

Shipping (Amendment) Act 1998

REPUBLIC OF KIRIBATI
(No. 3 of 1998)

I assent,

(Sgd: T. Tito)
Beretitenti
09/07/1998

AN ACT TO AMEND THE SHIPPING ACT 1990 (No 6 of 1990)

Commencement:
1998

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title

1. This Act may be cited as the Shipping (Amendment) Act 1998.

Amendment of section 2

2. Section 2 of the Shipping Act 1990 (in this Act referred to as the "principal Act") is amended in subsection (1) as follows -

(a) in the definition of "convention" by repealing the whole of that definition and substituting the following -

"STCW Convention" means the International Convention on Standards of Training Certification and Watchkeeping for Seafarers, 1978 as amended in 1995 and as subsequently amended from time to time unless objected to by the Government pursuant to the provisions of article XII of the STCW Convention, a copy of which is set out in the Schedule;

(b) in the definition of "near coastal voyage" by repealing the whole of that definition and substituting the following -

"near coastal voyage" means a voyage or trade or an operation of a vessel of any island in Kiribati within 200 nautical miles off the coast, or a voyage, trade or an operation of a vessel within or between the Gilbert group of islands, the Phoenix group of islands the Line groups of islands and Banaba that comprise the Republic of Kiribati;

(c) in the definition of "Pacific Region voyage" by repealing the whole of that definition;

(d) in the definition of "unlimited voyage" by repealing the whole of that definition and substituting the following:

"unlimited voyage" means a voyage, trade or an operation of a vessel which is not a near coastal voyage;

(e) in the definition of a "vessel" by repealing the whole of that definition and substituting the following -

"vessel" means every description of craft used or capable of being used in marine transportation and includes a fishing vessel, or hovercraft, a non displacement vessel and a mobile offshore unit, but does not include -

- (i) a seaplane and a vessel under construction but not yet launched;
- (ii) a vessel belonging to the defence force of any country;
- (iii) a vessel employed in navigation on a lagoon, lake, river and an inland water;
- (iv) the life boat, raft, work boat or a launch which forms part of the equipment of a larger vessel and is being used as such; and
- (v) a punt, barge or other workboat whose sole means of propulsion is by manpower or towing.'

Amendment of section 8

3. Section 8 of the principal Act is amended as follows -

- (a) by repealing the figures "\$10,000" appearing in paragraph "(c)(i)" and substituting the figures "\$60,000"; and
- (b) by inserting a new paragraph (b) as follows:-
"(b) by repealing the words "2 years" appearing in paragraph (c)(I) and substituting the words "10 years"; and
- (c) by repealing the figures "\$2000" appearing in paragraph "(c)(ii)" and substituting the figures "\$30,000"; and
- (d) by inserting a new paragraph (d) as follows:-
"(d) by repealing the words "6 months" appearing in paragraph ©(ii) and substituting the words "5 years";

Amendment of section 11

4. Section 11 of the principal Act is amended as follows -

- (a) in subsection (2) -
 - (i) by repealing the figures "\$1000" and substituting the figures "\$10,000"; and
 - (ii) by repealing the words "6 months and substituting the words "5 years";
- (b) in the proviso to subsection (2) by repealing the figures \$2000 and substituting the figures "\$20,000".

Amendment of section 12

5. Section 12 of the principal Act is amended as follows –

- (a) by repealing the figures "\$50" and substituting the figures "\$350"; and
- (b) by repealing the figures "3 months" and substituting the figures "12 months"

Amendment of section 15

6. Section 15 of the principal Act is amended in subsection (2) as follows –

- (a) by repealing the figures "\$500" and substituting the figures "\$5000"; and
- (b) by repealing the words "6 months" and substituting the words "2 years".

Amendment of section 16

7. Section 16 of the principal Act is amended as follows –

(a) by renumbering the existing "section 16" as "section 16(1)"; and

(b) by adding a new section 16(2) as follows –

"16. (2) Where in this Act a power is given to make regulations for any purpose or for carrying into effect the purposes and the provisions of this Act, the STCW Convention and the Code and for their due administration, that power shall be deemed to include a power to prescribe an offence in respect of the contravention of, or non-compliance with any such regulations or any requirement or direction made or given pursuant to any such regulations, and a power to prescribe a penalty not exceeding \$60,000 or imprisonment for a term not exceeding 15 years or both such fine and imprisonment for such offence."

Amendment of section 17

8. Section 17 of the principal Act be amended as follows –

(a) by repealing the words ", or against any of the regulations made under this Act,"; and

(b) by repealing "\$500" and substituting "\$5000"; and

(c) by repealing the words "6 months" and substituting the words "2 years".

Amendment of section 19

9. Section 19 of the principal Act is amended in subsection (4) as follows -

(a) by repealing the figures "\$20,000" and substituting the figures "\$60,000"; and

(b) by repealing the words "2 years" and substituting the words "10 years".

Amendment of section 22

10. Section 22 of the principal Act is amended in subsection (2) as follows -

(a) by repealing the figures "\$10,000" appearing in paragraph "(a)" and substituting the figures "\$60,000"; and

(b) by repealing the words "2 years" appearing in paragraph (a) and substituting the words "10 years"; and

(c) by repealing the figures "\$2000" appearing in paragraph "(b)" and substituting the figures "\$25,000"; and

(d) by repealing the words "1 year" appearing in paragraph (b) and substituting the words "5 years"; and

(e) by repealing the figures "\$200" appearing in paragraph "(c)" and substituting the figures "\$15,000"; and

(f) by repealing the words "6 months" appearing in paragraph © and substituting the words "2 years".

Insertion of new Part X

11. The principal Act is amended by inserting between section 28 and section 29 a new Part X as follows -

"PART X REGISTER OF SEAFARERS

Interpretation

29. In this Part, unless the context otherwise requires -

"the Registrar" means the registrar of Seafarers appointed under this Part; and

"Seafarer's Discharge book" means a book or a document kept by the Shipmaster on board a ship into which entries as to the Seafarer's sea service, rank and voyage concluded by a seafarer are recorded.

Appointment of Registrar

30. The Minister, acting in accordance with the advice of the Public Service Commission may appoint a Registrar of Seafarers.

Functions and duties of Registrar

31. The Registrar shall perform the following functions and duties -

(a) keep in the Marine Division a Register of all I-Kiribati Seafarers, such register which shall show the address and all the particulars of the Seafarers;

(b) issue to a Seafarer a book to be known as a Discharge book;

(c) maintain a list of suspended Seafarers;

(d) maintain a list of dismissed Seafarers;

(e) receive a dismissed Seafarers' Discharge book;

(f) maintain a list of deceased Seafarers;

(g) receive a deceased Seafarers' Discharge book.

Inspection of Register

32. Any person may inspect the register of Seafarers at any time during business working hours."

Section 29 renumbered

6. Section 29 of the principal Act is amended by renumbering "section 29" as "section 33".

THE SHIPPING (AMENDMENT) ACT 1998

EXPLANATORY MEMORANDUM

1. The principal object of this Act is to enable Kiribati take at least some preliminary legal steps in order to comply with the minimum global standards of knowledge, understanding, experience, and professional competence which are required of seafarers with a view to raising their standards of competence and professionalism and upon whom the safety of life, property and the environment depends.

2. These minimum global standards were adopted by the Conference of the Parties to the

International Convention on the Training, Certification and Watchkeeping of seafarers ("STCW Conference") on 7 July 1995.

3. Further these minimum standards of training, certification and competence of seafarers in accordance with the intent of the Parties to the STCW Convention, the industry, (shipowners, and seafarers through their organisations) and the general public are mandatory in that they must be complied with.

4. As the majority of I-Kiribati seafarers are employed on overseas seagoing ships clearly then these new minimum global standards of training, certification and competence will have to apply to them regardless of whether Kiribati desires it or not.

5. So in order to comply with these new minimum global standards Kiribati needs to do a number of things one of which is to amend its national legislation on shipping with a view to incorporating those minimum global standards of training, competency, etc of seafarers in its shipping laws so that those minimum standards form a part of the laws of Kiribati and thus binding Kiribati to ensure compliance in the training programmes of Kiribati seafarers in its Marine Training Centre at Betio.

6. As mentioned earlier the amendments in this Act are in the nature of preliminary compliance with those minimum global standards as much of those standards will be complied with through a Regulation making process and the actual teaching of those new minimum global requirements in the Marine Training Centre at Betio.

7. It will be seen therefore that Clause 2 introduces a new definition of "Convention" namely "STCW Convention" being the name commonly given to that convention. The new definition includes 1995 amendments to that Convention. We also have new definitions for "near coastal voyage" and "vessel" which apart from compliance with the minimum global standards as contained in 1995 amendments these definitions also take into account the Kiribati unique situation.

8. Clauses 3 and 4 seek to increase the penalties that may be imposed under the Act as the offences which the Act is concerned with are indeed very serious and thus deserving harsher punishments. Further generally, the amount of a fine and a term which may be imposed in a regulation is limited to not more than \$100 (section 24(6) of Interpretation and General Clauses Ordinance (Cap. 41). Thus there is a need to have this clearly authorised in the main body of the Act rather than in a regulation only.

9. Clause 4 establishes a register for seafarers which in turn requires the appointment of a registrar with given functions and duties. The Register is open to the public for inspection as usual.

Michael N. Takabwebwe
Attorney General
13/10/97