

# Admiralty Jurisdiction Act 1986 [27 MIRC Ch 6]

27 MIRC Ch. 6

## MARSHALL ISLANDS REVISED CODE 2004

### TITLE 27 - THE COURTS AND COURT OFFICERS

#### CHAPTER 6.

#### ADMIRALTY JURISDICTION

#### ARRANGEMENT OF SECTIONS

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An Act to confer admiralty jurisdiction on the High Court and to provide for legal proceedings in connection with ships, the arrest of ships and other property, and to provide for matters connected therewith. [Section numbering style modified to conform to new Code format (Rev.2003)]

Commencement: December 31, 1986

Source: P.L. 1986-26

§601. Short title.

This Act may be cited as the 'Admiralty Jurisdiction Act 1986'. [P.L. 1986-26, §1.]

### **§602. Interpretation.**

In this Act the term:

- (a) 'the Court' means the High Court of the Republic;
- (b) 'goods' include baggage;
- (c) 'master' used with reference to a ship shall mean any person except a pilot, having for the time being control or charge of a ship;
- (d) 'pollutant' shall have the same meaning as the term 'pollution' or any derivative thereof, as that term is used in the context of the National Environmental Protection Act 1984;
- (e) 'ship' includes any description of vessel used in navigation;
- (f) 'waste' has the same meaning as defined in Section 103 of the National Environmental Protection Act 1984. [P.L. 1986-26, §2.]

### **§603. Admiralty jurisdiction of the High Court.**

(1) The admiralty jurisdiction of the Court shall, notwithstanding anything to the contrary in any other law, include jurisdiction to hear and determine any of the following questions or claims, together with any other jurisdiction connected with ships which may be vested by any other written law:

- (a) any claim to the possession or ownership of a ship or the ownership of any share therein;
- (b) any question arising between co-owners of a ship as to possession, employment or earnings of that ship;
- (c) any claim with respect to a mortgage of or charge on a ship or any share therein;
- (d) any claim for damage received by a ship;
- (e) any claim for damage done by a ship;
- (f) any claim for loss of life or personal injury sustained in consequence of:
  - (i) any defect in a ship or in its apparel or equipment; or
  - (ii) the wrongful act, neglect or default of the owners, charterers or persons in

possession or control of a ship or of the master or crew thereof or of any other person for whose wrongful act, neglect or default the owners, charterers or persons in possession or control of a ship are responsible, being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship or in the embarkation, carrying or disembarkation of persons in or from the ship;

(g) any claim for loss of or damage to goods carried in a ship;

(h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;

(i) any claim in the nature of salvage;

(j) any claim in the nature of towage or pilotage with respect to a ship;

(k) any claim with respect to goods or materials supplied, or services rendered, to a ship for its operation or maintenance;

(l) any claim with respect to the construction, repair or equipment of a ship, or dock charges or dues;

(m) any claim by a master or member of the crew of a ship for wages and any claim by or with respect to a master or member of the crew of the ship for any money or property which under any law in force for the time being, is recoverable as wages;

(n) any claim by a master, shipper, charterer or agent with respect to disbursements made on account of a ship;

(o) any claim arising out of bottomry;

(p) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for jetsam, flotsam, lagan and derelict found in or on the sea, the shores of the sea or any tidal water, or for property found in the possession of convicted pirates.

(2) Nothing in Subsection (1) of this Section shall be read and construed as affecting any jurisdiction conferred or that may be conferred by any other law, on any other court or tribunal to hear and determine any such question or claim as is referred to in Subsection (1) of this Section.

(3) Nothing in Subsection (1) of this Section shall be read and construed as conferring upon the Court jurisdiction to hear and determine any question or claim

arising from any act or thing done or in any proceedings under the provisions of the customs law or any other written law to be read along with the customs law.

(4) The jurisdiction of the Court under Subsection (1)(b) of this Section includes the power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the Court thinks fit.

(5) The jurisdiction of the Court under Subsection (1)(e) of this Section includes the jurisdiction to hear and determine any claim with respect to a liability incurred under the National Environmental Protection Act 1984 by reason of discharge, escape or dumping of any oil, pollutant or waste material in the waters within the jurisdiction of the Republic from or by any ship.

(6) The reference in Subsection (1)(i) of this Section to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or in preserving cargo, apparel or wreck as by any law in force for the time being, are authorized to be made in connection with a ship.

(7) The provisions of Subsections (1), (2), (3), (4) and (5) of this Section apply:

(a) in relation to all ships whether registered in any port in the Republic or outside and wherever the residence or domicile of their owners may be;

(b) in relation to all claims, howsoever arising, including in the case of cargo or wreck, salvage claims with respect to cargo or wreck found on land; and

(c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law. [P.L. 1986-26, §3.]

#### **§604. Exercise of jurisdiction.**

(1) Subject to Section 605 of this Act, an action in personam may be brought in the Court in all cases within the admiralty jurisdiction of that Court.

(2) In the case of any such claim as is mentioned in Section 603(1)(a), (c) or (p) of this Act or any such question as is mentioned in Section 603(1)(b) of this Act, an action in rem may be brought in the Court against the ship or property in connection with which the claim or question arises.

(3) In any case in which there is a maritime lien or other charge on any ship, or other property for the amount claimed, an action in rem may be brought in the Court against that ship or property.

(4) In the case of any such claim as is mentioned in Section 603(1)(e) to (o) of this Act, where the claim arises in connection with a ship, and the person who would be liable on the claim in an action in personam ('the relevant person') was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship; an action in rem may, whether or not the claim gives rise to a maritime lien on that ship, be brought in the Court against:

(a) that ship, if at the time when the action is brought the relevant person is either the beneficial owner of that ship with respect to all the shares in it or the charterer of it under a charter by demise; or

(b) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner with respect to all the shares in it.

(5) Where, in the exercise of its admiralty jurisdiction, the Court orders any ship or other property to be sold, the Court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.

(6) In determining for the purposes of Subsection (4) of this Section whether a person would be liable on a claim in an action *in personam*, it shall be assumed that he has his habitual residence or a place of business within the Republic.

(7) Where, with regard to any such claim as is mentioned in Section 603(1)(e) to (o) of this Act, a ship has been served with a writ or arrested in an action in rem, brought to enforce that claim, no other ship may be served with a writ or arrested in that or any other action in rem brought to enforce that claim; but nothing in this Subsection shall be read and construed as preventing the issue (with respect to any one such claim) of a writ naming more than one ship or of two or more writs each naming a different ship. [P.L. 1986-26, §4.]

#### **§605. Jurisdiction in personam in collision and other cases.**

(1) The Court shall not entertain an action in personam to enforce a claim to which this Section applies unless:

(a) the defendant has his habitual residence or a place of business within the Republic;

(b) the cause of action arose within the territorial waters of the Republic; or

(c) an action arising out of the same incident or series of incidents is proceeding in the Court or has been heard and determined by the Court.

(2) In this Section:

(a) 'claim' means any charges with the exception of light dues, and other charges with respect to lighthouses, buoys or beacons and of charges with respect to pilotage;

(b) 'port' means any port, harbor, estuary, haven, dock or other place so long as a person or body of persons is empowered by or under any law in force for the time being to make charges with respect to ships entering or using the facilities therein;

(c) 'limits of a port' means the limits thereof, and by or under the law in question, or as the case may be, by the relevant custom;

(d) 'territorial waters' means territorial sea as defined in the Marine Zones (Declaration) Act 1984.

(3) The Court shall not entertain an action *in personam* to enforce a claim to which this Section applies until any proceedings previously brought by the plaintiff in any court outside the Republic against the same defendant with respect to the same incident or series of incidents have been discontinued or otherwise come to an end.

(4) The preceding provisions of this Section shall apply to counterclaims (not being counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions in personam, the references to plaintiff and the defendant being for this purpose read as references to the plaintiff on the counterclaim and the defendant on the counterclaim respectively.

(5) The preceding provisions of this Section shall not apply to any action or counterclaim if the defendant thereto submits or has agreed to submit to the jurisdiction of the Court.

(6) Subject to the provisions of Subsection (3) of this Section, the Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this Section applies wherever any of the conditions specified in Subsection (1)(a) to (c) of this Section are satisfied.

(7) This Section applies to any claim for damage, loss of life or personal injury arising out of:

(a) a collision between ships; or

(b) the execution or omission to execute a maneuver in the case of one or more of two or more ships. [P.L. 1986-26, §5.]

## **§606. Wages.**

Nothing in this Act shall be construed as limiting the jurisdiction of the Court to

refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a Marshall Islands ship. [P.L. 1986-26, §6.]

**§607. Arrest of a ship.**

(1) Where an action in rem has been instituted under this Act, and the judge is satisfied that the vessel or property to which the action relates will be removed out of the jurisdiction of the Court before the plaintiff's claim is satisfied, it shall be lawful for that judge to issue, in accordance with the rules made under this Act, a warrant for the arrest and detention of that vessel or property, provided, however, that no warrant shall be issued under this Subsection if the defendant, or any person who has entered an appearance, in such action:

- (a) pays into court, the amount claimed in such action or an amount equal to the appraised value of the vessel or the property to which such action relates; or
- (b) gives bail, guarantee or other security, to the satisfaction of the plaintiff to the action, for the payment of such amount.

(2) Where any vessel or property has been arrested and detained in pursuance of a warrant issued under Subsection(1) of this Section, the judge may, on an application by the defendant or any other person who has entered an appearance in the action relating to such vessel or property, make an order releasing such vessel or property if such defendant or other person:

- (a) pays into court, the amount claimed in such action or an amount equal to the appraised value of the vessel or property which has been arrested or detained; or
- (b) gives bail, guarantee or other security, to the satisfaction of the plaintiff to the action, for the payment of such amount.

(3) Where any property arrested in pursuance of a warrant issued under Subsection (1) of this Section is subject to speedy decay, the Court may, on an application made in that behalf by the Chief of Revenue, direct that such property be sold and the proceeds deposited in court, pending the determination of the action.

(4) The judge may, having regard to all the circumstances of the case, reduce or increase the amount of any bail, guarantee or other security ordered under Subsection (1) or (2) of this Section. [P.L. 1986-26, §7.]

**§608. Costs and charges.**

(1) The Court may award costs, charges, expenses and attorney's fees to any party as it may deem fit.

(2) Charges, expenses and fees when awarded shall be payable according to the scales prescribed by rules of court in force for the time being or, where there are no such rules, as may be determined by the Court. **[P.L. 1986-26, §8.]**

#### **§609. Chief of Revenue.**

(1) For the purpose of assisting the Court in the exercise of its admiralty jurisdiction, the Chief of Revenue shall perform such duties and functions as may be assigned to him by this Act or rules or regulations made under this Act.

(2) In the performance of the duties imposed on him by this act, the Chief of Revenue shall be subject to such orders and directions as may be given the judge of the Court exercising admiralty jurisdiction. **[P.L. 1986-26, §9.]**

#### **§610. Transitional provisions.**

(1) All applications, actions, inquiries, trials or other proceedings pending in court on the day immediately preceding the date on which this Act becomes law, shall stand removed to the Court sitting in the exercise of its admiralty jurisdiction and be continued as nearly as may be according to the provisions of this Act.

(2) Any provision of this Act or any repeal consequential thereon shall not affect proceedings with respect to any cause of action arising before the date on which this Act becomes law. **[P.L. 1986-26, §10.]**

#### **§611. Applicability of comparable jurisdiction.**

Where in any proceedings instituted under this Act, any matter or question or procedure arises with respect to which no provision has been made by or under this Act or any other enactment or any rule or regulation, the Court shall have power to make such orders and to give such directions which a court exercising admiralty jurisdiction in any other comparable jurisdiction according to international practice, would have the power to make and give in like circumstances, insofar as such orders and directions shall not conflict or be inconsistent with any provisions made by or under this Act or any other enactment or any rule or regulation. **[P.L. 1986-26, §11.]**

#### **§612. Power to make rules and regulations.**

The Court in the exercise of its power under Article VI, Section 1(2) of the Constitution of the Marshall Islands may make rules or orders or promulgate procedural regulations as may be necessary for regulating the practice and procedure of the Court in the exercise of its jurisdiction under this Act. **[P.L. 1986-**



26, §12.]

**§613. The provisions of this Act to prevail.**

In case there is any conflict between the provisions of this Act and the provisions of Title 19 Trust Territory Code (1980) relating to the admiralty jurisdiction of the Court, the provisions of this Act shall prevail. [**P.L. 1986-26, §13.**]