

CHAPTER 4.

SHIPPING CORPORATION

ARRANGEMENT OF SECTIONS

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An Act to provide for the establishment of a Shipping Corporation to operate services for the transportation of goods, mails and passengers by sea and to carry on business as ship owners, charterers of ships and vessels, ship brokers, and shipping agents, and to make provision for purposes connected with the aforesaid matters.

Commencement: November 16, 2005
 Source : P.L. 2005-41.
 P.L. 2006-51

§401. Short title

This act may be cited as the Marshall Islands Shipping Corporation Act, 2004. [P.L. 2005-41, §1.]

§402. Interpretation.

In this act, the words:

(1) "Board" means Board of Directors constituted under this act.

(2) "Corporation" means the Marshall Islands Shipping Corporation established under Section 403 of this Act.

(3) "General Manager" means the person for the time being holding, the position of the General Manager of the Corporation

(4) "Goods" means any form or kind of cargo carry on a ship or vessel, and includes petroleum products, liquids, gases or other similar articles or substance.

(4) "Minister" means Minister in charge of Transportation and Communication.

[P.L. 2005-41, §2.]

§403. Establishment of the Marshall Islands Shipping Corporation.

(1) There shall be established, a corporation, which shall be known as the Marshall Islands Shipping Corporation.

(2) The Corporation shall be a body corporate and shall have perpetual succession and common seal and may sue and be sued in such name. [P.L. 2005-41, §3.]

§404. Board of Directors.

The powers and functions of the corporation shall be vested in and by a Board of Directors hereinafter referred to as the "Board", which shall consists of five members. [P.L. 2005-41, §4.]

§405. The Constitution of the Board.

(1) The members of the first Board of Directors shall consists of:

(a) one official from the Ministry of Finance; and

(b) one official from Marshall Islands Ports Authority; and

(c) three (3) members representing the private sector and the community, at large,

and

(2) The term of the office of the Directors appointed under subsection (1) shall be two years.

(3) The Board members appointed to the Board under subsection (1) may be removed at any time by Cabinet.

(4) The Board of Directors may act notwithstanding any vacancy among the members.

[P.L. 2005-41, §5.][Amended by P.L. 2006-51.]

§406. Independence of the Board.

The Board is to function as an independent entity; however, the Minister may give advise on the general policy to be adopted by the Corporation but shall not be involved in the day-to-day workings of the Corporation. [P.L. 2005-41, §6.]

§407. The Chairman.

(1) The Cabinet shall appoint one of the members to be the Chairman the first Board.

(2) The Chairman of the Board shall preside at all meetings of the Board. [P.L. 2005-41, §7.]

§408. Meetings of the Board.

(1) The meetings of the Board may be held at such times and at such places within the Republic as may be determined by the Board.

(2) The first meeting of the Board shall be convened at such time and such place within the Republic as may be determined by the Chairman.

(3) The quorum for any meeting of the Board of Directors shall be three members. The Board shall determine its own procedures for transactions of business and for carrying out the purposes of this Act. [P.L. 2005-41, §8.]

§409. Remuneration of members of the Board.

Only members of the Board appointed under paragraphs (c) and (d) of Section 405 above shall be entitled to sitting fee at such rates and subject to such conditions as may be set out by the Cabinet. [P.L. 2005-41, §9.]

§410. Staff.

(1) Board shall appoint a General Manager for the corporation. Such General Manager shall report directly to the Board.

(2) The General Manager, in consultation with the Minister, may appoint other officers and servants to the staff of Corporation as it may deem fit.

(3) In addition to other duties provided for under this Act and any regulation promulgated herein, the General Manger shall also serve as Secretary to the Board. [P.L. 2005-41, §10.]

§411. Objects of the Corporation.

The objects of the Corporation shall be :

- (a) to operate services for the transport of goods, mail and passengers by sea;
- (b) to carry on business as ship owners, charterers of ships and vessels, ship brokers, shipping agents and other ancillary services; and
- (c) to carry out the building, maintenance, repair and overhaul of ships and vessels. [P.L. 2005-41, §11.]

§412. Continuation of Regulations.

The Corporation shall abide by all maritime laws of the Republic of the Marshall Islands; and shall continue to enforce all agreements, arrangements and memorandum of understanding as if they had been made by the Corporation. [P.L. 2005-41, §12.]

§413. Powers of the Corporation.

(1) The corporation may exercise all or any of the following powers :

- (a) to establish, maintain and operate shipping services and all other services ancillary thereto;
- (b) to purchase, charter, build or otherwise acquire, mortgage, sell, exchange and let out on hire or charter, or otherwise deal with or dispose of, any ship or vessel;
- (c) to act as agents or subagents for any other corporation, or persons in the Marshall Islands or abroad;
- (d) to carry on the business of ship brokers for the purpose of sell or purchase or for the procurement of shipping services;
- (e) to carry on business as contractors in respect of shipping and services ancillary thereto;

- (f) to carry on all such financial, commercial, trading, technical and other operations for business in connection with the objects of the corporation as the corporation may deem fit;
- (g) to appoint such agents, whether in Marshall Islands or abroad as the corporation may deem necessary and to determine the terms and conditions of their appointments;
- (h) to acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any movable or immovable property;
- (i) to do anything for the purpose of advancing the skill of persons employed by the corporation or the efficiency of the equipment of the corporation and to provide facilities for training persons required to carry out the work of the corporation;
- (j) to construct, manufacture, purchase, maintain and repair anything required for the purpose of carrying out the objects of the corporation;
- (k) to enter into and perform all such contracts as may be necessary for the performance of the duties and the exercise of the powers of the corporation;
- (l) to make rules in relation to its officers and servants including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;
- (m) to make rules in respect of the administration of the affairs of the corporation;
- (n) to appoint and dismiss such officers and servants as may be necessary for carrying the work of the corporation and to determine the terms and conditions of their employment;
- (o) to acquire, hold, or dispose of shares in any organization in the Marshall Islands or abroad, with the approval of the Government;
- (p) to enter into agreement for the management of the shipping services with any other private organization or body;
- (q) to do anything necessary for or conducive or incidental to, the carrying out of the objects of the corporation. [P.L. 2005-41, §13.]

§414. Vesting of movable and immovable property.

With the establishment of the corporation under Section 403, all movable and immovable property of the shipping services under the Ministry of Transportation and Communication of the Republic shall vest absolutely in the corporation; and all assets and liability, rights, duties and obligations, and all contracts and agreements of the Republic relating to the shipping services, subsisting on the date of the establishment of the corporation shall stand transferred and vest in the corporation. [P.L. 2005-41, §14.]

§415. Capital of the Corporation.

- (1) The capital of the Corporation shall consist of:
- (a) grants and loans given or made available by the Government of the Marshall Islands on such terms and conditions as may be determined by the Cabinet; and
- (b) money received by the Corporation as grants, loans, aid or other assistance; and
- (c) revenue and other money received by the Corporation under this Act; and
- (2) The capital of the Corporation may be increased from time to time by such amounts as may be determined by the Board of Directors of the Corporation.

§416. Power to borrow or raise capital.

The Corporation may, from time to time, borrow such sums as the Corporation may require for meeting its obligations and discharging its functions under this Act. However:

- (a) the Corporation may not borrow amounts that at any time exceed \$100,000 U.S. Dollars without the approval of the Minister of Finance; and
- (b) the Corporation must not borrow from outside the Republic without the approval of the Minister of Finance. [P.L. 2005-41, §15.]

§417. Revenue of the Corporation.

The Revenue of the Corporation shall consist of all monies received under Section 414, 415 and 416. [P.L. 2005-41, §17.]

§418. Application of the revenue.

The revenue of the Corporation may be applied in defraying the following:

- (a) working expenses, and expenditures of the Corporation in connection with the exercise and performance of the powers and duties of the Corporation;
- (b) payment on any loans raised by the corporation under the provisions of this Act;
- (c) allocations to cover the depreciation of the movable and immovable property of the Corporation. [P.L. 2005-41, §18.]

§419. Authorized investment.

Funds of the Corporation not immediately required to be expended in the meeting of any obligation or the discharge of any functions of the Corporation may be invested by the Board from time to time in any FDIC approved financial institution within or outside of the Republic. [P.L. 2005-41, §19.]

§420. Bank accounts.

The Corporation must at all time keep at least one bank account in the Republic, and all money (other than petty cash) withdrawn from the Fund and not immediately required must be kept in the Corporation's bank account. [P.L. 2005-41, §20.]

§421. Accounting of the Corporation.

(1) All decisions, orders, rules and regulations relating to the financial operation of the Corporation and authorized by the Act or by-laws established under Section 428 of this Act, shall be made by resolution of the Board of Directors at a meeting thereof and shall be recorded in the minutes of such meeting of the Board.

(2) The Corporation shall keep proper accounts and other records with respect to its operations and shall cause to be prepared a financial statement with respect to each financial year.

(3) The Board shall, before the commencement of its financial year, submit to the Cabinet a copy of its income and expenditure accounts in relation to such year and the Cabinet shall cause copies of such accounts to be laid before the Nitijela. [P.L. 2005-41, §21.]

§422. Budget.

(1) The Board must prepare and adopt a budget before the start of its financial for the financial year.

(2) The budget must set out projected revenues and estimated expenditures for the financial year. The expenditures must be only for the purpose of performing the Corporation's

functions. [P.L. 2005-41, §22.]

§423. Corporate Plan.

(1) Before the start of each financial year, the Corporation must prepare a Corporate Plan covering the next three financial years and submit it to the Minister for his approval. [P.L. 2005-41, §23.]

§424. Audit.

(1) The accounts of the Corporation for each financial year shall be submitted to the Auditor-General for audit within four (4) months after the closing of the financial year.

(2) The Auditor-General have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Corporation as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Corporation or the officers of the Corporation with such information within the knowledge as may be required for such purposes.

(3) The Auditor-General shall examine the accounts of the Corporation and furnish a report to the Nitijela within six (6) months from the date of receipt of the accounts under Subsection (1) of this Section, stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Corporation and drawing attention to any item in the accounts which in his or her opinion may be of interest to the Nitijela in any examination of the activities and accounts of the Corporation. [P.L. 2005-41, §24.]

§425. Exemption from tax.

(1) Except as provided in subsection (2), the income, property and transactions of the Corporation are not subject to any taxes, rates or charges imposed under any other law.

(2) This section does not affect the tax liability of a person entering into a contract, or otherwise dealing, with the Corporation. [P.L. 2005-41, §25.]

§426. Charges.

(1) The Corporation may from time to time fix charges for services provided by the Corporation.

(2) In fixing the charges, the Corporation must follow the procedures set out in this section.

(3) Before fixing a charge, the Corporation must submit the proposed charges to Cabinet for approval.

(4) The Corporation must publish notice of charges in the local newspaper or the local radio station. [P.L. 2005-41, §26.]

§427. Services the Corporation may charge for.

The services the Corporation may charge for include, but are not limited to:

(a) cargo freight

(b) cargo insurance

(c) passenger fare

(d) vessel charter

(e) vessel diversion

(f) stevedoring

(g) other services the Corporation provides in the course of performing its functions.

[P.L. 2005-41, §27.]

§428. By-laws.

Subject to the provisions of this Act, the Board may make by-laws to govern and regulate the operations and functions of the Corporation and of the Board of Directors and may adopt its own Articles of Incorporation. [P.L. 2005-41, §29.]

§429. Effective Date

This Act shall take affect on the date of certification, in accordance with the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela. [P.L. 2005-41, §29.]

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