

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8488



Introduced by MARINO Party-list Representatives
SANDRO L. GONZALEZ

AN ACT
CREATING COURT OF MARITIME APPEALS, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES.

EXPLANATORY NOTE

Maritime courts are not new but are already existing in other jurisdictions like Indonesia, Singapore, China, and Malaysia among others. In fact, in Europe, as early as 13th century, admiralty courts, whose judges were admirals, have already been in existence and have been granted maritime jurisdiction to the exclusion of all other courts. The jurisdiction extends to all criminal, private, procedural, public and commercial disputes relating to the sea. It is with the creation of admiralty courts that expediency in resolving maritime cases have been addressed.¹

Issues, disputes or claims surrounding the maritime industry may involve complex jurisdictional issues in a globalized context. The range of cases, include, but not limited to maritime contracts, seafarer's money claims, issues on ship registry, seizure and forfeiture of vessels, commerce, marine pollution, questions of national importance, and international relations, the resolution of which requires a technical expertise on the field of maritime law.

According to the United Nations, Philippines would benefit from the creation of a maritime court in facilitating speedy disposition of cases and integration of admiralty cases including seamen's wages.²

¹ Healy, N. (n.d.). Maritime Law. Retrieved from <https://www.britannica.com/topic/maritime-law/additional-info#history>

² Ibid. p. 58.

With the passage of this proposed bill, the clogging of court dockets and the delay in the disposition of cases will be properly addressed. There is, therefore, a real need for the creation of a court of maritime appeals composed of maritime experts to effectively and more efficiently resolve maritime disputes.

In view of the foregoing, the early passage of this proposed measure is highly recommended.

A stylized, handwritten signature in black ink, consisting of a large, sweeping 'S' shape followed by a horizontal line and a small flourish.

SANDRO L. GONZALEZ

Representative
MARINO Party-list

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title* – This Act shall be known as the “Court of Maritime Appeals Act”.

Section 2. *Court; Justices* – There is hereby created a Court of Maritime Appeals (CMA) which shall be of the same level as the Court of Appeals possessing all the inherent powers of a Court of Justice, and shall consist of a Presiding Justice and eight (8) Associate Justices, each of whom shall be appointed by the President upon nomination by the Judicial and Bar Council.

The Presiding Justice and the first two appointed Associate Justices, shall serve as chairmen of the three (3) Divisions. The other six (6) Associate Justices shall serve as members of the Divisions.

The Presiding Justice shall be so designated in the appointment issued to them by the President, and the Associate Justices shall have precedence according to the dates of their respective appointments or when the appointments of two (2) or more of them shall bear the same date, according to the order in which their appointments were issued by the President.

Section 3. *Qualifications* – No person may be appointed Presiding Justice or Associate Justice of the CMA, unless he or she is a natural born citizen of the Philippines, at least 40 years of age, and for at least 10 years had been a judge of a court of record or been engaged in the practice of law in the Philippines.

Section 4. *Term* – The Justices of the Court of Maritime Appeals shall hold office until they reach the age of 70 years or become incapacitated to discharge the duties of their office, unless sooner removed for the same causes and in the same manner provided by law for members of the judiciary of equivalent rank.

Section 5. *Salary; Benefits; Privileges* – The Presiding Justice and Associate Justices shall receive the same salary, emoluments and other privileges, and enjoy the same retirement and

other benefits as those provided for under existing laws for the Presiding Justice and Associate Justices of the Court of Appeals.

Whenever the salaries of the Presiding Justice and the Associate Justices of the Court of Appeals are increased, such increases in salaries shall be deemed correspondingly extended to and enjoyed by the Presiding Justice and Associate Justices of the CMA.

Section 6. *Sitting En Banc or Division; Quorum* – The CMA may sit en banc or in three (3) Divisions, each Division consisting of three (3) Justices.

Five (5) Justices shall constitute a quorum for sessions en banc and two (2) Justices for sessions of a Division. *Provided*, That when the required quorum cannot be constituted due to any vacancy, disqualification, inhibition, disability, or any other lawful cause, the Presiding Justice shall designate any Justice of other Divisions of the Court to sit temporarily therein.

The affirmative votes of five (5) members of the Court en banc shall be necessary to reverse a decision of a Division but a simple majority of the Justices present necessary to promulgate a resolution or decision in all other cases or two (2) members of a Division, as the case may be, shall be necessary for the rendition of a decision or resolution in the Division level

Section 7. *Clerk of Court; Division Clerks of Court; Appointment; Qualification; Compensation* – The CMA shall have a Clerk of Court and three (3) Division Clerks of Court who shall be appointed by the Supreme Court. No person shall be appointed Clerk of Court or Division Clerk of Court unless he is a natural born citizen of the Philippines, and for at least two (2) years had been engaged in the practice of law in the Philippines.

The Clerk of Court and Division Clerks of Court shall exercise the same powers and perform the same duties in regard to all matters within the Court's jurisdiction, as are exercised and performed by the Clerk of Court and Division Clerks of Court of the Court of Appeals, in so far as the same may be applicable or analogous; and in the exercise of those powers and the performance of those duties they shall be under the direction of the Court.

The Clerk of Court and the Division Clerks of Court shall have the same rank, privileges, salary, emoluments, retirement and other benefits as those provided for the Clerk of Court and Division Clerks of Court of the Court of Appeals, respectively.

Section 8. *Other Personnel* – The Supreme Court shall appoint all officials and employees of the CMA, in accordance with the Civil Service Law. The Supreme Court shall fix their salaries and prescribe their duties.

Section 9. *Supervision and Discipline* – The Supreme Court shall have administrative supervision over the Justices of the CMA as well as over its personnel, who shall be governed by the rules and regulations promulgated by the Supreme Court.

Section 10. *Disqualifications* – No Justice or other officer or employee of the CMA shall intervene, directly or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of the Court. Justices of the Court shall be disqualified from sitting in any case on the same grounds provided under Rule one hundred thirty-seven of the Rules of Court for the disqualification of judicial officers. No person who has once served in the Court in a permanent capacity, either as Presiding Justice or as Associate

Justice thereof, shall be qualified to practice as counsel before the Court for a period of one (1) year from his retirement or resignation.

Section 11. *Place of Holding Sessions* – The Court of Maritime Appeals shall have its principal office in Metro Manila and shall hold hearings at such time and place as it may, by order in writing, designate.

Section 12. *Jurisdiction* – The CMA shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided:

- a) Decisions of the NLRC in cases involving seafarers' money claims arising out of employer-employee relationship or by virtue of any law or contract;
- b) Decision of the Administrator of the Maritime Industry Authority in cases involving vessel registration fees, tonnage fees, accreditation fees, safety certificates, certificates of public convenience, licenses, special permits or other charges, penalties in relation thereto, or other matters arising under laws and circulars administered by the MARINA;
- c) Decision of the Commandant of the Philippine Coast Guard in cases involving the implementation of maritime safety and maritime environment laws;
- d) Decisions, orders or resolutions of the Regional Trial Courts in all actions in admiralty and maritime jurisdiction originally decided or resolved by them in the exercise of their original or appellate jurisdiction.

Section 13. *Court of record; Seal; Proceedings* – The Court of Maritime Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, subject to the approval of the Supreme Court.

Section 14. *Fees* – The Court shall fix reasonable fees for the filing of an appeal, for certified copies of any transcript of record, entry or other document, and for other authorized services rendered by the Court or its personnel.

Section 15. *Power to Administer Oaths, Issue Subpoena and Punish for Contempt* – The CMA shall have the power to administer oaths, receive evidence, summon witnesses, and require the production of documents as well as all other powers and prerogatives vested in regular courts by the Rules of Court or other laws. The Court shall likewise have the power to punish for direct or indirect contempt in accordance with pertinent provisions of the Rules of Court.

Section 16. *Who May Appeal; Mode of Appeal; Effect of Appeal* – Any party adversely affected by a decision, ruling or inaction of the NLRC, MARINA or the regular courts may file an appeal with the CMA within thirty (30) days after the receipt of such decision or ruling.

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CMA within thirty

(30) days from the receipt of the decision or ruling of the NLRC, MARINA or PCG. A Division of the CMA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CMA, which shall hear the case en banc.

All other cases involving rulings, orders or decisions filed with the CMA as provided for in Section 12 shall be raffled to its Divisions. A party adversely affected by a ruling, order or decision of a Division of the CMA may file a motion for reconsideration or new trial before the same Division of the CMA within fifteens (15) days from notice thereof: Provided, however, That in criminal cases, the general rule applicable in regular Courts on matters of prosecution and appeal shall likewise apply.

No appeal taken to the CMA from the decision of the appropriate government agencies shall suspend the payment, levy, distraint, and/or sale of any property of the private party for the satisfaction of his tax liability as provided by existing law: Provided, however, That when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the private party, the Court may, at any stage of the proceeding, suspend the said collection and require the private party either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court.

Section 17. *Taking of evidence* – The Court may, upon proper motion on or its initiative, direct that a case, or any issue thereof, be assigned to one of its members for the taking of evidence, when the determination of a question of fact arises upon motion or otherwise in any stage of the proceedings, or when the taking of an account is necessary, or when the determination of an issue of fact requires the examination of a long account. The hearing before such member shall proceed in all respects as though the same had been made before the Court.

Upon the recommendation of such hearing to such member, he shall promptly submit to the Court his report in writing, stating his findings and conclusions; and thereafter, the Court shall render its decisions on the case, adopting, modifying, or rejecting the report in whole or in part, as the case may be, or the Court may, in its discretion recommit it with instructions, or receive further evidence.

Section 18. *Decision; Maximum Period for Termination of Cases* – Cases brought before the Court shall be decided in accordance with Section 15, Article VIII of the 1987 Constitution. Decisions of the Court shall be in writing, stating clearly and distinctly the facts and the law on which they are based, and signed by the Justices concurring therein. The Court shall provide for the publication of its decision in the Official Gazette in such form and manner as may best be adopted for public information and use.

The Justices of the Court shall each certify on their applications for leave, and upon salary vouchers presented by them for payment, or upon the payrolls under which their salaries are paid, that all proceedings, petitions and motions which have been submitted to the Court for determination or decision for a period required by the law or the Constitution, as the case may be, have been determined or decided by the Court on or before the date of making the certificate, and no leave shall be granted and no salary shall be paid without such certificate.

Section 19. *Publicity of proceedings* – All decisions of, and all evidence received by the Court and its divisions, including transcript of stenographic reports of the hearings, shall be public

records open to the inspection of the public, except that after the decision of the Court in any proceedings has become final the Court may, upon motion of the private party or the Government permit the withdrawal, by the part entitled thereto of originals of books, documents and records, and or models, diagrams, and other exhibits, introduced in evidence before the Court or any division; or the Court may, on its own motion, make such other disposition thereof as it deems advisable.

Section 20. *Damages* – Where an appeal is found to be frivolous, or that proceedings have been instituted merely for delay, the Court may assess damage against the appellants, which shall be collected in the same manner as fines or other penalties authorized by law.

Section 21. *Violation of Penal or Administrative Law* – When, in the performance of its functions, it should appear to the Court that a crime or other violation of law has been committed, or, that there are reasonable grounds to believe that any official, employee or private person is guilty of any crime, offense or other violation, the Court shall refer the matter to the proper department, bureau or office for investigation or the institution of such criminal or administrative action as the facts and circumstances of the case may warrant.

Section 22. *Appeal to the Court of Maritime Appeals En Banc* – A party adversely affected by a resolution of a Division of the CMA on a motion for reconsideration or new trial, may file a petition for review with the CMA en banc.

Section 23. *Review by Certiorari* – A party adversely affected by a decision or ruling of the CMA en banc may file with the Supreme Court a verified petition for review on certiorari pursuant to Rule 45 of the 1997 Rules of Civil Procedure.

Section 24. *Distrain of Personal Property and/or Levy on Real Property* – Upon the issuance of any ruling, order or decision by the CMA favorable to the national government, the CMA shall issue an order authorizing the appropriate government agency, through its head to seize and distrain any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property and/or levy the real property of such persons in sufficient quantity to satisfy the fee or charge together with any increment thereto incident to delinquency. This remedy shall not be exclusive and shall not preclude the Court from availing of other means under the Rules of Court.

Section 25. *Appropriations* – The sum of Two Hundred Million Pesos (200,000,000.00) is hereby appropriated from any fund in the National Treasury not otherwise appropriated for the establishment of the Court of Maritime Appeals for the current fiscal year. Thereafter, the funds necessary for the operation of the Court of Maritime Appeals shall be included in the annual General Appropriations Act.

Section 26. *Pending Cases to be Remanded to Court* – The provisions of this Act shall be immediately carried out and all cases falling within the exclusive and appellate jurisdiction of the Court of Maritime Appeals shall, together with all pertinent records, be transferred by the Regional Trial Courts and by the Court of Appeals to the Court of Maritime Appeals.

Section 27. *Separability Clause* – If for any reason, any section, subsection, clause or term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

Section 28. *Repealing Clause* – All existing laws, orders, decrees, letters of instruction, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby amended, modified, or repealed accordingly.

Section 29. *Effectivity Clause* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,