

AN ACT

To further amend title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 7-9, by amending sections 308 and 421, by adding new sections 308A, 421A, 429 and 430, and by repealing section 422 and enacting a section 422 in lieu thereof for the purpose of revising the Seaman's Protection Act to specify obligations, rights, and procedures on matters relating to injured or ill seamen and wrongful death claims by survivors of seamen, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 421 of title 19 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 421. Wages, maintenance, and benefits for sick
4 and injured seamen, other than those covered by section 421A.

5 (1) In the event of disabling sickness or injury while a
6 seaman is on board a vessel other than a fishing vessel under
7 signed shipping articles, or off the vessel pursuant to an
8 actual mission assigned to him by, or by the authority of, the
9 master, the seaman shall be entitled to:

10 (a) full wages, as long as he is sick or injured and
11 remains on board the vessel;

12 (b) medical and surgical treatment and supply of
13 proper and sufficient medicines and therapeutical appliances,
14 until medically declared to have reached a maximum cure or to
15 be incurable, but in no event more than thirty weeks from the
16 day of the injury or commencement of the sickness;

17 (c) an amount equal to board and lodging up to a
18 maximum period of thirty weeks, and one-third of his base
19 wages during any portion of such period subsequent to his
20 landing from the vessel but not to exceed a maximum period of
21 sixteen weeks commencing from the day of injury or commencement
22 of the sickness;



1 (d) repatriation as provided in section 423 of this
2 chapter including, in addition, all charges for his transpor-
3 tation, accommodation, and food during the journey and his
4 maintenance up to the time fixed for his departure.

5 (2) The shipowner or his representative shall take
6 adequate measures for safeguarding property left on board
7 by a sick, injured, or deceased seaman.

8 (3) The seaman shall not be entitled to any of the
9 foregoing benefits:

10 (a) if such sickness or injury resulted from his
11 willful act, default, or misconduct;

12 (b) if such sickness or injury developed from a
13 condition which was intentionally concealed from the employer
14 at or prior to his engagement under the articles;

15 (c) if he refuses medical treatment for such sickness
16 or injury or is denied such treatment because of misconduct or
17 default;

18 (d) if at the time of his engagement, he refused to
19 be medically examined.

20 (4) The seaman shall have a maritime lien against the
21 vessel for any wages due him under this section."

22 Section 2. Title 19 of the Code of the Federated States of
23 Micronesia is hereby further amended by adding a new section 421A to
24 read as follows:

25 "Section 421A. Wages, maintenance, and benefits for sick

1 and injured seamen, masters and officers on board fishing
2 vessels.

3 (1) In the event of disabling sickness or injury
4 while a seaman, master or officer is on board a fishing vessel
5 under signed shipping articles or a contract of employment,
6 or off the fishing vessel pursuant to an actual mission
7 assigned to him by, or by the authority of, the master,
8 employer or shipowner, the seaman, master or officer shall be
9 entitled to:

10 (a) full wages, as long as he is disabled from
11 working due to sickness or injury and remains on board the
12 fishing vessel, or for the duration of the seaman's or
13 master's employment contract, whichever is the longer period
14 of time; provided, that if the seaman, master or officer
15 recovers and is declared by a licensed physician to be
16 medically fit for duty prior to removal from the fishing vessel
17 or the termination of the employment contract, the right to
18 unearned wages terminates;

19 (b) medical and surgical treatment and supply of
20 proper and sufficient medicines and therapeutical appliances,
21 until medically declared by a licensed physician to have
22 reached a maximum cure or to be incurable;

23 (c) an amount equal to board and lodging
24 equivalent to the quality of that received on board the
25 fishing vessel upon landing of the seaman, master or

1 officer from the fishing vessel; provided, that
2 such payments shall terminate when the seaman or master is
3 medically declared by a licensed physician to have reached
4 maximum cure or to be incurable;

5 (d) repatriation as provided in section 423 of
6 this chapter including, in addition, all charges for his
7 transportation, accommodation, and food during the journey
8 and his maintenance as provided for in subsection (c)
9 above;

10 (e) a lump sum payment in an amount set forth in
11 the payment schedule established by the Secretary if,
12 after reaching maximum care or being medically declared
13 incurable, the seaman or master is medically declared by a
14 licensed physician to be permanently disabled from working
15 as a seaman, master or officer.

16 (2) The employer, shipowner or their respective
17 representatives shall take adequate measures for safe-
18 guarding property left on board by a sick, injured, or
19 deceased seaman, master or officer.

20 (3) The seaman, master or officer shall not be
21 entitled to any of the foregoing benefits:

22 (a) if such sickness or injury resulted from his
23 willful act, default, or misconduct;

24 (b) if such sickness or injury developed from a
25 condition which was intentionally concealed from the

1 employer or shipowner at or prior to his engagement under
2 the articles or employment contract;

3 (c) if he refuses medical treatment for such
4 sickness or injury or is denied such treatment because of
5 misconduct or default;

6 (d) if at the time of his engagement under the
7 articles or employment contract, he refused to be medically
8 examined.

9 (4) The seaman, master or officer shall have a
10 maritime lien against the vessel for any wages due him
11 under this section."

12 Section 3. Title 19 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section 429 to
14 read as follows:

15 "Section 429. Agreement to submit disputes to arbitration;
16 Compelling compliance with Agreement.

17 (1) Agreement to submit disputes to arbitration. A
18 provision in a written contract of employment between a
19 shipowner or employer and a seaman, master or officer, to
20 settle by arbitration a claim or controversy arising out of
21 performance of the contract, the refusal to perform the
22 whole or any part thereof, or the breach of said contract,
23 shall be valid, enforceable, and irrevocable, except upon
24 such grounds as exist for the revocation of any contract.

25 (2) Compelling compliance with Agreement. A party

1 aggrieved by the failure, neglect, or refusal of another
2 to perform under an agreement in writing providing for
3 arbitration, may apply to the court for an order directing
4 that the arbitration proceed in the manner provided for in
5 the agreement. Five days' notice in writing of the applica-
6 tion shall be served upon the party in default. Service
7 thereof shall be made in the manner provided for by sub-
8 chapter I of title 6 of the Code of the Federated States of
9 Micronesia. The court shall hear the parties, and upon
10 being satisfied that the making of the agreement is not in
11 issue, the court hearing the application shall make an order
12 directing the parties to proceed to arbitration in accor-
13 dance with the agreement. If the making of the agreement is
14 in issue, the court shall proceed summarily to the trial
15 thereof. If the court finds that no agreement in writing
16 providing for arbitration was made, the proceeding shall
17 be dismissed."

18 Section 4. Title 19 of the Code of the Federated States of
19 Micronesia is hereby further amended by adding a new section 430 to
20 read as follows:

21 Section 430. Exclusiveness of remedy; Territorial
22 applicability.

23 (1) Exclusiveness of remedy. The rights and remedies
24 granted by chapters 3 and 4 of title 19 of the Code
25 of the Federated States of Micronesia to a seaman, master or

1 officer on account of a disabling sickness, injury, or death
2 sustained by the seaman, master or officer under the
3 circumstances described in sections 308, 308A, 421(1) and
4 421A(1), shall exclude all other liability of the shipowner
5 or employer to the seaman, master or officer or their
6 spouse, next of kin, dependents, legal representative,
7 or anyone else entitled to recover damages from the
8 shipowner or employer at common law, general maritime
9 law or otherwise, on account of the disabling injury,
10 sickness, or death.

11 (2) Territorial applicability. If a seaman or master
12 sustains a disabling injury or sickness while on board a
13 vessel under signed shipping articles or a contract of
14 employment governed by the laws of the Federated States of
15 Micronesia, he shall be entitled to recover under
16 chapters 3 and 4 of title 19 of the Code of the Federated
17 States of Micronesia. The right to recover under title 19,
18 chapters 3 and 4, shall exclude all other liability of
19 the shipowner or employer. All contracts of employment of a
20 seaman, master or officer governed by the laws of the
21 Federated States of Micronesia, and all shipping articles
22 signed under the laws of the Federated States of Micronesia,
23 are deemed to include an agreement to that effect."

24 Section 5. Section 308 of title 19 of the Code of the Federated
25 States of Micronesia is hereby amended to read as follows:

1 "Section 308. Wrongful death of seamen, other than those
2 covered by section 308A. Whenever the death of a seaman,
3 other than those covered by section 308A, resulting from an
4 injury, shall be caused by wrongful act, omission, neglect,
5 or default occurring on board a vessel, other than a
6 fishing vessel, the personal representative of the
7 deceased seaman may maintain a suit for damages, for the
8 exclusive benefit of the deceased's wife, husband, parent,
9 child, or dependent relative, against the vessel, person, or
10 corporation which would have been liable if death had not
11 ensued."

12 Section 6. Title 19 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section 308A to
14 read as follows:

15 "Section 308A. Death of seamen, masters and officers on
16 board fishing vessels. In the case of death of a seaman,
17 master or officer occurring on board a fishing vessel, or
18 in the case of his death occurring on shore, if, at the
19 time, he was entitled to medical care and maintenance at
20 the shipowner's or employer's expense:

21 (1) The shipowner or employer shall be liable to
22 defray reasonable local funeral expenses and make payment
23 of the base wages of the deceased seaman, master or officer
24 up to the end of the month in which the death occurs;

25 (2) Wages, maintenance and benefits due to a seaman,

1 master or officer pursuant to section 421A of title 19 of
2 this Code shall be paid after his death to his estate; and

3 (3) The estate of the deceased seaman, master or
4 officer shall be entitled to assert a claim for a lump sum
5 payment in the amount set forth in the payment schedule
6 specified in regulations promulgated by the Secretary."

7 Section 7. Section 422 of title 19 of the Code of the Federated
8 States of Micronesia is hereby repealed in its entirety and a new
9 section 422 is hereby enacted to read as follows:

10 "Section 422. Liability of third person.

11 (1) When a work-related injury, illness or death for
12 which compensation is payable under section 308, 308A, 421
13 or 421A of title 19 of the Code of the Federated States of
14 Micronesia has been sustained under circumstances creating
15 in some person other than the employer, shipowner, or
16 another employee of the employer or shipowner acting in the
17 course of his employment, a legal liability to pay damages
18 on account thereof, the injured employee or the decendent's
19 estate may claim compensation under section 308, 308A, 421
20 or 421A of title 19 of the Code of the Federated States of
21 Micronesia and recover damages from such third person.

22 (2) If the employee or the decendent's estate
23 commences an action against such third person, he or it
24 shall without delay give the employer or shipowner written
25 notice of the action and the name and location of the court

1 in which the action is brought by personal service or
2 registered mail. The employer or shipowner may, at any
3 time before trial on the facts, join as a party plaintiff.

4 (3) If within one year after the date of the personal
5 injury or death the employee or the decedent's estate has
6 not commenced an action against such third person, the
7 employer or shipowner having paid or being liable for
8 compensation under section 308, 308A, 421 or 421A of title 19
9 of the Code of the Federated States of Micronesia, shall be
10 subrogated to the rights of the injured employee or the
11 decedent's estate. Except as limited by chapters 5 and 8
12 of title 19 of the Code of the Federated States of Micro-
13 nesia, the employee or the decedent's estate may at any
14 time commence an action or join in any action commenced
15 by the employer or shipowner against such third person.

16 (4) No release or settlement of any claim or
17 action under this section is valid without the written
18 consent of the employer or shipowner and the employee or
19 the decedent's estate. The entire amount of any settle-
20 ment payment or judgment obtained from a third person is
21 subject to the employer's or shipowner's right of
22 reimbursement of its compensation payments under section
23 308, 308A, 421 or 421A of title 19 of the Code of the Federated
24 States of Micronesia."
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1 Section 8. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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December 10, 1992
Bailey Olter
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President
Federated States of Micronesia

