

## FSMC, TITLE 18. TERRITORY, ECONOMIC ZONES & PORTS OF ENTRY

### Chapter 3: Regulation of Foreign Vessels

#### Subchapter I: Entry into Territorial Waters

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#### **§ 311. Definitions.**

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

- (1) "Hovering vessel" means any unlicensed vessel which is found or kept off any island, islet, atoll, or reef of the Trust Territory, within the territorial waters of the Trust Territory, 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 chapter or any law or regulation of the Trust Territory.
- (2) "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.
- (3) "Territorial waters" means the waters of the Territorial Sea as defined and described in section 102 of this title.
- (4) "Unlicensed vessel" means any vessel not operating under license, grant, or express permission of the High Commissioner of the Trust Territory, except public vessels of the United States traveling under proper orders and not engaged in commercial activities, outrigger vessels of all kinds, and vessels propelled by outboard motors.

**Source:** TT Code 1966 § 874; TT Code 1970, 19 TTC 101; COM PL 7-71 § 2; TT Code 1980, 19 TTC 101; PL 4-114 § 8.

**Editor's note:** Subsections rearranged in alphabetical order in the 1982 edition of this code.

**Cross-reference:** The statutory provisions on Admiralty and Maritime are found in title 19 of this code.

**Errata:** In subsection (3), reference to "§ 202 of this title" should be to "§ 102 of this title." PL 4-114 § 8.

#### **§ 312. Permission to enter territorial waters.**

Except for innocent passage, stress of weather, or force majeure, it shall be unlawful for any unlicensed vessel to enter or remain within the territorial waters of the Trust Territory without first receiving permission therefor from the High Commissioner or a district administrator in accordance with provisions of chapter 2 of this title, and regulations issued pursuant thereto.

**Source:** TT Code 1966 § 875; TT Code 1970, 19 TTC 102; TT Code 1980, 19 TTC 102.

**Cross-reference:** Secretarial Order No. 2902.

### **§ 313. Innocent passage.**

Nothing in this chapter shall be construed as limiting the right of innocent passage through the territorial waters of the Trust Territory. Passage is not innocent when any vessel makes use of the territorial waters of the Trust Territory for the purpose of doing any act prejudicial to the security, public policy or economic interests of the Trust Territory.

**Source:** TT Code 1966 § 875; TT Code 1970, 19 TTC 103; TT Code 1980, 19 TTC 103.

### **§ 314. Examination of unlicensed vessels.**

The district administrators or their duly authorized representatives may at any time go on board any unlicensed vessel found within the territorial waters of the Trust Territory and, if there is reason to suspect that such vessel is violating any laws or regulations of the Trust Territory, 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.

**Source:** TT Code 1966 § 877; TT Code 1970, 19 TTC 104; TT Code 1980, 19 TTC 104.

**Cross-reference:** The statutory provisions on Admiralty and Maritime are found in title 19 of this code.

### **§ 315. Examination of hovering vessels.**

(1) Any hovering vessel found within the territorial waters of the Trust Territory may at any time be boarded and examined by any district administrator 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 Trust Territory 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 317 of this title.

(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 Trust Territory 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 107 of this chapter or other applicable laws of the Trust Territory.

**Source:** TT Code 1966 § 878; TT Code 1970, 19 TTC 105; TT Code 1980, 19 TTC 105.

**Cross-reference:** The statutory provisions on Admiralty and Maritime are found in title 19 of this code.

### **§ 316. Unlawful acts.**

It shall be unlawful for any vessel to engage within the territorial waters of the Trust Territory 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 Trust Territory.

**Source:** TT Code 1966 § 881; TT Code 1970, 19 TTC 106; TT Code 1980, 19 TTC 106.

### **§ 317. Penalty for violations; Seizure and forfeiture of vessel.**

(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 chapter or obstructs or interferes with the exercise of any powers conferred by this chapter, or engages in any unlawful act under this chapter, he shall be fined not more than \$50,000, or imprisoned not more than two 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 Trust Territory as provided in subchapter II of this chapter.

**Source:** TT Code 1966 § 882; TT Code 1970, 19 TTC 107; COM PL 7-27 § 1; TT Code 1980, 19 TTC 107.

## **Subchapter II: Seizure and Forfeiture Proceedings**

- [§ 321.](#) Seizure authorized.
- [§ 322.](#) Report of seizure.
- [§ 323.](#) Investigation and prosecution by district attorney.
- [§ 324.](#) Custody of vessel and equipment.
- [§ 325.](#) Notice of libel.
- [§ 326.](#) Filing of claims to vessel, equipment, and cargo.
- [§ 327.](#) Forfeiture - Sale or retention of vessel.
- [§ 328.](#) Disposal of proceeds of sale.
- [§ 329.](#) Judgement for return.
- [§ 330.](#) Compromise of claims.

### **§ 321. Seizure authorized.**

Any district administrator or any person authorized by him to make seizures under this chapter, who has reasonable cause to believe that a vessel is subject to seizure for any violation of subchapter I of this chapter, may seize such vessel, together with her apparel, tackle, furniture, and equipment. The authority granted in this section shall not bar an application to the Trial Division of the High Court for a warrant of arrest of a vessel which has not been seized under this section.

**Source:** TT Code 1966 § 883(a); TT Code 1970, 19 TTC 151; TT Code 1980, 19 TTC 151.

**Cross-reference:** The statutory provisions on Admiralty and Maritime are found in title 19 of this code.

### **§ 322. Report of seizure.**

If the person making a seizure under this chapter is not a district administrator, he shall immediately report the seizure to the district administrator who authorized him so to act. It shall be the duty of the district administrator, whenever a seizure has been made by his authority under this chapter, to report it promptly to the district attorney and to the Attorney General of the Trust Territory, including in such report a statement of the names of any witnesses thereto.

**Source:** TT Code 1966 § 883(b); TT Code 1970, 19 TTC 152; TT Code 1980, 19 TTC 152.

### **§ 323. Investigation and prosecution by district attorney.**

The district attorney of the district in which a seizure has been made for a violation of subchapter I of this chapter or in which such a violation occurs shall immediately inquire into the facts of the case reported to him by the district administrator or other proper officer. If it appears probable that any forfeiture has been incurred by reasons of such violation, the district attorney shall forthwith cause a libel to be filed and prosecuted in the Trial Division of the High Court for the condemnation and forfeiture of the vessel involved, together with her tackle, apparel, furniture, and equipment; provided, however, that if, upon inquiry and examination, the district attorney 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 High Commissioner for his direction in the premises.

**Source:** TT Code 1966 § 883(c); TT Code 1970, 19 TTC 153; TT Code 1980, 19 TTC 153.

### **§ 324. Custody of vessel and equipment.**

Any foreign vessel, together with her tackle, apparel, furniture, and equipment, seized under this subchapter shall be placed and remain in the custody of the district administrator for the district in which the seizure was made to await disposition according to this chapter.

**Source:** TT Code 1966 § 883(d); TT Code 1970, 19 TTC 154, TT Code 1980, 19 TTC 154.

### **§ 325. Notice of libel.**

After the filing of a libel under this chapter, the reputed owner of the vessel involved and any reputed holders of liens upon her 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 or any holder of a lien upon the vessel shall invalidate the proceedings provided the vessel has been seized in accordance with this chapter or has been arrested under a warrant of arrest issued by the court.

**Source:** TT Code 1966 § 883(e); TT Code 1970, 19 TTC 155; TT Code 1980, 19 TTC 155.

**Editor's note:** The phrase "or any holder of a lien upon the vessel" was contained in the 1966 edition of the Trust Territory Code but was deleted from the 1970 and 1980 editions.

### **§ 326. Filing of claims to vessel, equipment, and cargo.**

(1) Any person claiming a vessel seized under this chapter may, at any time within forty-five days after seizure or arrest of the vessel, or such longer time, if any, as the Court may allow, file in the Trial Division of the High Court in the district in which the seizure or arrest was made, a claim stating his interest therein.

(2) 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 her tackle, apparel, furniture, and equipment, and determine whether they shall be condemned and forfeited.

(3) 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 her tackle, apparel, furniture and equipment.

(4) If the 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 chapter.

**Source:** TT Code 1966 § 883(f); TT Code 1970, 19 TTC 156; PL 7-17 § 1; TT Code 1980, 19 TTC 156.

### **§ 327. Forfeiture and sale or 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 her tackle, apparel, furniture and equipment, and shall order the sale thereof at public auction or shall order the vessel forfeited to the High Commissioner for the use of the Trust Territory, 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 326 of this subchapter.

**Source:** TT Code 1966 § 883(g); TT Code 1970, 19 TTC 157; TT Code 1980, 19 TTC 157.

### **§ 328. Disposition of proceeds of sale.**

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

- (1) 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;
- (2) the payment of liens to the extent that the Court has determined they shall be protected in accordance with sections 326 and 327 of this subchapter; and,
- (3) the residue, if any, shall be deposited with the treasurer of the Trust Territory as a navigation fine.

**Source:** TT Code 1966 § 883(h); TT Code 1970, 19 TTC 158; TT Code 1980, 19 TTC 158.

### **§ 329. 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.

**Source:** TT Code 1966 § 883(i); TT Code 1970, 19 TTC 159; TT Code 1980, 19 TTC 159.

### **§ 330. Compromise of claims.**

Any claim for forfeiture under this chapter may be compromised by the High Commissioner at any time on such terms and conditions as he deems reasonable and just. The High Commissioner 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.

**Source:** TT Code 1966 § 883(j); TT Code 1970, 19 TTC 160; TT Code 1980, 19 TTC 160.

**Editor's note:** Sections 331 to 335 of this subchapter III were repealed by PL 8-49 § 1.

## **Subchapter III: Pilotage of Foreign Vessels**

- § 331.** Waters where registered pilots required. [REPEALED]
- § 332.** Registration of pilots. [REPEALED]
- § 333.** Terms for pilotage services. [REPEALED]
- § 334.** Violations; Penalties. [REPEALED]
- § 335.** Exemptions. [REPEALED]