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CHAPTER 56
PARTICULAR EMPLOYMENT

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MASTER & SERVANT

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§ 56101. What are Servants.

A *servant* is one who is employed to render personal service to his employer, otherwise than in the pursuit of an independent calling, and who in such service remains entirely under the control and direction of the latter who is called his master.

SOURCE: CC § 2009.

§ 56102. Term of Hiring.

A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for one year; a hiring at a daily rate, for one day; a hiring by piecework, for no specified term.

SOURCE: CC § 2010.

§ 56103. Term When on Time Set.

In the absence of any agreement or custom as to the term of service, the time of payment, or rate or value of wages, a servant is presumed to be

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hired by the month, at a monthly rate of reasonable wages, to be paid when the service is performed.

SOURCE: CC § 2011.

§ 56104. Renewal of Hiring.

Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service.

SOURCE: CC § 2012.

NOTE: No CC § 2013 existed.

§ 56105. Servant to Pay over without Demand.

A servant must deliver to his master, as soon as with reasonable diligence he can find him, everything he receives for his account, without demand; but he is not bound, without orders from his master, to send everything to him through another person.

SOURCE: CC § 2014.

§ 56106. Discharge of Servant.

A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

1. If he is guilty of misconduct in the course of his service, or of gross immorality, though unconnected with the same; or
2. If, being employed about the person of the master, or in a confidential position, the master discovers that he has been guilty of misconduct, before or after the commencement of his service, of such a nature, that, if the master had known or contemplated it, he would not have so employed him.

SOURCE: CC § 2015.

NOTE: No 1970 Civil Code §§ 2016-2018 existed.

ARTICLE 2
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§ 56201. Agents to Conform to Authority.

An agent must not exceed the limits of his actual authority, as defined by Part 2 of this Title on Agency.

SOURCE: CC § 3019.

§ 56202. Principal to be Kept Informed.

An agent must use ordinary diligence to keep his principal informed of his acts in the course of the agency.

SOURCE: CC § 2020.

§ 56203. Collecting Agent.

An agent employed to collect a negotiable instrument must collect it promptly, and take all measures necessary to charge the parties thereto, in case of its dishonor, and, if it is a bill of exchange, must present it for acceptance with reasonable diligence.

SOURCE: CC § 2021.

§ 56204. Responsibility of Subagent.

A mere agent of an agent is not responsible as such to the principal of the latter.

SOURCE: CC § 2022.

NOTE: No 1970 Civil Code §§ 2023-2025 existed.

ARTICLE 3
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§ 56303. Sales on Credit.

§ 56304. Liability, Guaranty Commission.

§ 56305. Factor Responsible.

§ 56301. What is a Factor.

A *factor* is an agent who, in the pursuit of an independent calling, is employed by another to sell property for him, and is vested by the latter with the possession or control of the property, or authorized to receive payment therefor from the purchaser.

SOURCE: CC § 2026.

§ 56302. Obedience Required.

A factor must obey the instructions of his principal to the same extent as any other employee, notwithstanding any advances he may have made to his principal upon the property consigned to him, except that if the principal forbids him to sell at the market price, he may, nevertheless, sell for his reimbursement, after giving to his principal reasonable notice of his intention to do so, and of the time and place of sale, and proceeding in all respects as a pledgee.

SOURCE: CC § 2027.

CROSS-REFERENCES: See Title 13 (UCC) of this Code for the law on pledges.

§ 56303. Sales on Credit.

A factor may sell property consigned to him on such credit as is usual; but, having once agreed with the purchaser upon the term of credit, may not extend it.

SOURCE: CC § 2028.

§ 56304. Liability, Guaranty Commission.

A factor who charges his principal with a guaranty commission upon a sale thereby assumes absolutely to pay the price when it falls due, as if it were a debt of his own, and not as a mere guarantor for the purchaser; but he does not thereby assume any additional responsibility for the safety of his remittance of the proceeds.

SOURCE: CC § 2029.

§ 56305. Factor Responsible.

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A factor who receives property for sale, under a general agreement or usage to guarantee the sales or the remittance of the proceeds, cannot relieve himself from responsibility therefor without the consent of his principal.

SOURCE: CC § 2030.

NOTE: No 1970 Civil Code §§ 2031-2033 existed.

ARTICLE 4
SHIPMASTERS

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- § 56402. When Master Must be on Board.
- § 56403. Compulsory Pilotage.
- § 56403.1. Issuance of Harbor Pilot's Licenses
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- § 56408. Duties on Abandonment.
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- § 56410. Care & Diligence.
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§ 56401. Appointment of Master.

The master of a ship is appointed by the owner, and holds during his pleasure.

SOURCE: CC § 2034.

§ 56402. When Master Must be on Board.

The master of a ship is bound to be always on board when entering or leaving a port, harbor, or river.

SOURCE: CC § 2035.

§ 56403. Compulsory Pilotage.

On entering or leaving, or operating a vessel within, a port or harbor, the master of a vessel, *unless otherwise exempt* under the provisions of this Chapter or pursuant to Federal Law, must take on a pilot duly licensed by the Port Authority of Guam to provide pilotage services. While the pilot is on board he shall advise the vessel's master as to its navigation. *However*, the master of the vessel shall at all times remain in full charge and control of the vessel and its navigation.

SOURCE: CC § 2036. Amended by P.L. 25-09:3.

CROSS-REFERENCES: See Rules & Regulations of the Guam Port Authority for pilotage requirements in Apra Harbor.

§ 56403.1. Issuance of Harbor Pilot's Licenses.

The Manager of the Port Authority of Guam shall have the power and duty to issue pilot licenses pursuant to credentialing criteria established by rules and regulations of the Authority for persons who seek to engage in the profession of harbor pilot within Guam. Each such license shall be valid for a period of five (5) years, or until the expiration of the applicant's U.S. Coast Guard pilot's license, whichever first occurs.

SOURCE: Added by P.L. 25-09:4.

§56403.2. Licensing Regulations.

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The Board of Directors of the Port Authority of Guam shall adopt rules and regulations establishing credentialing criteria for and governing the conduct of pilots. In addition to credentialing criteria and standards of professional conduct, such rules and regulations shall, at a minimum, set forth the procedures for filing and processing license applications and for investigating and resolving complaints against pilots, as well as the grounds for denial, suspension or revocation of a pilot's license *not* inconsistent with the provisions of this Chapter.

SOURCE: Added by P.L. 25-09:5.

§ 56403.3. Basis for Approving Application for Harbor Pilot's License.

The Manager of the Port Authority of Guam shall determine the professional qualifications necessary to obtain a pilot's license in accordance with the Authority's rules and regulations. As the basis for approving applications, the Manager may by rule accept the determinations of one or more trade or professional organizations, accept a license or certification issued by an agency of the United States, or of a state, territory or possession of the United States, require that an applicant successfully complete an oral or written examination, or both, administered by the Port Authority of Guam or appropriate professional organization, or provide other evidence of competence satisfactory to the Manager. In establishing credentialing criteria and in administering examinations, if required, the Port Authority of Guam may enter into contracts for the purchase, use, scoring or validation of professional examinations.

SOURCE: Added by P.L. 25-09:6.

§ 56403.4. License Fees.

The Board of Directors of the Port Authority of Guam may adopt and from time to time adjust, in accordance with the Administrative Adjudication Law, a schedule of fees and charges for each application, examination, issuance, renewal or replacement of a harbor pilot's license in order to recover the costs thereof.

SOURCE: Added by P.L. 25-09:7.

§ 56403.5. Grandfathering and Automatic License Renewal.

No pilot who on the effective date of this enactment is employed or operating a business as a pilot in Guam and who, further, is duly licensed by the United States Coast Guard as a pilot shall be denied a territorial harbor pilot's license or a renewal thereof. Nor shall any application for renewal of

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a territorial harbor pilot's license be denied, *except* as provided by this Chapter, as long as the applicant possesses the minimum qualifications established by the Port Authority of Guam and remains in active service as a pilot on Guam. *However*, nothing herein shall prevent the suspension, revocation or denial of a pilot's license for good cause, in accordance with the provisions of this Chapter and the rules and regulations of the Port Authority of Guam.

SOURCE: Added by P.L. 25-09:8.

§ 56403.6. Grounds for Denial, Suspension or Revocation.

Except as provided in § 56403.5, the Manager may deny the issuance of a license to any applicant and may suspend or revoke the license of any pilot for any cause authorized by law or the Port Authority of Guam's pilotage rules and regulations, including but not limited to the following:

1. violation of this Chapter or any rule or regulation of the Port Authority of Guam;
2. negligent pilotage;
3. habitual use of any substance rendering a harbor pilot unfit to be entrusted with the safe navigation of a vessel;
4. inability to perform the duties of a harbor pilot;
5. failure to maintain active service as a pilot on Guam;
6. procurement of a license through fraudulent misrepresentation or deceit;
7. violation of any law or regulation prohibiting unfair or deceptive acts or practices;
8. violation of any law or regulation intended to promote marine safety or protect navigable waters or the environment;
9. failure to report marine accidents in accordance with the rules and regulations of the Port Authority of Guam; *or*
10. failure to maintain a current and valid Federal pilots' license issued in accordance with Chapter 71 of Title 46 of the United States Code.

SOURCE: Added by P.L. 25-09:9.

§ 56403.7. Pilot License Advisory Committee.

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The Manager shall appoint a Pilot License Advisory Committee, consisting of seven (7) members, including the Harbor Master, who shall serve as its Chairperson; Assistant Harbor Master; three (3) licensed harbor pilots; and two (2) members representing the shipping industry. No two (2) members of the Committee shall be employed by the same company or by affiliated companies. Each member except the Harbor Master and Assistant Harbor Master shall serve for a term of two (2) years and until replaced, which terms shall be staggered so that the terms of no more than four (4) members will expire in a single year. The sole function of the Pilot License Advisory Committee shall be to review and recommend appropriate disposition of complaints and any proposed disciplinary action against a harbor pilot. No pilot's license shall be suspended or revoked, or any other disciplinary action taken, *unless* such action has been reviewed by a majority of the membership of the Committee, or thirty (30) days have passed from submittal of the matter to the Committee for such review. The Manager and Board of Directors of the Port Authority of Guam shall seek the advice and recommendations of the Committee on any other matters relating to pilotage.

SOURCE: Added by P.L. 25-09:10.

§ 56403.8. Appeal Procedure.

Any person may request a review of the Manager's denial, suspension or revocation of a pilot's license by the Board of Directors of the Port Authority, provided a written notice of appeal is delivered to the Manager within thirty (30) days of his final decision, which shall be in writing and delivered by registered mail to the applicant and to the Pilot License Advisory Committee. Thereafter, any denial, suspension or revocation of a license shall be subject to administrative adjudication in accordance with Administrative Adjudication Law. In the alternative, the Port Authority of Guam may adopt rules of disciplinary procedure pursuant to the Administrative Adjudication Law, in which event such rules shall govern the procedure for any suspension or revocation of a harbor pilot's license.

SOURCE: Added by P.L. 25-09:11.

§ 56403.9. Exhibition of License.

A pilot, on boarding a vessel, and if required by the master thereof, shall exhibit the pilot's license or a photostatic copy thereof.

SOURCE: Added by P.L. 25-09:12.

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§ 56403.10. Piloting without a License.

It shall be unlawful for any person *not* licensed as a pilot under this Chapter to pilot or to offer to pilot a vessel *not* exempt from this Chapter. It shall be unlawful for any person on board a tug or towboat to tow a vessel or barge *not* exempt from this Chapter, *unless* the vessel or barge shall have on board a pilot licensed under this Chapter. Violation of this Section shall be a misdemeanor and in addition, shall be subject to assessment of any fines or penalties authorized by the rules and regulations of the Port Authority of Guam.

SOURCE: Added by {L. 25-09:13.

§ 56403.11. Rates of Pilotage.

The Port Authority of Guam shall *not* provide or warrant the availability of pilot services, which shall be provided solely by the private sector. The terms of any contract for pilotage, including rates or pilot fees, shall be negotiated and agreed upon by the parties thereto, *except* as specifically provided herein.

SOURCE: Added by P.L. 25-09:14.

§ 56403.12. Lien for Pilotage Fees.

Every licensed pilot shall have a lien for pilotage fees upon the whole of any vessel liable to the pilot therefor.

SOURCE: Added by P.L. 25-09:15.

§ 56403.13. Description of Pilotage Waters.

Pilotage waters as established under this Chapter shall consist of all waters of the Guam within two (2) nautical miles of Apra Harbor and all waters within Apra Harbor, exclusive of Federally restricted waters.

SOURCE: Added by P.L. 25-09:16.

§ 56403.14. Mandatory use of Harbor Pilot.

Every vessel involved in trade or commerce, other than an exempt vessel, entering, departing from or traversing the waters of Apra Harbor shall employ a harbor pilot. *However*, a vessel declared by the Harbor Master or the Captain of the Port to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in any harbor may be moved without a pilot when a pilot is not immediately available.

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SOURCE: Added by P.L. 25-09:17.

§ 56403.15. Exempt Vessels.

A harbor pilot is not required for:

1. vessels *not* involved in trade or commerce;
2. enrolled and other vessels that are exempt under the laws of the United States of America, provided they are under the direction and control of a Federally licensed pilot; *and*
3. vessels home-ported on Guam and involved in the tourism trade, such as dinner-cruise boats, diving and fishing charter boats, submersibles and rental craft.

SOURCE: Added by P.L. 25-09:18.

§ 56403.16. Exempt During Daylight Hours Only.

The following vessels may enter, exit and be operated in Apra Harbor without the assistance of a pilot, but only during daylight hours:

1. vessels under five hundred (500) gross tons; *provided*, the master of the vessel has previously entered and exited Apra Harbor while operating a vessel with the assistance of a licensed pilot and provided, further, that adequate two-way communications between the vessel and the Port Authority's Harbor Master and U.S. Coast Guard's Captain of the Port are continuously maintained, either directly or through the vessel's agent, while the vessel is underway in Guam waters; *and*
2. tugs and tows home-ported on Guam or the Commonwealth of the Northern Mariana Islands; *provided*, the master of the tug and tow has previously entered and exited Apra Harbor while operating a vessel with the assistance of a licensed pilot.

SOURCE: Added by P.L. 25-09:19.

§ 56403.17. Exception for Safe Navigation.

This Section is *not* intended to negate or limit the Port Authority of Guam's responsibility for the safe navigation of all vessels within Guam waters. Accordingly, the Port Authority's Harbor Master may recommend or require the assistance of a pilot for any vessel exempt by this provision *if* the Harbor Master determines such is necessary to ensure safety in any port or other waters of Guam.

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SOURCE: Added by P.L. 25-09:20.

§ 56404. Power over Seamen.

The master of a ship may enforce the obedience of the mate and seamen to his lawful commands by confinement and other reasonable corporal punishment, being responsible for the abuse of his power.

SOURCE: CC § 2037.

§ 56405. Power over Passengers.

The master of a ship may confine any person on board, during a voyage, for willful disobedience to his lawful commands.

SOURCE: CC § 2038.

§ 56406. Impressing Private Stores.

If, during a voyage, the ship's supplies fail, the master, with the advice of his officers, may compel persons who have private supplies on board to surrender them for the common want, on payment of their value, or giving security therefor.

SOURCE: CC § 2039.

§ 56407. When may Abandon Ship.

The master of a ship must not abandon it during the voyage, without the advice of the other officers.

SOURCE: CC § 2040.

§ 56408. Duties on Abandonment.

The master of a ship, upon abandoning it, must carry with him, as far as it is in his power, the money and the most valuable of the goods on board, under penalty of being personally responsible. If the articles thus taken are lost from causes beyond his control, he is exonerated from liability.

SOURCE: CC § 2041.

§ 56409. When Master Cannot Trade on his Account.

The master of a ship, who engages for a common profit on the cargo, must not trade on his own account, and if he does, he must account to his employer for all profits thus made by him.

SOURCE: CC § 2042.

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§ 56410. Care & Diligence.

The master of a ship must use great care and diligence in the performance of his duties, and is responsible for all damage occasioned by his negligence, however slight.

SOURCE: CC § 2043.

§ 56411. Authority of Master.

The authority and liability of the master of a ship, as an agent for the owners of the ship and cargo, are regulated by Part 2 of this Title (Agency), subject to the laws enacted by the Congress of the United States.

SOURCE: CC § 2044.

NOTE: No 1970 Civil Code §§ 2045-2047 existed.

ARTICLE 5
MATES & SEAMEN

- § 56501. What are Mates.
- § 56502. What are Seamen.
- § 56503. Mate, Seamen Engaged, Discharged.
- § 56504. Unseaworthy Vessel.
- § 56505. Seamen not to Lose Wages or Lien by Agreement.
- § 56506. Special Agreements.
- § 56507. Wages Depend on Freightage.
- § 56508. When Wages Begin.
- § 56509. Wages - Voyage Broken up Before Departure.
- § 56510. Wrongful Discharge.
- § 56511. Wages in Case of Wreck.
- § 56512. Certificate.
- § 56513. Disabled Seaman.
- § 56514. Maintenance During Sickness.
- § 56515. Death on Voyage.
- § 56516. Theft Forfeits Wages.
- § 56517. Cannot Ship Goods.
- § 56518. Law Governing Seamen.

§ 56501. What are Mates.

The *mate* of the ship is the officer next in rank to the master, and in case of the master's disability he must take his place. By so doing he does not lose any of his rights as mate.

SOURCE: CC § 2048.

§ 56502. What are Seamen.

All persons employed in the navigation of a ship, or upon a voyage, other than the master and mate, are to be deemed seamen within the provisions of this Title.

SOURCE: CC § 2049.

§ 56503. Mate, Seamen Engaged, Discharged.

The mate and seamen of a ship are engaged by the master, and may be discharged by him at any period of the voyage, for willful and persistent disobedience or gross disqualification, but cannot otherwise be discharged before the termination of a voyage.

SOURCE: CC § 2050.

§ 56504. Unseaworthy Vessel.

A mate or a seaman is not bound to go to sea in a ship that is not seaworthy, and if there is reasonable doubt of its seaworthiness, he may refuse to proceed until a proper survey has been had.

SOURCE: CC § 2051.

§ 56505. Seamen not to Lose Wages or Lien by Agreement.

A seaman cannot, by reason of any agreement, be deprived of the lien upon the ship, or of any remedy for the recovery of his wages to which he would otherwise have been entitled. Any stipulation by which he consents to abandon any right he may have or obtain in the nature of salvage, is void.

SOURCE: CC § 2052.

§ 56506. Special Agreements.

No special agreement entered into by a seaman can impair any of his rights, or add to any of his obligations, as defined by law, unless he fully

understands the effect of the agreement, and receives a fair compensation therefor.

SOURCE: CC § 2053.

§ 56507. Wages Depend on Freightage.

Except as hereinafter provided, the wages of seamen are due, when, and so far only as, freightage is earned, unless the loss of freightage is owing to the fault of the owner or master.

SOURCE: CC § 2054.

§ 56508. When Wages Begin.

The right of a mate or seaman to wages and provisions begins either from the time he begins work, or from the time specified in the agreement for his beginning work, or from his presence on board, whichever first happens.

SOURCE: CC § 2055.

§ 56509. Wages - Voyage Broken up Before Departure.

Where a voyage is broken up before departure of the ship, the seaman must be paid for the time he has served, and may retain for his indemnity such advances as he has received.

SOURCE: CC § 2056.

§ 56510. Wrongful Discharge.

When a mate or seaman is wrongfully discharged, or is driven to leave the ship by the cruelty of the master on the voyage, it is then ended with respect to him, and he may thereupon recover his full wages.

SOURCE: CC § 2057.

§ 56511. Wages in Case of Wreck.

In case of loss or wreck of the ship a seaman is entitled to his wages up to the time of the loss or wreck, whether freightage has been earned or not, if he exerts himself to the utmost to save the ship, cargo, and stores.

SOURCE: CC § 2058.

§ 56512. Certificate.

A certificate from the master or chief surviving officer of a ship, to the effect that a seaman exerted himself to the utmost to save the ship, cargo, and stores, is presumptive evidence of the fact.

SOURCE: CC § 2059.

§ 56513. Disabled Seaman.

Where a mate or seaman is prevented from tendering services by illness or injury, incurred without his fault in the discharge of his duty on the voyage, or by being wrongfully discharged, or by capture of the ship, he is entitled to wages notwithstanding; but in case of a capture, a ratable deduction for salvage is to be made.

SOURCE: CC § 2060.

§ 56514. Maintenance During Sickness.

If a mate or seaman becomes sick or disabled during the voyage, without his fault, the expense of furnishing him with suitable medical advice, medicine, attendance, and other provision for his wants, must be borne by the ship until the close of the voyage.

SOURCE: CC § 2061.

§ 56515. Death on Voyage.

If a mate or seaman dies during the voyage, his personal representatives are entitled to his wages to the time of his death, if he would have been entitled to them had he lived to the end of the voyage.

SOURCE: CC § 2062.

§ 56516. Theft Forfeits Wages.

Desertion of the ship without cause, or a justifiable discharge by the master during the voyage, for misconduct, or a theft of any part of the cargo or appurtenances of the ship, or a willful injury thereto or to the ship, forfeits all wages due for the voyage to a mate or seaman thus in fault.

SOURCE: CC § 2063.

§ 56517. Cannot Ship Goods.

A mate or seaman may not, under any pretext, ship goods on his own account without permission from the master.

SOURCE: CC § 2064.

NOTE: No CC § 2065 existed.

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§ 56518. Law Governing Seamen.

The shipment of officers and seamen, and their rights and duties, are further regulated by Acts of Congress of the United States.

SOURCE: CC § 2066.

NOTE: No 1970 Civil Code §§ 2067-2069 existed.

**ARTICLE 6
SHIPS' MANAGERS**

§ 56601. What is a Manager.

§ 56602. Duties of manager.

§ 56603. Compensation.

§ 56601. What is a Manager.

The general agent for the owners, in respect to the care of the ship and freight, is called the *manager*. If he is a part owner, he is also called the *managing owner*.

SOURCE: CC § 2070.

§ 56602. Duties of Manager.

Unless otherwise directed, it is the duty of the manager of a ship to provide for the complete seaworthiness of a ship, to take care of it in port, to see that it is provided with necessary papers, with proper master, mate and crew, and supplies of provisions and stores.

SOURCE: CC § 2071.

§ 56603. Compensation.

A managing owner is presumed to have no right to compensation for his own services.

SOURCE: CC § 2072.

NOTE: No 1970 Civil Code §§ 2073-2077 existed.

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