



**NITIJELA OF THE MARSHALL ISLANDS
OFFICE OF THE NITIJELA**

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16 October 2012

Mr. James Myazoe
Manager
Trust Company of the Marshall Islands, Inc.
Republic of the Marshall Islands

Dear Mr. Manager Myazoe:

Attached herewith, please find a certified copy of the **Nitijela Bill No. 17**, which can be cited as **to amend Sections 102, 107, 109, 112, 203, 211, and 303 of the Republic of the Marshall Islands Maritime Act (the "Act")**, and shall be deemed to have come into effect on the certification date.

The **Nitijela Bill No. 17** was duly passed by the Nitijela of the Marshall Islands during the Second Part of the Nitijela's 33rd Constitutional Regular Session on the 5st day of October, 2012, and was certified by the Honorable Speaker and the Clerk pursuant to Article IV, Section 21 of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

Respectfully Submitted,

Tadashi G. Lometo

Clerk of Nitijela

Copies to : Speaker Donald F. Capelle
Minister Rien Morris
Clerk of House of Iroij
Assistant Clerk of Nitijela
Legislative Counsel
File

P.L. 2012-4

1 AN ACT

2
3 to amend 102, 107, 109, 112, 203, 211, 303 of the Republic of the Marshall Islands Maritime
4 Act (the "Act") and to add a new section 214A to the Act.
5

6 BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL
7 ISLANDS:

8 Section 1. Short Title

9 This Act may be cited as the Maritime (Amendment) Act, 2012.

10 Section 2. Amendments

11 (1) Section 102(2) of the Act is amended to read as follows:

12 **§102. Statement of policy; application.**

13 (1) This Title is intended, and shall be construed, to encourage and foster the growth and
14 development of the foreign and domestic commerce; to promote and protect the national defense
15 and security of the Republic of the Marshall Islands (hereinafter sometimes referred to as "the
16 Republic"); to preserve and protect the marine environment; and to regulate a uniform national
17 program of marine safety, inspection and documentation.

18 (2) Vessels engaged in foreign trade and vessels under construction not exclusively
19 owned by natural persons who are citizens or nationals of the Republic shall be registered solely
20 under Chapters 1 through 8 of this Title.

21 (3) Chapter 9 of this Title shall apply to any vessel operating exclusively within the
22 waters of the Republic which is not duly and properly documented or registered elsewhere.

1 (4) All matters affecting the internal order and economy of vessels registered under the
2 laws of the Republic engaged in foreign trade and domestic commerce, including labor relations,
3 shall be governed by this Title.

4
5 **(2)** Section 107(d) of the Act is amended to read as follows:

6 **§107. Records relating to vessels.**

7 There shall be maintained at the central office of the Maritime Administrator in the
8 United States of America a public register consisting of appropriate indexes where there shall be
9 recorded or filed, in properly allocated and accessible form, all documents of the following
10 nature:

- 11 (a) bills of sale and other instruments of conveyance of vessels;
12 (b) mortgages of vessels;
13 (c) assignments of mortgages;
14 (d) certificates of permanent and provisional registry and construction
15 certificates of registry;
16 (e) licenses and certificates of officers and members of ship's crew;
17 (f) all other documents relating to vessels and which are entitled to recordation.

18
19 **(3)** Section 109 of the Act is amended to read as follows:

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

21 (1) The Commissioner, each Deputy Commissioner or their duly authorized agents on
22 behalf of the Maritime Administrator are authorized to issue all such licenses, certificates, or

1 other documents for officers and ship's personnel on vessels of the Republic engaged in foreign
2 trade that are subject to the International Convention on Standards of Training, Certification and
3 Watchkeeping, 1978, as amended and revised from time to time (STCW Convention), necessary
4 or proper for carrying out the purposes of this Title, and any Rule or Regulation promulgated in
5 furtherance hereof or of any International Convention, Code or Agreement to which the Republic
6 is or may become a party.

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

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

15 (4) Failure of an owner of a vessel, other than a vessel under construction, of the
16 Republic to ensure that each officer employed on the vessel is the holder of a valid license of
17 competence of the Republic to fill the position held by him shall subject the owner to a fine of
18 seven hundred fifty dollars (US\$750) for each officer so employed who is not the holder of such
19 license of the Republic. Where such failure is admitted or is established by any required report,
20 the fine shall be automatic. If, however, a proper license of the Republic for each such officer is
21 obtained within thirty (30) days of notice from the Maritime Administrator, the fine with respect

1 thereto shall be remitted. Until paid or remitted, each fine shall constitute a maritime lien on the
2 vessel.

3
4 (4) Section 112 of the Act is amended by adding the following definitions in alphabetical
5 order in relation to the current definitions and any other amendments to this section,
6 renumbering the subsections accordingly:

7 **§112. Definitions.**

8 (1) The words “construction contract”, as used throughout this Title, shall mean a
9 contract for the building, construction, or other fabrication of a vessel.

10 (2) The words “vessel under construction”, as used throughout this Title, shall mean a
11 hull or one or more other structures, assemblies, components, modules, or other property on
12 which physical construction or assembly work has begun or commenced pursuant to a
13 construction contract to which the applicant for registration is a party as evidenced by the laying
14 of the keel or similar act as may be determined in Rules and Regulations promulgated by the
15 Maritime Administrator, which hull, structure(s), assembly(ies), component(s), modules, or other
16 property is or are designed and intended cumulatively to become and be, upon completion, one
17 single vessel, and shall also mean and include all materials, parts, components, equipment, or
18 other property (1) incorporated therein or attached thereto, or (2) in the possession or control of
19 the builder and either (i) identified thereto or to the vessel construction contract by markings,
20 physical segregation, records, or otherwise, or (ii) otherwise intended to be incorporated in or
21 attached to the completed vessel pursuant to the terms of the vessel construction contract
22 collectively comprising the whole of the vessel.

1

2 **(5)** Section 203 of the Act is amended to read as follows:

3 **§203. Vessels eligible to be documented and re-documented.**

4 Vessels of the following classes are eligible to be documented or re-documented under
5 the provisions of this Chapter:

6 (a) any sea-going vessel engaged in foreign trade, wherever built, owned by a citizen or
7 national of the Republic, or a foreign maritime entity qualified in the Republic.

8 (b) any decked commercial fishing vessel of 24 meters or more in length, engaged in
9 foreign trade, wherever built, owned by a citizen or national of the Republic, or a foreign
10 maritime entity qualified in the Republic.

11 (c) any commercial yacht of 24 meters or more in length owned by a citizen or national
12 of the Republic, or a foreign maritime entity qualified in the Republic.

13 (d) any private yacht of 12 meters or more in length owned by a citizen or national of the
14 Republic, or a foreign maritime entity qualified in the Republic.

15 (e) vessels referred to in paragraphs (a), (b), (c) or (d) of this Section will not be eligible
16 for initial documentation or re-documentation if, on January 1 of the year in which initial
17 documentation or re-documentation is sought, such vessels are over 20 years of age, computed
18 from completion of first construction.

19 (f) any vessel under construction provided, that, a vessel under construction may only be
20 registered in the name of the party making application for such registration provided that:

1 (i) upon completion of the vessel under construction pursuant to the terms
2 of the construction contract, such vessel shall meet the requirements of paragraphs
3 (a),(b), (c), or (d) of this Section;

4 (ii) title to the vessel under construction has vested in the name of the
5 party making application for registration under the terms of the construction
6 contract in respect of such vessel; and

7 (iii) there are no laws in the country in which the vessel is under construction
8 restricting the right of the party applying for registration in the Republic to effect such
9 registration.

10 (g) anything in this Section to the contrary notwithstanding, the ownership requirement
11 referred to in Paragraphs (a), (b), (c) and (d); the minimum length restrictions referred to in
12 Paragraphs (b), (c) and (d); and the 20-year maximum age limitation in Paragraph (e) of this
13 Section, may be waived at the discretion of the Maritime Administrator and may be documented
14 or re-documented where:

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

16 (ii) it has been satisfactorily demonstrated that there is an absolute and genuine
17 need for such waiver.

18 (h) for vessels entering the registry or flag of the Republic, the Maritime
19 Administrator, or its duly authorized agent, may for good cause shown, including but not limited
20 to cases of international, civil, political or military crisis, temporarily suspend or modify the
21 requirements of this Chapter with respect to registration as well as related requirements for

1 recordation of instruments under Chapter 3, and for good cause shown, permit such vessels to be
2 documented under this Chapter or cause such instruments to be recorded under Chapter 3.

3
4 (6) Section 211(1) of the Act is amended to read as follows:

5 **§211. Forms of documents.**

6 (1) The Maritime Administrator or its duly authorized agent may prescribe and furnish
7 forms of Provisional and Permanent Certificates of Registry and Construction Certificates of
8 Registry. A vessel's documents shall be in the form prescribed by the Maritime Administrator.

9 (2) The Maritime Administrator or its duly authorized agent may prescribe endorsements
10 that may be made on vessel documents from time to time, with or without issuance of a new
11 document or surrender of the old document.

12
13 (7) A new section 214A is added immediately following current section 214 of the Act to
14 read as follows:

15 **§214A. Conditions precedent to issuance of Construction Certificate.**

16 (1) Upon receipt by the office of the Maritime Administrator of the written application of
17 an owner of a vessel under construction eligible for documentation under the laws of the
18 Republic and requesting the issuance of a Construction Certificate of Registry for the vessel and
19 upon payment of the prescribed fees to the officer receiving said application, the Maritime
20 Administrator or any issuing official listed in Section 213 of this Chapter, may issue a
21 Construction Certificate of Registry for the vessel, provided the owner shall furnish proof
22 satisfactory to the Maritime Administrator or officer receiving said application:

1 (a) that the construction contract has been entered into (by providing a certified
2 copy of the construction contract);

3 (b) that construction of the vessel under construction has begun or commenced;
4 and

5 (c) that the party seeking registration of the vessel under construction has paid to
6 the Maritime Administrator a sum equal to the initial registration fee.

7 (2) As soon as reasonably practicable after completion of the vessel under construction
8 and the compliance with Sections 214 of this Chapter, a Provisional Certificate of Registry shall
9 be issued in place of the Construction Certificate theretofore issued, and such Construction
10 Certificate shall be surrendered as promptly as circumstances permit to the Maritime
11 Administrator.

12
13 **(8)** Section 303 of the Act is amended to read as follows:

14 **§303. Preferred Mortgage.**

15 (1) A valid mortgage, whenever made, which at the time it is made includes the whole of
16 any vessel, including, for the avoidance of doubt, any vessel under construction, shall have a
17 preferred status in respect of such vessel as of the date of its recordation if the mortgage is
18 recorded as provided herein. The preferred status of a mortgage under this Chapter shall not be
19 prejudiced or impaired by reason of the fact that such instrument secures the payment, pledge or
20 assignment of monies or rights, due or to become due, such as, but not limited to, guarantee fees,
21 insurance options, charter hire, freight revenues or any other fees, costs or charges, direct or
22 contingent, incidental to the sale, purchase or operation of a vessel of the Marshall Islands; or the

1 applicability of or compliance with any provision of Section 309 of this Chapter; or by reason of
2 the fact that no advance of monies is or has been made at the time of its recordation.

3 (2) Notwithstanding the provisions of the first sentence of subsection (1) of this Section,
4 a valid mortgage whenever made which (i) includes the whole of any vessel, (ii) is recorded as
5 provided herein, and (iii) is granted in continuation of a prior recorded mortgage, hypothecation
6 or similar charge on such vessel, whether granted under the laws of the Marshall Islands or the
7 laws of another nation under which the vessel was documented at the time such prior mortgage
8 was recorded, shall have preferred status in respect of such vessel as of the date of recordation of
9 such prior mortgage. For purposes of this subsection, a mortgage "granted in continuation of a
10 prior recorded mortgage, hypothecation or similar charge" shall mean a mortgage on a Marshall
11 Islands vessel where:

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

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

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

20 (d) For a vessel entering the Registry of the Republic, such mortgage is recorded
21 during the period defined in § 303(3).

1 Nothing in this subsection (2) shall be construed to pre-empt any non-statutory law
2 which, taking into account the foregoing and/or other circumstances, would recognize the
3 preferred status of a mortgage on a vessel of the Marshall Islands prior to the date of recording
4 thereof.

5 (3) For a vessel entering the registry of the Republic, the preferred status of a mortgage,
6 hypothecation or similar charge on such vessel recognized under Section 317 shall continue for a
7 period of thirty (30) days following registration of the vessel if the information with respect to
8 such mortgage required by the Maritime Administrator is furnished to the Administrator in
9 connection with the registration of the vessel under the laws of the Republic. Such preferred
10 status shall not be adversely affected by the deletion or release of the mortgage as a matter of
11 record from the vessel's prior register in connection with, or as a condition to, deletion of the
12 vessel from that register.

13 (4) In the interpretation and application of this Section, a certified Extract of the Preferred
14 Mortgage Index of the public register maintained by the Maritime Administrator, a Certificate of
15 Ownership and Encumbrance issued by such Administrator or, in the case of a mortgage,
16 hypothecation or similar charge recorded in another nation, similar documentation, including a
17 transcript of registry, certified or issued by the appropriate governmental agency in such nation,
18 shall be accepted as evidence of the granting and recordation of a mortgage, hypothecation or
19 similar charge, including the date of recordation thereof.

20 Section 3. **Effective Date**

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

23

CERTIFICATE

I hereby certify:

- 1. That Nitijela Bill No.17 was passed by the Nitijela of the Republic of the Marshall Islands on the 5th day of October, 2012; and
- 2. That I am satisfied that Nitijela Bill No.17 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 16th day of October 2012.

Attest:

Donald F. Capelle

Hon. Donald F. Capelle
Speaker
Nitijela of the Marshall Island

Tadashi Lometo

Tadashi Lometo
Clerk
Nitijela of the Marshall Islands

