



**REPUBLIC OF
THE MARSHALL ISLANDS**

**OFFICE OF THE
MARITIME ADMINISTRATOR**

Marine Notice

No. 7-053-1

Rev. 11/13

**TO: ALL SHIPOWNERS, OPERATORS, MASTERS AND OFFICERS OF
MERCHANT SHIPS, AND RECOGNIZED ORGANIZATIONS**

SUBJECT: On Board Complaint Procedures.

References: (a) **Marshall Islands Maritime Act 1990 (MI-107), § 861**
(b) **Marshall Islands Regulations (MI-108), § 7.53.1**
(c) **Maritime Labour Convention, 2006, Regulation 5.1.5**

PURPOSE:

This Notice provides the key elements of an onboard complaint procedure, the purpose of which is to provide for the fair, effective and expeditious handling of seafarer complaints. This Notice is intended to assist: (1) the shipowner or ship operator in understanding the requirements that must be met in implementing an onboard complaint procedure; and (2) the seafarer in understanding his/her rights and the procedures involved in filing a complaint.

This Notice supersedes Rev. 7/12 and clarifies the methods by which a shipowner or ship operator may provide complaint procedures to seafarers aboard its ships in section 1.1.

APPLICABILITY:

This Notice applies to all vessels registered under the Republic of the Marshall Islands (RMI) flag.

REQUIREMENTS:

1.0 General

- 1.1 A shipowner or ship operator shall provide a seafarer with a copy of the on board complaint procedures applicable to the ship together with a copy of their seafarers' employment agreement in accordance with Maritime Regulation 7.53.1 (reference (b) above).
- 1.2 The shipowner or ship operator may also satisfy the above requirement to provide a copy of the onboard complaint procedures by posting laminated controlled Company posters containing these onboard complaints procedures in strategic areas of the ship such as mess

rooms, cargo control and engine control rooms, and cabins. The posting of the onboard complaints procedures is considered by the Administrator to be an effective measure for seafarers' familiarization with Company's complaints procedure and the posters, when used, should be in English as well as in the working language onboard the vessel, if other than English.

- 1.3 Any seafarer on board an RMI flag vessel shall have the right to lodge a complaint (i.e., a labor grievance) and to have that complaint investigated, provided it is specific in nature and is alleged to constitute a breach of seafarers' rights under the Maritime Labour Convention, 2006 (MLC, 2006), or RMI law or regulation. The RMI Maritime Administrator's contact email address for such complaints is seafarers@register-iri.com.
- 1.4 Any victimization of a seafarer for filing a complaint is strictly prohibited. Victimization is understood to mean any adverse action taken or threatened by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.
- 1.5 Officers and/or crew members may be represented in labor grievance by a labor organization which is party to a labor contract entered into pursuant to the laws of the RMI and which covers the officers and/or crew members.

2.0 Complaint Procedures

- 2.1 Notwithstanding procedures laid down in an individual seafarer's contract of employment, the following procedures shall be observed.
- 2.2 The onboard complaint procedures shall include:
 - .1 Contact information for the Company Designated Person Ashore (DPA) or his/her designee;
 - .2 Contact information for the Office of the Maritime Administrator;
 - .3 Contact information for the Competent Authority of the seafarers' country of residence; and
 - .4 The name of the person(s) on board ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and assist them in following the complaint procedures. Such assistance rendered by this person may include attending meetings or hearings, if requested by the complainant seafarer.
- 2.3 Any seafarer with a complaint shall have the ability to have the matter addressed by bringing it to the attention of the proper authority on board, as provided below.
 - Immediate Supervisor
 - Head of Department
 - Master

- 2.4 Complaints should be sought to be resolved at the lowest level possible; and only when the matter cannot be resolved to the satisfaction of both parties, should it be elevated to the next level.
- 2.5 Officers and/or crew members shall, within five (5) days from the date of the alleged occurrence of the labor grievance, bring the matter to their Immediate Supervisor, Department Head, the Master or his or her appointee, who in the chain of command dealing with the grievance shall have a further five (5) days each to bring about a solution to the matter, provided that this time limit is appropriate to the seriousness of the matter.
- 2.6 Notwithstanding, in all cases, seafarers shall have the right to complain directly to the Master and, where they consider it necessary, to the Company DPA or his/her designee for conciliation.
- 2.7 Should a complaint reach the level of the Master, the Master shall:
- .1 Conduct an investigation or inquiry, as appropriate;
 - .2 Reference the terms and conditions of employment; and
 - .3 Seek the advice of the Company DPA or his/her designee where necessary.
- 2.8 If the Master cannot reconcile the complaint, the matter should be formally referred within 10 days to the Company DPA or his/her designee who must conciliate the matter in accordance with the terms and conditions of employment.
- 2.9 If a matter is to the prejudice of the Master, then a seafarer should present his/her case directly to the Company DPA or his/her designee.
- 2.10 Until such time as the Company DPA's decision is received, the Master's decision shall be binding on all parties.

3.0 External Authorities

- 3.1 Seafarers shall have the right to file a complaint directly to an appropriate external authority, such as, but not limited to:
- a Flag Administration Nautical Inspector;
 - a Flag Administration Recognized Organization Inspector;
 - a port State control official;
 - a local seafarer labor organization representative; or
 - other seafarer welfare assistance service.
- 3.2 Should a complaint reach the level of external authorities, that authority shall be provided with the contact information for the Office of the Maritime Administrator and requested to communicate the complaint to the Office of the Maritime Administrator.

3.3 The Office of the Maritime Administrator shall communicate the complaint to the Company DPA who shall then be expected to resolve the matter in accordance with the terms and conditions of employment to the satisfaction of both parties.

4.0 Unresolved Disputes

If after 20 days, conciliation acceptable to both parties cannot be reached, either party shall have a further 20 days to call upon the Office of the Maritime Administrator, or an agent appointed by the Office of the Maritime Administrator, to act as mediator to endeavor to find a solution to the matter satisfactory to the parties.¹

5.0 Arbitration

If a dispute cannot be resolved by conciliation or mediation, either party may submit the matter to an independent arbitrator or arbitrators for a final determination in accordance with the Arbitration Rules and Proceedings provided in Maritime Regulation 7.53.

6.0 Record Keeping

6.1 Subject to sub-paragraph 2.9 above, any correspondence from the seafarer to the Company DPA or his/her designee should be signed by the Master where seen.

6.2 All complaints and the decisions on them shall be recorded and a copy provided to the seafarer or seafarers concerned.

¹ Not all grievances/complaints fall within the Maritime Administrator's purview. In such cases, the complaining party/parties will be notified that it is inappropriate for the Maritime Administrator to assist in resolving the grievance.