

TITLE 34.

ADMIRALTY AND MARITIME AFFAIRS

CHAPTER 1.

REGULATION AND CONTROL OF SHIPPING

ARRANGEMENT OF SECTIONS

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An Act to provide for admiralty and maritime regulation and for matters connected therewith.

Source: TTC 1966
19TFC 1970
COM PL. 7-17 (1977)
COM P.L. 7-27 (1977)
COM P.L. 7-71 (1977)
COM P.L. 7-112 (1978)
19TTC 1980
P.L. 1992-26

PART I - GENERAL

§101. Short title.

This Chapter may be cited as the Regulation and Control of Shipping Act. [The original title of this Chapter, along with Sections 2-12, was repealed by P.L. 1992-26. A new short title that reflects the remaining contents of the Chapter was supplied by the Reviser.]

§102-112. Reserved. [Sections 1-12 inclusive were repealed by P.L. 1992-26, §9.]

PART II- REGULATION AND CONTROL OF SHIPPING**§113. Interpretation.**

As used in this Part, the following terms shall have the meanings respectively ascribed to them in this Section:

(a) “hovering vessel” means any un-licensed vessel which is found or kept off any island, islet, atoll, or reef of the Republic, within the territorial waters of the Republic, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to violate any of the provisions of this Part or any law or regulation of the Republic;

(b) “innocent passage” means navigation through territorial waters for the purpose either of traveling it bona fide en route from one point to another on the usual course for such travel, wind and weather permitting, without entering inland waters, or of proceeding to inland waters at a point of entry, or of making for the high sea from inland waters, and includes stopping or anchoring only if incidental to ordinary navigation or in an emergency;

(c) “territorial waters” means the waters of the territorial sea as defined and described in Section 107 of the Marine Zones (Declaration) Act 1984;

(d) “un-licensed vessel” means any vessel not operating under license, grant or express permission of the Secretary of Transportation and Communications, except outrigger vessels of all kinds and vessels propelled by outboard motors. [TTC 1966, §874; 19 TTC 1970 § 101; COM P.L. 7-71 § 2 (1977); 19 TTC1980, §101, modified]

§114. Permission to enter territorial waters.

Except for innocent passage, stress of weather or force majeure, it shall be unlawful for any un-licensed vessel to enter or remain within the territorial waters of the Republic without first receiving permission therefor from the Secretary of Transportation and Communications. [TTC 1966, §875; 19 TTC 1970, §102; 19 TTC 1980, §102, modified.]

§115. Innocent passage.

Nothing in this Part shall be construed as limiting the right of innocent passage through the territorial waters of the Republic. Passage is not innocent when any vessel makes use of the territorial waters of the Republic for the purpose of doing any act prejudicial to the security, public policy or economic interests of the Republic. [TTC 1966, § 876; 19 TTC 1970 , §103; 19 TTC 1980, §103, modified]

§116. Examination of un-licensed vessels.

The Secretary of Transportation and Communications or his duly authorized representative may at any time go on board any un-licensed vessel found within the territorial waters of the Republic and, if there is reason to suspect that such vessel is violating any laws or regulations of the Republic, may examine the manifest and other documents and papers, and inspect and search the vessel and

every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel, and use all necessary force to compel compliance. [TTC 1966, § 877; 19 TTC 1970, §104; 19 TTC 1980, §104, modified].

§117. Examination of hovering vessels.

(1) Any hovering vessel found within territorial waters of the Republic may at any time be boarded and examined by the Secretary of Transportation and Communications or his duly authorized representative who may examine, upon oath, the master or other person having the command or charge of such vessel respecting the cargo and voyage of the vessel and may also bring the vessel into the most convenient port of the Republic to examine the cargo. If the master or other person having the command or charge of such vessel refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable as provided in Section 119 of this Part.

(2) If upon examination of any such vessel, its master, officers, crew members, passengers or cargo by any proper officer, sufficient evidence is found to satisfy the inspecting officer that any such person has been engaged in any unlawful act within the territorial waters of the Republic or is actively planning to engage in such unlawful act, the vessel and the persons so engaged shall be subject to the penalties provided by Section 119 of this Part or other applicable laws of the Republic. [TTC 1966, §878; 19 TTC 1970, §105; 19 TTC 1980, §105, modified.]

§118. Unlawful acts.

It shall be unlawful for any vessel to engage within the territorial waters of the Republic in fishing, the harvesting of trochus, the removal of scrap iron, or animal, vegetable, marine, or mineral resources without authorization by an officer or agent of the Government of the Marshall Islands. [TTC 1966, §881; 19 TTC 1970, §106; 19 TTC 1980, §106, modified].

§119. Penalty for violations; seizure and forfeiture of vessels.

(1) If any owner, master, person, company, corporation, charterer, any party to a charter agreement or other person having command or charge of a vessel fails to comply with the provisions of this Part or obstructs or interferes with the exercise of any powers conferred by this Part, or engages in any unlawful act under this Part, he shall upon conviction be liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding two (2) years, or both.

(2) Any vessel involved in the commission of unlawful acts, together with her tackle, apparel, furniture, and equipment shall be subject to seizure and forfeiture to the Republic as provided in Part III of this Chapter. [TTC 1966, § 882; 19 TTC 1970, §107; COM P.L. 7-27, §1 (1977); 19 TTC1980, §107, modified]

PART III - SEIZURE AND FORFEITURE PROCEDURES

§120. Seizure authorized.

The Secretary of Transportation and Communications or any person authorized by him to make seizures under this Part, who has reasonable cause to believe that a vessel is subject to seizure for any violation hereof, may seize such vessel, together with its apparel, tackle, furniture and

equipment. The authority granted in this Section shall not bar an application to the High Court for a warrant of arrest of a vessel which has not been seized under this Section. [7 TTC 1966, §883(a); 19 TTC 1970, §151; 19 TTC 1980, §151, modified]

§121. Report of seizure.

If the person making a seizure under this Part is not the Secretary of Transportation and Communications, he shall immediately report the seizure to the Secretary of Transportation and Communications who authorized him so to act. It shall be the duty of the Secretary of Transportation and Communications, whenever a seizure has been made by his authority under this Part, to report it promptly to the Attorney-General of the Republic, including in such report a statement of the names of any witnesses thereto. [7 TTC 1966, §883(b); 19 TTC 1970, §152; 19 TTC 1980, §152, modified]

§122. Investigation and prosecution by Attorney-General.

The Attorney-General upon a seizure made for a violation of Part II of this Chapter or upon violation of the provisions of Part II of this Chapter, shall immediately inquire into the facts of the case reported to him by the Secretary of Transportation and Communications or other proper officer. If it appears probable that any forfeiture has been incurred by reasons of such violation, the Attorney-General shall forthwith cause a libel to be filed and prosecuted in the High Court for the condemnation and forfeiture of the vessel involved, together with its tackle, apparel, furniture and equipment; provided, however, that if, upon inquiry and examination, the Attorney-General decides that such libel cannot probably be sustained or that the ends of justice do not require that it should be instituted or prosecuted, he shall report the facts to the Secretary of Transportation and Communications for his direction in the premises. [TTC 1966, §883(c); 19 TTC 1970, §153; 19 TTC 1980, §153, modified]

§123. Custody of vessel and equipment.

Any foreign vessel, together with its tackle, apparel, furniture and equipment, seized under this Part shall be placed and remain in the custody of the Secretary of Transportation and Communications to await disposition according to this Part. [19 TTC 1966, §883(d); 19 TTC 1970, §154; 19 TTC 1980, §154, modified.]

§124. Notice of libel.

After the filing of a libel under this Part, the reputed owner of the vessel involved and any reputed holders of liens upon the vessel shall be given due notice of the seizure and of the forfeiture proceedings in such manner as the court shall direct; provided, that no failure of such notice to reach the owner shall invalidate the proceedings provided the vessel has been seized in accordance with this Part or has been arrested under a warrant of arrest issued by the court. [TTC 1966, §883(e); 19 TTC 1970, §155; 19 TTC 1980, §155, modified]

§125. Filing of claims to vessel, equipment, and cargo.

(1) Any person claiming a vessel seized under this Part may, at any time within forty-five (45) days after seizure or arrest of the vessel, or such longer time, if any, as the court may allow, file in the High Court, a claim stating his interest therein. Upon filing of such claim the court shall, after such notice, if any, as it deems justice requires, proceed to adjudicate the interests in the vessel, together with its tackle, apparel, furniture and equipment, and determine whether they shall be condemned and

forfeited.

(2) If the claimant is the owner or the person otherwise entitled to immediate possession of the vessel, he shall have the burden of proof to show that the violation occurred without his knowledge or without any negligence on his part. Upon satisfactory proof that the violation occurred without his knowledge or any negligence on his part, he shall be entitled to a return of said vessel, together with its tackle, apparel, furniture and equipment. If said claimant is a lien holder, he shall, upon satisfactory proof that the violation occurred without his knowledge or any negligence on his part, be entitled to have the amount of his lien determined and protected in the manner and to the extent the court determines justice requires, in any judgment entered under this Part. [TTC 1966, §883(f); 19 TTC 1970, §156; COM P. L. 7-17, §1(1977); 19 TTC 1980, §156, modified.]

§126. Forfeiture and sale; retention of vessel

If, after due process of law, the court finds in favor of the libelant, the court shall condemn and declare the vessel forfeited, together with its tackle, apparel, furniture and equipment and shall order the sale thereof at public auction or shall order the vessel forfeited to the Republic for the use of the Republic, subject in either case to such provisions as the court deems justice requires for the protection of liens which have been determined in accordance with Section 125 of this Part. [TTC 1966 §883(g); 19 TTC 1970, §157; 19 77C 1980, §157, modified]

§127. Disposition of proceeds of sale.

The proceeds of the sale shall be disposed of as follows:

(a) the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the vessel, advertising and court costs;

(b) the payment of liens to the extent that the court has determined they shall be protected in accordance with Sections 125 and 126 of this Part, and

(c) the residue, if any, shall be deposited with the Secretary of Finance as a navigation fine. [TTC 1966, §883(h); 19 TTC 1970, §158; 19 TTC 1980, §158, modified]

§128. Judgment for return.

Upon the entry of judgment in favor of a claimant who is the owner or the person otherwise entitled to immediate possession, all the property seized or arrested shall be returned forthwith to the claimant or his agent; provided, that, if it appears there was reasonable cause for the seizure or arrest, the court shall cause a proper certificate thereof to be entered and the claimant shall not be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such seizure or prosecution. [TTC 1966, §883(i); 19 TTC 1970, §159; 19 TTC 1980, §159.]

§129. Compromise of claims.

Any claim for forfeiture under this Part may be compromised by the Secretary of Transportation and Communications in consultation with the Attorney-General at any time on such terms and conditions as it deems reasonable and just. The Secretary of Transportation and Communications in consultation with the Attorney-General may, in connection therewith, remit or mitigate the forfeiture or any part thereof, or order discontinuance of any prosecution relating thereto; provided, that nothing in this Section shall be construed to deprive any person without his consent

of an award made before such compromise. [TTC 1966, §8830, 19 TTC 1970, §160; 19 TTC 1980, §160, modified]