Maritime Procedure Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 2

Chapter II — Jurisdiction 2

Chapter III — Preservation of Maritime Claims 3

Chapter IV — Maritime Injunction 3

Chapter V — Preservation of Maritime Evidence 4

Chapter VI — Maritime Security 4

Chapter VII — Service 5

Chapter VIII — Trial Procedures 5

Chapter IX — Constitution of Limitation Fund for Maritime Claims 5

Chapter X — Registration and Satisfaction of Creditors' Rights 6

Chapter XI — Procedure for Exigent Maritime Lien 6

Chapter XII — Supplementary Provisions 6

Adopted at the 13th Session of the Standing Committee of the 9th National People's Congress on December 25, 1999

Effective: July 1, 2000

Table of Contents

- Chapter I — General Provisions
- Chapter II — Jurisdiction
- Chapter III — Preservation of Maritime Claims
- Chapter IV — Maritime Injunction
- Chapter V — Preservation of Maritime Evidence
- Chapter VI — Maritime Security
- Chapter VII — Service

- Chapter VIII — Trial Procedures
- Chapter IX — Constitution of Limitation Fund for Maritime Claims
- Chapter X — Registration and Satisfaction of Creditors' Rights
- Chapter XI — Procedure for Exigent Maritime Lien
- Chapter XII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of safeguarding the rights of the parties involved in maritime cases brought before the court, ensuring that the facts of such cases are ascertained, the law is correctly applied, maritime disputes are resolved in a timely manner, and the lawful rights and interests of the parties are protected.

Article 2 — Where a civil lawsuit is brought in the People's Republic of China in respect of a maritime dispute, the Maritime Procedure Law of the People's Republic of China shall apply. For matters not provided for in this Law, the relevant provisions of the Civil Procedure Law of the People's Republic of China and other laws shall apply.

Article 3 — The parties to a maritime dispute shall have the right to dispose of their civil rights and litigation rights in accordance with the law. Maritime courts may conduct mediation in maritime cases.

Article 4 — Maritime courts shall exercise judicial power independently in accordance with the law and shall not be subject to interference by administrative organs, public organizations, or individuals.

Article 5 — In trying maritime cases, maritime courts shall focus on facts and take law as the criterion, shall protect the lawful rights and interests of Chinese and foreign parties equally, and shall abide by international treaties concluded or acceded to by the PRC.

Chapter II — Jurisdiction

Article 6 — Maritime courts shall exercise jurisdiction over maritime cases, including maritime tort disputes, maritime contract disputes, and other maritime and admiralty cases as prescribed by law.

Article 7 — An action arising from a maritime tort may be brought in the maritime court of the place where the tort occurred, the place where the vessel causing the damage is first arrived at after the accident, the place of the vessel's port of registry, or the place where the defendant is domiciled.

Article 8 — An action arising from a maritime contract may be brought in the maritime court of the place where the defendant is domiciled, the place of performance of the contract, or the place where the vessel is under arrest.

Article 9 — An action for salvage at sea may be brought in the maritime court of the place where the salvage took place or the place where the salvaged vessel first arrived after the salvage operation. An action for general average may be brought in the maritime court of the place where the vessel first arrived after the average incident, the place where the adjustment of general average is made, or the place where the voyage ends.

Article 10 — An action arising from a marine insurance contract may be brought in the maritime court of the place where the insured subject matter is located, the place where the insured incident occurred, or the place where the defendant is domiciled.

Article 11 — The parties to a maritime dispute may, before or after the dispute arises, agree in writing to choose the maritime court of the place having actual connection with the dispute to exercise jurisdiction.

Article 12 — Where a defendant in a maritime case raises no objection to the jurisdiction of a maritime court and submits a defense, the maritime court shall be deemed to have jurisdiction, provided that the provisions

Source: https://www.danyoungcpa.com/maritime-procedure-law-prc-1999-english-translation/

on hierarchical jurisdiction and exclusive jurisdiction are not violated.

Article 13 — The following maritime claims shall be under the exclusive jurisdiction of the maritime courts specified in this Law: (1) disputes arising from pollution of the sea by discharge, spill, or dumping of oil or other hazardous substances from vessels; (2) disputes arising from maritime exploration and exploitation contracts performed in the territorial sea of the PRC or in other sea areas under the jurisdiction of the PRC; (3) disputes arising from crew labor contracts involving vessels of Chinese nationality.

Chapter III — Preservation of Maritime Claims

Article 14 — Preservation of maritime claims means the compulsory measures taken by a maritime court on the application of a maritime claimant to detain, on maritime claims, the vessel to which the claim pertains.

Article 15 — A maritime claimant may, before bringing a lawsuit or during the litigation, apply to a maritime court for the arrest of a vessel. Such application shall be made in writing and shall state the maritime claim, the grounds for the application, and the vessel to be arrested.

Article 16 — A maritime court, when accepting an application for the arrest of a vessel, may order the applicant to provide security. If the applicant fails to provide security, the application shall be rejected.

Article 17 — After accepting an application for the arrest of a vessel, the maritime court shall make a ruling within 48 hours. Where the ruling permits the arrest, an order of arrest shall be issued. If the circumstances are urgent, the court shall make a ruling within 24 hours.

Article 18 — A maritime claimant who applies for the arrest of a vessel shall be liable for compensation for any loss caused to the party against whom the application is made as a result of a wrongful application for the arrest.

Article 19 — Where a vessel under arrest needs to continue sailing, the party against whom the application is made may provide security to the maritime court or the maritime claimant to have the arrest lifted. After accepting such security, the maritime court shall issue an order to lift the arrest.

Article 20 — A maritime claimant who has applied for the arrest of a vessel shall bring a lawsuit before the maritime court or apply for arbitration within 30 days from the date of the arrest. If the maritime claimant fails to do so, the maritime court shall lift the arrest.

Article 21 — A maritime claimant may apply for the arrest of a vessel in respect of the following maritime claims: (1) loss of or damage to property caused by the operation of the vessel; (2) loss of life or personal injury occurring on board or in direct connection with the operation of the vessel; (3) salvage operations; (4) damage caused by the vessel to the environment, coastline, or related interests; (5) costs relating to the raising, removal, destruction, or rendering harmless of a sunken, wrecked, stranded, or abandoned vessel; (6) any agreement relating to the use or hire of the vessel; (7) any agreement relating to the carriage of goods or passengers; (8) loss of or damage to goods, including baggage, carried on board the vessel; (9) general average; (10) towage; (11) pilotage; (12) goods, materials, provisions, bunkers, equipment, or supplies furnished for the operation or maintenance of the vessel; (13) construction, reconstruction, repair, conversion, or equipping of the vessel; (14) port, canal, dock, harbor, and other waterway dues and charges; (15) crew wages and other sums payable to the master, officers, and crew; (16) disbursements incurred on behalf of the vessel or its owner; (17) insurance premiums; (18) any commission, brokerage, or agency fee payable in respect of the vessel; (19) disputes as to the ownership or possession of the vessel; (20) disputes between co-owners as to the employment or earnings of the vessel; (21) a mortgage or charge on the vessel; and (22) disputes arising from a ship sale contract.

Chapter IV — Maritime Injunction

Article 22 — A maritime injunction means the compulsory measures taken by a maritime court on the application of a maritime claimant to order the person against whom the application is made to do or refrain from doing certain acts to protect the lawful rights and interests of the applicant from further infringement.

Article 23 — A maritime claimant may, before bringing a lawsuit or during the litigation, apply to the maritime court for a maritime injunction. The applicant shall set forth in the application the maritime claim, the grounds for the application, and the specific act to be ordered to be done or not done.

Article 24 — The maritime court may, when accepting an application for a maritime injunction, order the applicant to provide security. If the applicant fails to provide security, the application shall be rejected.

Article 25 — After examining the application, the maritime court shall make a ruling within 48 hours. Where the ruling permits the maritime injunction, it shall be executed immediately. If the ruling does not meet the requirements, the application shall be rejected.

Article 26 — A party dissatisfied with the ruling may apply for reconsideration once within five days from the date of receipt of the ruling. The maritime court shall examine the application for reconsideration within five days and render a decision. Execution of the ruling shall not be suspended during the period of reconsideration.

Chapter V — Preservation of Maritime Evidence

Article 27 — Preservation of maritime evidence means the compulsory measures taken by a maritime court on the application of a maritime claimant to seize, extract, or take into custody evidence relevant to a maritime claim.

Article 28 — An application for the preservation of maritime evidence shall be made in writing and shall state the evidence to be preserved, the connection between such evidence and the maritime claim, and the grounds for the application.

Article 29 — The maritime court may order the applicant to provide security. After accepting the application, the maritime court shall make a ruling within 48 hours. Where the ruling permits preservation, it shall be executed immediately.

Article 30 — A maritime claimant who applies for the preservation of maritime evidence shall be liable for compensation for any loss caused to the party against whom the application is made as a result of a wrongful application.

Chapter VI — Maritime Security

Article 31 — The provisions of this Chapter shall apply to security provided for a maritime claim, including security provided by the defendant in order to have the arrest of a vessel lifted, security furnished by an applicant for the preservation of a maritime claim, and other security.

Article 32 — The form and amount of security shall be determined by the maritime court. The amount of security provided by the applicant shall be sufficient to compensate for any loss that may be caused. The amount of security to be accepted in exchange for the release of a vessel under arrest shall not exceed the value of the vessel.

Article 33 — The maritime court shall decide on the return, reduction, or increase of the security provided. If a party applies for the return or reduction of the security, the maritime court shall make a decision after examination.

Article 34 — The maritime claimant may seek satisfaction of the claim from the security provided by the defendant, but shall apply to the maritime court for enforcement.

Source: https://www.danyoungcpa.com/maritime-procedure-law-prc-1999-english-translation/

Chapter VII — Service

Article 35 — A maritime court may serve litigation documents on a party by the following methods: (1) personal service on the addressee; (2) service on the agent ad litem of the addressee; (3) service through the representative office or branch established by the addressee within the territory of the PRC; (4) service by mail with return receipt, where the return receipt shows the date of delivery as the date of service; and (5) other methods permitted by law.

Article 36 — Where the addressee is a foreign national with no domicile within the territory of the PRC, service may be effected through diplomatic channels, through the central authority designated under the Hague Service Convention, by mail where the law of the recipient's country permits, through the master of the vessel to which the addressee belongs, or by public announcement.

Article 37 — Where service cannot be effected by any of the above methods, service may be made by public announcement. A period of three months after the date of the public announcement shall be deemed to be the date of service.

Chapter VIII — Trial Procedures

Article 38 — Maritime courts shall try maritime cases by applying the ordinary procedure, the summary procedure, or the procedure for urging debt repayment, as the case may be, in accordance with the law.

Article 39 — In proceedings for the trial of a maritime collision case, the plaintiff shall serve its statement of claim and attach the maritime accident investigation form before the trial. The defendant shall file its defense and attach the maritime accident investigation form before the expiration of the time limit for filing a defense.

Article 40 — In a maritime case, both parties shall complete the presentation of evidence before the trial. Evidence submitted after the court hearing but before judgment may be admitted only with the approval of the court.

Article 41 — The time limit for a party to produce evidence in a maritime case shall be set by the maritime court, and in general shall not exceed 30 days.

Article 42 — A maritime court trying a case involving a foreign party shall apply the Chinese language and script. If a foreign party is not proficient in Chinese, the court may provide translation at the party's request, with the cost borne by the party.

Article 43 — In proceedings for the trial of a general average case, the maritime court may accept the adjustment statement made by an average adjuster as the basis for adjudication, unless a party raises an objection and the court upholds the objection.

Article 44 — A maritime court may try a case for the limitation of liability for maritime claims independently of the case concerning the substantive maritime claim.

Chapter IX — Constitution of Limitation Fund for Maritime Claims

Article 45 — A person entitled to limit liability for maritime claims may, before or during litigation or at any time before the judgment of first instance is rendered, apply to the maritime court for the constitution of a limitation fund for maritime claims.

Article 46 — The application for the constitution of a limitation fund shall be made in writing and shall specify the amount of the fund to be constituted, the grounds for limitation of liability, and the categories and amounts of the known maritime claims.

Article 47 — After accepting the application, the maritime court shall issue a public announcement to the known interested parties and publish a notice in a newspaper or other news media for three consecutive days. The announcement shall specify the time limit for the registration of creditors' rights.

Source: https://www.danyoungcpa.com/maritime-procedure-law-prc-1999-english-translation/

Article 48 — The time limit for the registration of creditors' rights shall not be less than 30 days from the date of the first public announcement. The amount of the fund shall be the amount of the limit of liability calculated in accordance with the law, together with interest from the date of the accident to the date of constitution of the fund.

Article 49 — The limitation fund may be constituted in cash or by a guarantee acceptable to the maritime court. The fund shall be deposited with the maritime court.

Article 50 — After the constitution of the limitation fund, no person may exercise any right against any other property of the person constituting the fund in respect of a claim to which the fund relates. Where a vessel or other property has been arrested, the maritime court shall issue an order to release the arrested vessel or property.

Chapter X — Registration and Satisfaction of Creditors' Rights

Article 51 — A creditor of a maritime claim shall, within the time limit specified in the public announcement, register its claim with the maritime court. When registering, the creditor shall submit written materials stating the amount of the claim, the basis on which it is founded, and the evidence in support thereof.

Article 52 — The maritime court shall examine the materials submitted for the registration of a creditor's right. If the materials are incomplete, the court shall order the applicant to supplement them within a time limit.

Article 53 — After the expiration of the time limit for the registration of creditors' rights, the maritime court shall hold a creditors' meeting to examine the registered claims. The court shall adjudicate on the validity of each registered claim.

Article 54 — After the sale of a vessel by a maritime court, the proceeds shall be distributed among the creditors according to the priorities prescribed by law. The order of distribution from vessel sale proceeds shall be: (1) legal costs; (2) expenses incurred for the common interests of the creditors in the preservation and sale of the vessel and in the distribution of the proceeds; (3) crew wages, other labor remuneration, social insurance premiums, and crew repatriation costs; (4) compensation for loss of life or personal injury; (5) tonnage dues, port dues, and navigation dues; (6) salvage remuneration; (7) compensation for damage caused by the vessel in collision or other navigation accidents; (8) claims secured by a maritime lien; (9) claims secured by a mortgage on the vessel; and (10) other ordinary claims.

Chapter XI — Procedure for Exigent Maritime Lien

Article 55 — Where a maritime lien holder intends to enforce a maritime lien by applying to the maritime court for the arrest of the vessel to which the lien attaches, the application shall be submitted before the maritime lien expires.

Article 56 — A maritime lien shall be extinguished if not exercised within one year from the date on which it arose, except that a maritime lien for crew wages may be exercised within two years.

Article 57 — Where a vessel is sold by a maritime court, a maritime lien attaching to the vessel shall be extinguished unless the lien holder enforces the lien within 60 days from the date of the public announcement of the sale of the vessel by the court.

Article 58 — In exercising a maritime lien, the lien holder shall submit to the maritime court the documents proving the existence of the maritime lien and shall register the claim within the time limit set by the court.

Chapter XII — Supplementary Provisions

Article 59 — For purposes of this Law, "vessel" means sea-going ships and other mobile units at sea, excluding ships and craft used for military or government service, and small ships of less than 20 tons gross

Source: https://www.danyoungcpa.com/maritime-procedure-law-prc-1999-english-translation/

tonnage.

Article 60 — Special maritime procedure provisions in international treaties concluded or acceded to by the PRC shall apply, except those on which the PRC has declared reservations.

Article 61 — The provisions of this Law shall apply to maritime cases involving parties from the Hong Kong Special Administrative Region and the Macao Special Administrative Region, and parties from the Taiwan region, with reference to the provisions applicable to foreign-related maritime cases.

Article 62 — The Supreme People's Court shall be responsible for the interpretation of this Law.

Article 63 — This Law shall come into force on July 1, 2000.

Disclaimer: This English translation is provided for reference purposes only and has been prepared by Dan Young Business Consultancy. While every effort has been made to ensure accuracy, this translation is not an official version and may not reflect the most recent amendments. The official Chinese text shall prevail in all legal matters. Dan Young Business Consultancy makes no warranty, express or implied, regarding the accuracy, completeness, or fitness for a particular purpose of this translation. Readers should consult qualified legal professionals for advice on specific legal issues. For official legal purposes, please refer to the original Chinese text published by the National People's Congress of the People's Republic of China.