1110. Limitation of Liability without Constitution of a Limitation Fund.

(a) Limitation of liability may be invoked in the defense of an action notwithstanding that a limitation fund as mentioned in Section 1111 of this Chapter has not been constituted.

(b) If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Section 1112 of this Chapter shall apply accordingly.

(c) Questions of procedure shall be resolved in accordance with the *lex foci*.

Section 1111. Constitution of the Fund.

(a) Any person alleged to be liable may constitute a fund with the Court in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Sections 1106 and 1107 of this Chapter, as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(b) A fund may be constituted, either by depositing the sum, or by producing a guarantee considered to be adequate by the Court.

(c) A fund constituted by one of the persons mentioned in Subsection (a)(1), (2) or (3) or Subsection (b) of Section 1109 of this Chapter, or his insurer shall be deemed constituted by all such persons so mentioned, respectively.

Section 1112. Distribution of the Fund.

(a) Subject to the provisions of Subsections (a), (b) and (c) of Section 1106, and of Section 1107 of this Chapter, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

(b) If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Chapter.

(c) The right of subrogation provided for in Subsection (b) of this Section, may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid.

(d) Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to Subsections (b) and (c) of this Section, had the compensation been paid before the fund was distributed, the Court may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

Section 1113. Bar to Other Actions.

(a) Where a limitation fund has been constituted in accordance with Section 1111 of this Chapter, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

(b) After a limitation fund has been constituted in accordance with Section 1111 of this Chapter, any ship or other property, belonging to a person on behalf of whom

the fund has been constituted, which has been arrested or attached within the Republic of Palau for a claim which may be raised against the fund, or any security given, may be released by order of the Court. However, such release shall always be ordered if the limitation fund has been constituted:

(1) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter;

(2) at the port of disembarkation in respect of claims for loss of life or personal injury;

(3) at the port of discharge in respect of damage to cargo; or

(4) in the state where the arrest is made.

(c) The rules of Subsections (a) and (b) of this Section shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

Section 1114. Governing Law. Subject to Section 610 of this Title and the provisions of this Chapter, the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the civil law of the Republic.

Section 1115. Scope of Application.

(a) This Chapter shall apply whenever any person referred to in Section 1101 of this Chapter seeks to limit his liability before a Court of the Republic or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of the Republic of Palau.

(b) This Chapter shall not apply to:

(1) air-cushion vehicles; and

(2) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.

Sections 1116-1200. Reserved.

Chapter 12

Civil Liability For Oil Pollution Damage

Subchapter I.

Section 1201. International Convention. Articles I-XI of the *International Convention on Civil Liability for Oil Pollution Damage*, adopted at Brussels on 29 November 1969, as amended by the 1976 Protocol thereto, are hereby acceded to by reference by the Olbiil Era Kelulau and are heretofore legally binding on, or otherwise applicable to, and shall form a part of the laws of the Republic, subject to the provisions of this Chapter.

Section 1202. Action for Compensation. An action for compensation under this Chapter may be brought in the Republic if pollution damage resulting from an incident covered under the *Convention on Civil Liability* has been sustained within the Republic of Palau, including its territorial sea, or if measures have been taken to prevent or minimize such damage in that area. Any such action shall be brought before the Supreme Court of the Republic of Palau.

Section 1203. Limitation Fund. The Limitation Fund referred to in Article V (3) of the *Convention on Civil Liability* shall be constituted within the Supreme Court of the Republic of Palau.

Section 1204. Procedure. The Supreme Court of the Republic of Palau shall determine the procedure for the presentation of claims and for the distribution of the Limitation Fund. If the limitation amount is insufficient to satisfy the claims of those who are entitled to compensation, the amount of compensation of each claimant shall be reduced pro rata.

Section 1205. Certificates of Insurance. With respect to vessels of the Republic, certificates attesting that insurance or other financial security is in force as required under Article VII (2) of the *Convention on Civil Liability*, shall be issued by the Minister in the form prescribed in such Article, and such certificates shall be issued by the Minister, upon proof of financial responsibility, to ships flying the flag of a State not party to the *Convention on Civil Liability* that leave a port in the Republic. The Minister shall determine the procedure for the issue of certificates of insurance or other financial security.

Section 1206. 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 of Palau. The owner and master of any vessel which fails to comply with such requirement shall be liable to a fine in an amount up to but not more than Five Thousand US Dollars (\$5,000.00).

Sections 1207-1300. Reserved.

Chapter 13

Subchapter I.

Wrecks And Salvage.

Section 1301. International Agreements as to Derelicts. The President of the Republic of Palau is hereby authorized to make international agreements with governments interested for the reporting, marking and removing of dangerous wrecks, derelicts and other menaces to navigation in the Western and Central Pacific Region outside the coastal waters bordering the Republic.

Section 1302. International Agreements; Derelicts; Expenses.

(a) The President of the Republic of Palau may conclude agreements with interested maritime nations for:

(1) a service of assistance to vessels and crews requiring aid within the limits of a patrol to be defined in the agreement concluded; and

(2) a service for the destruction or removal of derelicts in the Western and Central Pacific Region, the area in which said service is to be maintained to be determined in such agreements by appropriate latitudinal and longitudinal boundaries.

(b) The President of the Republic of Palau may include in such agreements a provision for payment to the Government of the Republic of Palau by the countries concerned of a proportionate share of the expense for the maintenance of the services named. All such negotiated agreements shall be subject to ratification by the Olbiil Era Kelulau in compliance with appropriate provisions of the Constitution of the Republic of Palau.

Section 1303. Vessels Stranded in Foreign Coasts.

(a) The Minister and any Special Agent in a country on whose shores, vessels of the Republic are stranded, shall take proper measures for saving the vessels, their cargoes and appurtenances, storing and securing the effects and merchandise saved, and taking inventories thereof; and such merchandise and effects with inventories thereof shall, after payment of the expenses, be delivered to the owners.

(b) The Minister and any Special Agent shall not take possession of any such merchandise, or other property, when the Master, owner or consignee thereof is present or capable of taking possession of the same.

(c) The Minister is hereby authorized to conclude agreements with countries in which the Republic is neither represented by a Special Agent, for the purpose of securing the service herein imposed upon the Minister.

Section 1304. Right to Salvage not Affected by Ownership of Vessel. The right to remuneration for assistance or salvage services shall not be affected by common ownership of the vessels rendering and receiving such assistance or salvage services.

Section 1305. Salvage Remuneration. Salvors of human life or cargo who have taken part in the services rendered in connection with the incident giving rise to salvage are entitled to a fair share of the remuneration awarded to the salvors of the vessel, its cargo and accessories.

Section 1306. Time Limit for Salvage Suits. A suit for the recovery of remuneration for rendering assistance or salvage services shall not be maintainable if brought later than two (2) years from the date when such assistance or salvage was rendered, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person or corporation to be charged, in which case the right of action shall not lapse until ninety (90) days after there has been a reasonable opportunity to secure jurisdiction.

Section 1307. Recovery for Salvage Services Rendered by Government Vessels. The Minister and the crew of any vessels owned or operated by the Government of the Republic of Palau or its representatives, may collect and sue for salvage services rendered by such vessel and crew. Any salvage monies recovered by the Minister not for the benefit of the crew shall be held for the credit of the Government of the Republic of Palau.

Subchapter II.

Investigations.

Section 1308. Marine Casualties. In the event of any casualty 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 Minister in accordance with such regulations as the Minister may make from time to time. Where there is a failure to execute and file a report as required hereunder, the Master and vessel owner shall each be liable to a fine of up to One Thousand Dollars (\$1,000.00) and Five Thousand Dollars (\$5,000.00), respectively.

Section 1309. Marine Casualty Investigations.

(a) The Minister may, from time to time, make such rules and regulations as are deemed by him necessary and appropriate to the investigation of marine casualties involving vessels of the Republic, or otherwise occurring within the jurisdiction of the Republic.

(b) The Minister may cause a preliminary investigation into a casualty.

Sections 1310 -1399. Reserved.

Section 2. President to seek shipping registry services. The President of the Republic of Palau is hereby authorized to seek out a private corporation to provide ship registration and registry management services for the Republic of Palau Open Ship Registry established by this Act. The President is further authorized to enter into a contract with the business to provide these services and shall report to the Olbiil Era Kelulau regarding each contract executed.

Section 3. Effective Date. This Act shall take effect upon its approval by the President of the Republic of Palau, or upon its becoming law without such approval.

PASSED: September 08, 2010

Approved this 20th day of Sept. , 2010

/s/

Johnson Toribiong

President

Republic of Palau