

Labor Acts included below:

- **Labor (Collective Bargaining) Relations Act 2022**
- **Labor (Minimum Conditions) Inquiry Act 1983**
- **Labor (Non-Resident Workers) Act 2018**
- **Marshall Islands Employment Equal Opportunity Act 2017**
- **Minimum Wage Act 1986**
- **Non-Resident Worker's Health Certificate Act**
- **Non-Resident Workers (Fee) Act 1987**
- **Workers Compensation Act 2019**

TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 8 - LABOR (COLLECTIVE BARGAINING) RELATIONS ACT 2022



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (COLLECTIVE BARGAINING) RELATIONS ACT
2022.

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TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 8 - LABOR (COLLECTIVE BARGAINING) RELATIONS ACT 2022



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (COLLECTIVE BARGAINING) RELATIONS ACT
2022.

AN ACT to provide a legal framework for employees in the Republic of the Marshall Islands to engage in collective bargaining and to enter into collective bargaining agreements with their employers; to govern the employer-employee relationship; and for related purposes.

Commencement:

November 25, 2022

Source:

P.L. 2022-49

§801. Short title.

This Act may be cited as the Labor (Collective Bargaining) Relations Act 2022.

§802. Definitions of this Act:

- (1) **“Person”** includes individuals, partnerships, associations, and corporations;
- (2) **“Employer”** includes all persons employing others and all persons acting in the interest of an employer, including the national or local government, or any political or governmental subdivision thereof, nor any statutory authority or state-owned enterprise or any private corporations or entities;
- (3) **“Employee”** includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section on the part of the employer or

because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individuals employed by a parent or spouse or in domestic service of any person at the person's own home;

- (4) **"Representative of employees"** means any organization or one or more individuals selected by a group of employees for the purpose of collective bargaining;
- (5) **"Labor organization"** means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment;
- (6) **"Labor dispute"** includes any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants;
- (7) **"Strike"** means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute;
- (8) **"Lockout"** is the refusal of the employer to furnish work to employees as a result of a labor dispute;
- (9) **"Commission"** means the commission established under section 3 of this Chapter;
- (10) **"Unfair labor practice"** means an unfair labor practice defined in section 812 and 813;
- (11) **"Competent evidence"** means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable persons as worthy or belief;
- (12) **"Professional strike-breaker"** means any person who makes an offer to an employer at whose place of business a labor dispute is presently in progress to work as a replacement for an employee or employees involved in such labor dispute;

§803. Establishment of Commission.

There is established a commissioner who shall be the Attorney General appoint pursuant to the Attorney General Act.

§804. Mediation Services.

- (1) There is established a Mediation Services Commissioner under the supervision and control of a commissioner.
- (2) The commissioner may, from time to time, appoint special mediators (Mediation Services Commission) to aid in the settlement of particular labor disputes or controversies who shall have the same power and authority as the commissioner with respect to such dispute and such appointment shall be for the duration only of the particular dispute. Such special mediators shall be paid a per diem allowance as determined by the commissioner, while so engaged and their necessary expenses.

§805. Powers of commission.

- (1) The commissioner appointed pursuant to section 803 and 804 (2) shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chair administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place at any designated place of hearing, but whenever practical hearings shall be held in the island where the labor dispute has arisen or exists.
- (2) In case of contumacy or refusal to obey a subpoena issued under paragraph (1), shall be punishable by the court as contempt thereof.
- (3) Any party to or party affected by the dispute may appear before the commission in person or by attorney or by their representative, and shall have the right to offer competent evidence and to be heard.

§806. Joint Labor Organization, Right to Collective Bargaining.

- (1) Employees' right of self organization. Employees shall have the right to self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their

own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employees shall have the right to refrain from any and all such activities.

- (2) Employers association. Employers have the right to associate together for the purpose of collective bargaining.

§807. Collective Bargaining Agreement.

- (1) Notice. When any employee or employees, or representative of employees, or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, which notice shall follow the employer if the place of employment is changed, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavour in good faith to reach an agreement respecting such demand. An employer shall give a like notice to employee, representative, or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten days after service of such notice, any employees, representative, labor organization, or employer may at any time thereafter petition the commissioner for mediation services to take jurisdiction of the dispute and it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer to institute a lockout, unless such petition has been served by the party taking such action upon the commissioner and the other parties to the labor dispute at least ten days before the strike or lockout become effective. Unless the strike or lockout is commenced within 90 days from the date of service of the petition upon the commissioner, it shall be unlawful for any of the parties of institute or aid in the conduct of a strike or lockout without serving a new petition in the manner prescribed for the service of the original petition, provided that the 90-day period may be extended by written agreement of the parties filed with the commissioner.

A petition by the employer shall be signed by the employer or a duly authorized officer or agent; and a petition by the employees shall be signed by their representative or its officers, or by the committee

selected to negotiate with the employer. In either case the petition shall be served by delivering it to the commissioner in person or by sending it by certified mail addressed to the commissioner at the commissioner's office. The petition shall state briefly the nature of the dispute and the demands of the party who serves it. Upon receipt of a petition, the commissioner shall fix a time and place for a conference with the parties to the labor dispute upon the issues involved in the dispute, and shall then take whatever steps the commissioner deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the commissioner for joint or several conferences with the commissioner and to continue in such conference until excused by the commissioner, not beyond the ten-day period heretofore prescribed except by mutual consent of the parties.

- (2) Commissioner, powers and duties. The commissioner may at the request of either party to a labor dispute render assistance in settling the dispute without the necessity of filing the formal petition.

§808. Representative for Collective Bargaining.

- (1) To be exclusive. Representative designated or selected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment, provided, that any individual employee or group of employees shall have the right at any time to present grievances to their employer in person through representatives of their own choosing.
- (2) Certification of group representative by commissioner. When a question concerning the representative of employees is raised by an employee, group of employees, labor organization, or employer the commissioner of mediation services of any person designated by the commissioner shall, at the request of any of the parties, investigate such controversy and certify to the parties in writing, the name or names of the representatives that have been designated or selected. The commissioner shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to

collective bargaining and otherwise to effectuate the purpose of this chapter, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit; provided, that any larger unit may be decided upon with the consent of all employees involved, and provided that when a craft exists, composed of one or more employees then such craft shall constitute a unit appropriate for the purpose of collective bargaining for such employee or employees belonging to such craft and a majority of such employees of such craft may designate a representative for such unit. Two or more units may, by voluntary consent, bargain through the same agent or agents with an employer or employers, their agent or agents. Supervisory employees shall not be considered in the selection of a bargaining agent. In any such investigation, the commissioner may provide for an appropriate hearing, and may take a secret ballot of employees or utilize any other suitable method to ascertain such representatives, but the commissioner shall not certify any labor organization which is dominated, controlled, or maintained by an employer. If the commissioner has certified the representatives as herein provided, the commissioner shall not be required to again consider the matter for a period of one year unless it appears to the commissioner that sufficient reason exists.

- (3) Witnesses; power of commissioner. In the investigation of any controversy concerning the representative of employees for collective bargaining, the commissioner of mediation services shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates directly to any matter involved in any such hearing, and the commissioner or representative may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place at any designated place of hearing, but hearings shall be held in the High Court.
- (4) Contempt of court. In case of contumacy or refusal to obey a subpoena issued under this section, the court where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides shall have jurisdiction to issue to such person an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey

such order of the court may be punished by the court as a contempt thereof.

§809. Protection of Collective Bargaining Agreements.

- (1) Agreement protected from intervention. No employer holding a valid collective bargaining agreement with any labor organization recognized or certified by the commissioner of mediation services as the accredited bargaining representative for the employees or any group of employees of such employer shall be required to enter into negotiations with any other labor organization respecting the employees covered by the existing union agreement, so long as the existing agreement remains in full force and effect in accordance with its terms except where a successor labor organization has been certified as the representative of the employees covered by such agreement by the commissioner of mediation services and recognized by the employer.
- (2) Prohibited against violation. The violation of the provisions of this section by any officer, business agent, employee or other representative of any labor organization is prohibited.

§810. Arbitration.

When a labor dispute arises which is not settled by mediation such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including among other methods the arbitration procedure under the terms of the Marshall Islands Arbitration Act or other agreed to procedure. If such agreement so provides, the commissioner of mediation services may act as a member of any arbitration tribunal created by any such agreement and, if the agreement so provides, the commissioner may appoint one or more of such arbitrators. Either or both of the parties to any such agreement or any arbitration tribunal created under any such agreement may apply to the commissioner to have the tribunal designated as a temporary arbitration tribunal and, if so designated, the temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as subpoenas issued by the commission under section 805. Any

such temporary arbitration tribunal shall file with the commissioner a copy of its report, duly certified by its chair.

§811. Roster of arbitrators.

The commissioner shall maintain a roster of persons suited and qualified by training and experience to act as arbitrators of labor disputes and shall provide parties to a labor dispute with the names of persons on the roster upon written request. The commissioner shall adopt rules governing appointments to, removals from, and administration of this roster.

§812. Unfair Labor Practices: Employee.

It shall be an unfair labor practice:

- (1) for any employee or labor organization to institute a strike if such strike is a violation of any valid collective agreement between any employer and its employees or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement;
- (2) for any employee or labor organization to institute a strike if the calling of such strike is in violation of sections 807 or 817;
- (3) for any person to seize or occupy property unlawfully during the existence of a labor dispute;
- (4) for any person to picket or cause to be picketed a place of employment of which place the person is not an employee while a strike is in progress affecting the place of employment, unless the majority of persons engaged in picketing the place of employment at these times are employees of the place of employment;
- (5) for more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time;
- (6) for any person to interfere in any manner with the operation of a vehicle or the operator thereof when neither the owner nor operator of the vehicle is at the time a party to a strike;
- (7) for any employee, labor organization, or officer, agent, or member thereof, to compel or attempt to compel any person to join or to

- refrain from joining any labor organization or any strike against the person's will by any threatened or actual unlawful interference with the person, or immediate family member, or physical property, or to assault or unlawfully threaten any such person while in pursuit of lawful employment;
- (8) unless the strike has been approved by a majority vote of the voting employees in a collective bargaining unit of the employees of an employer or association of employers against whom such strike is primarily directed, for any person or labor organization to cooperate in engaging in, promoting or inducing a strike. Such vote shall be taken by secret ballot at an election called by the collective bargaining agent for the unit, and reasonable notice shall be given to all employees in the collective bargaining unit of the time and place of election; or
 - (9) for any person or labor organization to hinder or prevent by intimidation, force, coercion or sabotage, or by threats thereof, or to combine or conspire to cause or threaten to cause injury to any processor, producer or marketing organization, w by withholding labor. The violation of subsections (2), (3), (4), (5), (6), (7), (8) and (9) are hereby declared to be unlawful acts.

§813. Unfair Labor Practices: Employer.

It is an unfair labor practice for an employer:

- (1) to institute a lockout of its employees in violation of a valid collective bargaining agreement between the employer and its employees or labor organization if the employees at the time are in good faith complying with the provisions of the agreement, or to violate the terms and conditions of the bargaining agreement;
- (2) to institute a lockout of its employees in violation of section 807 or 817;
- (3) to encourage or discourage membership in a labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, that this clause does not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and its employees or a labor organization representing the employees as a bargaining agent, as provided by section 808.

- (4) to discharge or otherwise to discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given information or testimony under this chapter;
- (5) to spy directly or through agents or any other persons upon activities of employees or their representatives in the exercise of their legal rights;
- (6) to distribute or circulate a blacklist of individuals exercising a legal right or of members of a labor organization for the purpose of preventing individuals who are blacklisted from obtaining or retaining employment;
- (7) to engage or contract for the services of a person who is an employee of another if the employee is paid a wage that is less than the wage to be paid by the engaging or contracting employer under an existing union contract for work of the same grade or classification;
- (8) wilfully and knowingly to utilize a professional strike-breaker to replace an employee or employees involved in a strike or lockout at a place of business located within the Republic; or The violation of subsections (2), (4), (5), (6), (7), or (8) is an unlawful act.

§814. Labor-management committees.

The commissioner may provide technical support and assistance to voluntary joint labor-management committees established for the purpose of improving relationships between unions and employers at area, industry, or work-site levels.

§815. Receipt of gifts, money; appropriation.

- (1) The commissioner may apply for, accept, and disburse gifts, bequests, grants, or payments for services from the Government, international organizations, other nations, private foundations, or any other source.
- (2) Money received by the commissioner under this subdivision must be deposited in a separate account for workforce skills and the amount deposited, including investment earnings, shall also be appropriated to the commissioner to carry out duties of the commissioner.
- (3) The commissioner must post and maintain list of the sources of funds and amounts received under this subdivision.

§816. Political activities forbidden.

Any mediator, under the provisions of this Act who exerts personal influence, directly or indirectly, to induce any other person to adopt the mediator's political views, or to favor any particular candidate for office, or to contribute funds for political purposes shall forthwith be removed from office or position by the appointing authority; provided, that before removal the commissioner of mediation services shall be entitled to a hearing before the commissioner, and any other employee shall be entitled to a similar hearing before the commissioner of mediation services.

§817. Labor dispute affecting Public Interests; Procedure.

If the dispute is in any industry, business, or institution affected with a public interest, which includes, but is not restricted to, any industry, business, or institution engaged in supplying the necessities of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health, or well-being of a substantial number of people of any community, the provisions of section 807 shall apply. The commissioner may appoint a fact finding commission composed of three members to conduct a hearing and make a report on the issues involved and the merits of the respective contentions of the parties to the dispute. If the commissioner decides to appoint a commission, the commissioner shall immediately notify the parties to the labor dispute. The members of such commission shall on account of vocations, employment, or affiliations be representatives of employees, employers, and the public, respectively. If and when the commissioner notifies the parties of the decision to appoint a commission, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until 30 days after the commissioner's notification to the parties. If the commissioner fails to appoint a commission within five days after notification to the parties, this limitation on the parties shall be suspended and inoperative. If the commissioner thereafter appoints a commission, no strike or lockout having been instituted in the meantime, the limitation shall again become operative, but in no case for more than the original 30-day period. The 30-day period may be extended by stipulation of the parties to the labor dispute, which shall be filed with the commissioner. The commission shall meet within five days of its appointment by the commissioner and conduct the hearings which are necessary to render its report on the issues involved and merits of the contentions of the parties.

The report of the commission shall be filed with the commissioner not less than five days prior to the end of the 30-day period set forth above or any extension thereof. The commissioner shall provide copies of the report to the parties to the dispute and may make the report public the issues before the report of the commission is made.

§818. Jurisdictional controversies.

Whenever two or more labor organizations adversely claim for themselves or their members jurisdiction over certain classifications of work to be done for any employer or in any industry, or over the persons engaged in or performing such work and such jurisdictional interference or dispute is made the ground for picketing an employer or declaring a strike or boycott against the employer, the commissioner may appoint a labor referee to hear and determine the jurisdictional controversy. If the labor organizations involved in the controversy have an agreement between themselves defining their respective jurisdictions, or if they are affiliated with the same labor federation or organization which has by the charters granted to the contending organizations limited their jurisdiction, the labor referee shall determine the controversy in accordance with the proper construction of the agreement or of the provisions of the charters of the contending organizations. If there is no agreement or charter which governs the controversy, the labor referee shall make such decision as, in consideration of past history of the organization, harmonious operation of the industry, and most effective representation for collective bargaining, will best promote industrial peace. If the labor organizations involved in the controversy so desire, they may submit the controversy to a tribunal of the federation or labor organization which has granted their charters or to arbitration before a tribunal selected by themselves, provided the controversy is so submitted prior to the appointment of a labor referee to act in the controversy. After the appointment of the labor referee by the commissioner, or the submission of the controversy to another tribunal as herein provided, it shall be unlawful for any person or labor organization to call or conduct a strike or boycott against the employer or industry or to picket any place of business of the employer or in the industry on account of such jurisdictional controversy.

§819. Operation of Vehicle where Dispute is in Progress.

Any person who operates a motor vehicle which is entering or leaving a place of business or employment where there is a clear notice that a labor dispute is in progress, and who fails to bring the vehicle to a full stop at the entrance to or exit from that place, or who fails to exercise caution in entering or leaving that place, is guilty of a misdemeanor.

§820. Interferences which are Unlawful.

- (1) Unlawful acts. It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads or methods of transportation or conveyance or to wrongfully obstruct ingress to and egress from any place of business or employment.
- (2) Unfair labor practice. It is an unfair labor practice for any employee or labor organization to commit an unlawful act as defined in this Act.

§821. Injunctions; Temporary Restraining Orders.

When any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the High Court. In any suit to enjoin any of the unfair labor practices set forth in sections 812 and 813, the provisions of section 802 shall not apply. No court shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of sections 812 and 813 as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross examination, in support of the allegations made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court to the effect that the acts set forth in sections 812 and 813 have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained. No temporary restraining order may be issued under the provisions of this Act except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony nor unless the temporary restraining order is returnable within seven days from the time it is granted which shall be noted on the order of the court. It shall be the duty of the court to give the trial or hearing of any suits or proceedings arising under this section precedence over all other civil suits which are ready for trial. Failure of the trial court to decide a motion for a temporary injunction

within seven days from the date the hearing thereon is concluded shall dissolve any restraining order issued therein without further order of the court. Failure of the trial court to decide any suit brought under this section within 45 days from the date the trial was ended shall dissolve any restraining order or temporary injunction issued therein without further order of the court.

§822. Violators Not Entitled to Benefits of Certain Sections.

Any employer, employee, or labor organization who has violated any of the provisions of this Act with respect to any labor dispute shall not be entitled to any of the benefits of this Act respecting such labor disputes and such employer, employee, or labor organization shall not be entitled to maintain in any court an action for injunctive relief with respect to any matters growing out of that labor dispute, until good faith use is made of all means available under the laws of the Republic for the peaceable settlement of the dispute.

§823. Effective Date.

This Act shall take effect upon certification in accordance with Article IV, 14 Section 21 of the Constitution.

**TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 5 - LABOR (MINIMUM CONDITIONS) INQUIRY**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (MINIMUM CONDITIONS) INQUIRY ACT 1983

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TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 5 - LABOR (MINIMUM CONDITIONS) INQUIRY



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (MINIMUM CONDITIONS) INQUIRY ACT 1983

AN ACT to establish a Board of Inquiry into minimum conditions of employment and related matters, and for matters connected therewith.

Commencement:

October 17, 1983

Source:

P.L. 1983-30

§501. Short title.

This Chapter may be cited as the "Labor (Minimum Conditions) Inquiry Act 1983". [P.L. 1983-30, §1]

§502. Reserved.

§503. Establishment of the Board of Inquiry.

A Board of Inquiry (hereinafter "the Board") to inquire into minimum conditions of employment for workers in the Republic is hereby established. [P.L. 1983-30, §3.]

§504. Membership of the Board.

- (1) The Board shall be comprised of members appointed by the Cabinet, with the approval of the Nitijela signified by resolutions.
- (2) The membership shall include representatives of the Government of the Marshall Islands as an employer, of Government employees, of employers in the private sector and of employees in the private

sector, and there shall be equal representation of each of those categories.

- (3) The compensation (if any) of members of the Board is as determined by the Cabinet. [P.L. 1983-30, §4.]

§505. Consultant.

- (1) The Cabinet shall arrange for the appointment of at least one consultant to the Board, who shall be a person of wide experience with the economic, social and development needs of smaller developing countries.
- (2) Before making an appointment under Subsection(1) of this Section the Cabinet may seek the advice and assistance of the International Labor Organization and any other interested specialized agencies of the United Nations. [P.L. 1983-30, §5.]

§506. Terms of reference of the Board.

- (1) The precise terms of reference of the Board are such as are, consistent with Subsection (2) of this Section, determined by the Cabinet, with the approval of the Nitijela signified by resolution.
- (2) In particular, the Board:
 - (a) shall take into account both the cost of living and methods of alleviating it, and the capacity of the economy to pay;
 - (b) may recommend for a range of minimum wages;
 - (c) shall make recommendations concerning the number of working hours and payments of overtime;
 - (d) shall make recommendations with respect to dangerous work and the payment of penalty rates for such work;
 - (e) shall make recommendations concerning minimum ages for employment, taking into account not only age but the nature of the work concerned;
 - (f) shall recommend ways in which minimum conditions may be introduced and revised from time to time; and
 - (g) may make recommendations and suggestions related to, though not strictly within its terms of reference, as it thinks proper.

- (3) In dealing with its terms of reference, the Board shall take fully into account any International Labor Organization conventions that are, or should be, binding on the Republic. [P.L. 1983-30, §6.]

§507. Powers of the Board.

The provisions of the *Legislative Procedure Act 1968* shall apply to and in relation to the Board as if it were a committee of the Nitijela. [P. L. 1983-30, §7.]

§508. Procedures of the Board.

- (1) The Board shall appoint one of its members to be the Chairman.
- (2) The Board shall meet in public and hold public hearings, except that it may meet privately in executive session for the purpose of discussion and deliberation.
- (3) The Board shall keep minutes of its proceedings.
- (4) Subject to this Chapter, the Board shall determine its own procedure (including the quorum). [P.L. 1983-30, §8]

§509. Report of the Board.

- (1) Subject to Subsection (2) of this Section, at the conclusion of the inquiry the Board shall report its conclusions and recommendations, together with minutes of its meetings and any comments that it cares to make, to the Speaker, for presentation to the Nitijela, and to the Cabinet.
- (2) Any member of the Board may dissent from a report of the Board, or may make a minority report, and a minority report may be presented to the Speaker and to the Cabinet in the same way as the majority report. [P.L. 1983-30, §9]

TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 1 - LABOR (NON-RESIDENT WORKERS) ACT 2018



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (NON-RESIDENT WORKERS) ACT, 2018

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TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 1 - LABOR (NON-RESIDENT WORKERS) ACT 2018



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (NON-RESIDENT WORKERS) ACT, 2018

AN ACT to repeal the *Labor (Non-Resident Workers) Act 2006* and insert provisions for the transfer of the Division of Labor from the Ministry of Foreign Affairs & Trade to the Ministry of Justice, Immigration & Labor and matters related thereto.

Commencement:

March 15, 2018

Source:

P.L. 2018-68

§101. Short title and commencement.

This Chapter may be cited as the Labor (Non-Resident Workers) Act, 2017.

§102. Interpretation.

- (1) In this Chapter, unless the context unless requires:
- (a) “Administrative error” for the purposes of section 127, a work permit was granted as a result of an administrative error if it was granted:
 - (i) to a person who is exempt under this Chapter from the requirement to hold a work permit; or
 - (ii) to a person to whom section 111 of this Chapter applies; or
 - (iii) in contravention of any special direction, or any instruction of any kind referred to in section 105 of this Chapter; or
 - (iv) contrary to Government policy applicable at the time; or

- (v) for a period exceeding the period prescribed for permits of that type under this Chapter; or
 - (vi) the person granting it intended to grant a permit of some type other than the one that was granted.
- (b) “Approved port of entry” means a port of entry designated as an approved port of entry under section 104 of the *Immigration Act 2006*; and sections 202(1) and 203 of the Ports of Entry Act;
 - (c) “Arrival hall” means any place or vehicle at an approved port of entry, used for the processing of persons arriving in the Republic of the Marshall Islands;
 - (d) “Attorney General” means the Attorney General of the Republic of the Marshall Islands.
 - (e) “Bribe” means any money, valuable consideration, or any benefit, paid to or conferred on any Officer, whether directly or indirectly, in order to influence that person in any matter relating to this Chapter or regulations made under it;
 - (f) “Cabinet” means the Cabinet established under Article V, section 2(1) of the Constitution of the Republic of the Marshall Islands;
 - (g) “Certificate of Identity” means a document (other than a passport) issued by the Government of any country to any person for the purposes of facilitating that person’s entry into or exit from any country, being a document that purports to establish the identity but not necessarily the nationality of that person and which confers on that person the right to enter a country the Government of which has issued the document, and includes any other document in a form approved for the purpose by the Minister Attorney General;
 - (h) “Citizen of the Republic of the Marshall Islands” means a:
 - (i) citizen of the Republic at birth; or
 - (ii) an immigrant alien legally admitted to the Republic and is a naturalized citizen under the *Citizenship Act 1984*; or
 - (iii) a person that has acquired citizenship under Article XI of the Constitution of the Republic of the Marshall Islands; and the term “Marshallese citizen” has a corresponding meaning as (i):

- (i) "Constitution" means the Constitution of the Republic of the Marshall Islands;
- (j) "Craft" means any form of aircraft, ship or other vehicle or vessel capable of being used to transport any person to or from the Republic of the Marshall Islands, from or to any country outside the Republic of the Marshall Islands;
- (k) "dependent child" in relation to any person, means an unmarried child under 18 years of age who is dependent on that person, that person being a parent or legal guardian;
- (l) "Deportation order" means a Deportation Order made under the *Immigration Act 2006*, and for the purposes of serving or executing any such order, includes any electronically produced copy thereof;
- (m) "Employer" means any individual, partnership, association, or corporation employing non-resident workers in the Republic of the Marshall Islands, and includes any Ministry, branch or agency of the Government of the Republic of the Marshall Islands;
- (n) "Employment" means any activity undertaken for gain or reward; but does not include:
 - (i) representation on an official trade mission recognized by the Government of the Republic of the Marshall Islands;
 - (ii) employment as a sales representative in the Republic of the Marshall Islands of an overseas company for a period or periods not exceeding in the aggregate three months in any calendar year;
 - (iii) activity in the Republic of the Marshall Islands as an overseas buyer of goods or services of the Republic for a period or periods not exceeding in the aggregate three months in any calendar year;
 - (iv) official business in the service of the Government of any country, or of any inter-governmental or international organization that is for the time being entitled to any privileges and immunities under the *Diplomatic Privileges and Immunities Act 1988*, or under any

- international convention entered into by the Government;
- (v) business consultations or negotiations in the Republic of the Marshall Islands concerning the establishment, expansion or winding up of any business enterprise in the Republic or any matter relating thereto, for a period or periods not exceeding in the aggregate three months in any calendar year, by any person engaged in business overseas with any person engaged in business in the Republic or with the Government;
- (o) “Exemption” means an exemption under section 110(2) of this Chapter from the requirement to hold a work permit; and “exempt” has a corresponding meaning;
- (p) “Government” means the Government of the Republic of the Marshall Islands;
- (q) “Holder” in relation to a permit or visa referred to under this Chapter, means the person in respect of whom the permit or visa is granted for so long as the permit or visa is current;
- (r) “Immigration Division” means the Immigration Division established under the *Immigration Act 2006*;
- (s) “Labor Division” means the Division of Labor established under section 109 (1) of the Act;
- (t) “Labor Officer” means every officer of the Public Service of the Republic of the Marshall Islands designated by the Minister Attorney General as a Labor Officer under this Chapter;
- (u) “Leave the Republic of the Marshall Islands” means, except in the circumstances specified in subsection (3) of this section, leave the Republic of the Marshall Islands for a destination in another country;
- (v) “Minister” means the Minister of Justice, and includes, in relation to the exercise or performance of any power or function of the Minister, any person for the time being authorized in accordance with section 104(1) of this Chapter to exercise or perform that power or function;
- (w) “Notice to depart” means a Notice to Depart issued under the *Immigration Act 2006*;

- (x) “Non-resident worker” means any natural person who is or intends to undertake employment in the Republic and is not a citizen of the Republic;
- (y) “Official dependents” means spouses and dependents of United States contractor personnel or United States third country contractor personnel who are in the Republic of the Marshall Islands and are listed as dependents on official United States Government travel orders;
- (z) “Passport” means a document that is issued by or on behalf of the Government of any country, being a document that purports to establish the identity and nationality of the holder and recognizes the right of the holder to enter and reside in the country the Government of which has issued the document:
 - (aa) “Permit” means a work permit issued under this Chapter;
 - (bb) “Person” means any individual and includes any partnership, association or corporation employing non-resident workers;
 - (cc) “Police Officer” means a member of the Police Force established under section 503(2) of the *Public Safety Act 1988*;
 - (dd) “Public Service Commission” means the Public Service Commission established under the Constitution of the Republic of the Marshall Islands;
 - (ee) “Removal Order” means a removal order made under the Immigration Act, 2006, and for the purposes of serving or executing any such order, includes any electronically produced copy thereof;
 - (ff) “Republic of the Marshall Islands” or “the Republic” means any land territory within the territorial limits of the Republic of the Marshall Islands, and includes the internal waters and territorial sea of the Republic of the Marshall Islands;
 - (gg) “Resident worker” means any natural person who is or intends to undertake employment in the Republic and is also a citizen of the Republic;
 - (hh) “Special direction” means a direction given by the Minister Attorney General in accordance with section 105 of the Chapter and relating to any matter for which a special

direction is contemplated by any of the provisions of this Chapter or any of the regulations made under this Chapter;

- (ii) "Spouse" means one of a legally married couple;
 - (jj) "The Police Commissioner" means the Commissioner of Public Safety appointed under of the *Public Safety Act 1988*;
 - (kk) "United States contractor personnel" means a natural person who is a citizen, national or permanent resident alien of the United States and is working in the Republic as a contractor, officer or employee of the United States Government;
 - (ll) "United States third country contractor personnel" means a natural person who is not a citizen, national or permanent resident alien of the United States and is working in the Republic as a contractor, officer or employee of the United States Government;
 - (mm) "Work visa" means a visa issued under the *Immigration Act 2006*.
- (2) For the purposes of this Chapter, every period of time prescribed by any of the provisions of this Chapter for the making of an application shall be reckoned exclusive of any week day that is a public holiday or a Government holiday.
- (3) For the purposes of this Chapter, a person shall not have left the Republic if that person departed for another country on any craft and, before arriving in another country:
- (a) is forced to return to the Republic by reason of any emergency affecting the craft; or
 - (b) returns to the Republic because of any other emergency or circumstances beyond that person's control.

§103. Rights of citizens of the Republic of the Marshall Islands protected.

- (1) For the purposes of this Chapter, every citizen of the Republic has, by virtue of that citizenship, the right to be employed in the Republic at any time.
- (2) Nothing in this Chapter shall abrogate the right declared in subsection (1) and no provision of this Chapter that is inconsistent with that right shall apply to citizens of the Republic.

PART II – ADMINISTRATIVE ARRANGEMENTS

§104. Establishment of the Labor Division

- (1) There is hereby established, within the Ministry of Justice, a Division to be known as the Labor Division.
- (2) A Director, appointed under section 106 shall be the head of the Division.
- (3) The Division shall be comprised of:
 - (a) Labor officers, including a Deputy Director, appointed under section 105;
 - (b) persons designated under section 105; and
 - (c) administrative staff as required from time to time.
- (4) Officers of the Division shall be accountable to the Director. The Director shall be accountable to the Attorney General.
- (5) The Officers of the Division, the Director, and the Attorney General shall be accountable and report to the Minister on all Labor matters as may be required by the Minister.

§105. Appointment and Designation of Labor Officers

- (1) The Public Service Commission shall, in consultation with the Attorney General, appoint suitable persons to be Labor Officers under this Chapter.
- (2) The Minister, in consultation with the Attorney General, may also designate persons employed in the Public Service, including members of the Police, to have some or all powers conferred on Labor officers.
- (3) Any person appointed under subsection (1) or designated under subsection (2) as a Labor officer, shall be issued with a warrant signed by the Minister and such appointment or designation continues in force until it is revoked, notwithstanding that the Minister by whom it was made has ceased to hold office.
- (4) The warrant shall state the powers conferred on that officer. The Minister may, in writing, revoke a warrant of designation at any time.

- (5) The Minister may from time to time, by writing under the Minister's hand, delegate to the Attorney General or any Labor Officer, all or any of the powers conferred upon the Minister by this Chapter, except this power of delegation and the powers conferred by or referred to in any of the sections under this Chapter.
- (6) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.
- (7) Any such delegation may be made subject to such restrictions and conditions as the Minister thinks fit, and may be made either generally or in relation to any particular case.
- (8) Any such delegation shall, until revoked, continue in force notwithstanding the Chapter that the Minister by whom it was made has ceased to hold office, and shall continue to have effect as if made by the successor in office of the Minister.

§106. Appointment and Functions of the Director of Labor.

- (1) The Public Service Commission shall, appoint a suitably qualified person as the Director of the Labor Division.
- (2) The Director, under the supervision of the Attorney General, shall:
 - (a) consider and determine all applications for the issuance of work permits;
 - (b) act as the principal policy adviser to the Minister on Labor issues, including legislative and regulatory changes;
 - (c) ensure proper administration and management of the Division is carried out, including the collection and accountability for all fees, charges and bonds;
 - (d) enter into written agreements with employers concerning the employment of non-resident workers;
 - (e) identify and establish occupational shortage categories for the recruitment of non-resident workers;
 - (f) establish and maintain a database register of all non-resident workers for the collation of data and information required for the effective administration and enforcement of the Chapter and regulations;

- (g) ensure that officers of the Division carry out their duties and functions in good faith for the effective implementation of provisions of the Chapter and regulations.
- (3) The Director may, by written instrument, delegate to any Immigration and Labor officer, powers and functions assigned under this Chapter or regulations, subject to limitations, restrictions or conditions as the Director deems necessary. A delegation shall be revocable in writing, at will, and shall not prevent the exercise or performance of a power or function by the Director under this Chapter.
- (4) In the administration and financial management of the Division, the Director shall ensure that the Division complies with the requirements of the *Financial Management Act 1990*, *Procurement Code Act 1988* and other related regulations and policies of the Republic.

§107. Functions of the Labor Division.

- (1) All officers of the Division appointed under this Chapter shall be accountable to, and as appropriate, report directly to the Attorney General.
- (2) Without limiting the generality of powers vested in the Labor Division by this Chapter, the Division shall:
 - (a) make recommendations to the Director of Labor on the issuance of work permits;
 - (b) perform investigatory functions as necessary for the effective enforcement of the Chapter and regulations;
 - (c) oversee, monitor and review the recruitment of non-resident workers and make recommendations to the Attorney General as necessary;
 - (d) liaise with members of the Police, Immigration Division, Attorney General's Office, Ministry of Finance and other such Government agencies for the effective implementation and enforcement of the Chapter and regulations.
- (3) All Labor officers shall carry out routine inspections of premises to ensure persons are not in violation of their work permits;

- (4) All Labor officers shall, at all times, comply with instructions of the Director, Attorney General, Minister or any other person to whom the Minister has delegated authority under section 105.
- (5) All Labor officers including the Director of Labor shall be deputized.

PART III – REQUIREMENT TO HOLD A WORK PERMIT OR BE EXEMPT

§108. Requirement to a hold work permit

- (1) Any person who is not a citizen of the Republic is prohibited from undertaking employment in the Republic unless that person is:
 - (a) the holder of a work permit granted under this Chapter; or
 - (b) exempt under this Chapter from the requirement to hold a work permit.
- (2) The following persons are exempt from the requirement to hold a work permit:
 - (a) a person who is for the time being entitled to any immunity from jurisdiction by or under the *Diplomatic Privileges and Immunities Act 1988*;
 - (b) a person who is for the time being entitled to any immunity from jurisdiction by or under the *International Organization Immunities Act 1974*;
 - (c) a citizen of the United States;
 - (d) a citizen of the Republic Palau or the Federated States of Micronesia; provided that the Republic of Palau and the Federated States of Micronesia extend reciprocal treatment to citizens of the Republic of the Marshall Islands. Citizens of the Republic of Palau and the Federated States of Micronesia employed in the Republic prior to the effective date of this Act shall not be affected by this paragraph, but that the Director shall accord them the opportunity to apply for the necessary work permits and visas in accordance with this Act;
 - (e) United States contractor personnel and their official dependents;

- (f) a member of the crew of any commercial aircraft flying between any foreign place and the Republic, for a period of ten (10) days commencing with the day on which the aircraft first arrives in the Republic; or
- (g) a member of the crew of any ship fishing in the territorial waters of the Republic under a license from the Government;
- (h) any person employed by a Government Ministry, Department or other Government Statutory entity.
- (i) any person covered under any international agreement the Republic of the Marshall Islands is a State Member and for which an exemption to this Chapter is part thereof;

(2A) Notwithstanding the exceptions granted to persons in subsection (2), above, exempted persons are required to comply with registration requirements of the Labor Division in accordance with section 120 of this Chapter.

- (3) Notwithstanding any provisions under the *Foreign Investment Business License Act 1990*, any person who intends to work in the Republic must apply for and obtain a work permit.
- (4) A third country national employed by the United States Government under the Status of Forces Agreement or the Federal Programs and Services Agreement (pursuant to the Compact, as amended) must acquire a work permit in the manner set out in Schedule 1.

§109. Certain persons not eligible for exemption or work permit

- (1) No exemption shall apply, and no work permit shall be issued to any person who at any time (whether before or after the commencement of this Chapter):
 - (a) has been convicted of any offence; or
 - (b) against whom a removal or deportation order under this Chapter or the *Immigration Act 2006* is in force; or
 - (c) has been deported from the Republic or any other country; or
 - (d) who the Minister or the Attorney General has reason to believe:

- (i) has engaged in, or claimed responsibility for, an act of terrorism in the Republic or any other country; or
- (ii) is a member of or adheres to any organization that has engaged in, or has claimed responsibility for, an act of terrorism in the Republic or any other country; or
- (iii) is likely to engage in, or facilitate the commission of an offence under this Chapter or any other Act; or
- (iv) is a member of or adheres to any organization which has criminal objectives or which has engaged in criminal activities, and whose presence in the Republic would, in the opinion of the Minister or the Attorney General, constitute a threat to the public interest.

§110. Director of Labor to grant work permit.

- (1) No person is entitled as of right to a work permit, and any question whether or not to:
 - (a) grant; or
 - (b) impose any condition; or
 - (c) apply, vary or cancel any condition; or
 - (d) revoke, any work permit;is a matter for the decision of the Director, in accordance with the provisions of this Chapter.
- (2) The Director shall not grant a work permit to any person:
 - (a) under section 109; or
 - (b) within a period of three (3) years from the date at which a person has been repatriated, deported or removed from the Republic.
- (3) A person may, in writing, appeal a decision of the Director under subsections (1) and (2) to the Attorney General. Procedures relating to appeals shall be set out in regulations under the Chapter.

§111. Submission of applications.

- (1) All applications for work permits must be submitted to the Labor Division, accompanied by all supporting documents the Division requires and any other documents the Director may require.

- (2) An incomplete application shall not be considered by the Division.
- (3) Upon receipt of an application, the Director shall, at first instance, review the application and if incomplete, must return to the prospective employer for completion and re-submission.
- (4) Further payment of the application fee shall not be required, provided that the application is re-submitted within fourteen (14) days of the date on which it was returned to the applicant.
- (5) Upon receipt of a complete application, the Director shall, upon consideration of relevant criteria set out in this Chapter, determine whether or not to issue a work permit.
- (6) The Director shall, within twenty-one (21) days of the complete application being submitted, inform the employer in writing of the outcome of the application.
- (7) Every work permit shall be valid for a period not in excess of the applicant or applicant's principle's employment, consultancy or any other contractual obligation requiring residency in the Republic in excess of one (1) year, or, where applicable, for a period not in excess of the applicant or applicant's principle's foreign investment business license ("FIBL"), unless FIBL is otherwise revoked. Any extension or renewal of any type of work permit, except for a temporary work permit, shall be valid for only 1 year, following the expiration of the previous period granted.

PART IV – TYPES OF WORK PERMITS

§112. Types of work permits.

- (1) The following types of work permits may be issued under this Chapter:
 - (a) Foreign Investor;
 - (b) OSL Professionals;
 - (c) General;
 - (d) Family; and
 - (e) Temporary.

- (2) A work permit issued under this Chapter shall be in the prescribed form.
- (3) Except for work permits issued under section 117, and 121 all applications for work permits must be submitted by the employer while the non-resident worker is outside the Republic.
- (4) A work permit shall entitle the holder to work in the Republic during the period of validity of that permit.

§113. Foreign investor work permit.

- (1) Every foreign investor who intends to live in the Republic in order to implement their investment must obtain a work permit if investor:
 - (a) is self-employed; or
 - (b) seeks to employ skilled non-resident workers.
- (2) Work permits under this section will be granted on the basis that the proposed non- resident worker meets the following criteria:
 - (a) submission of a completed application form including a statutory declaration by the applicant;
 - (b) a valid Foreign Investment Business License in which the applicant is identified as the owner of the Foreign Investment Business License in the incorporation documents, or they are able to provide documentation from the owners of the enterprise proving they legally represent the foreign investor;
 - (c) a valid police and health clearance for the applicant from place of residency in the last five (5) years (proving that applicant has not been deported or removed from the country or any other country, has not been convicted of an offence punishable by the Courts for a term of imprisonment of twelve (12) months or more, and does not adhere to any organization or group that has engaged in, or claimed responsibility for, or is likely to engage in an act of terrorism in the country or any other country); and
 - (d) clearance from the Ministry of Finance, the Marshall Islands Social Security Administration, and the Local Government indicating the company is registered and an accompanying payment receipt of the application fees.

- (2) A bond will not be required as a precondition to the issuance of a work permit under this section.

§114. OSL Professional work permit.

- (1) Any employer intending to apply for a work permit in relation to a professional occupation listed on the Occupational Shortages list, may apply for a work permit under this section.
- (2) Work permits under this section will be granted on the basis that the proposed non-resident worker meets the following criteria:
 - (a) submission of a completed application form including a statutory declaration by the applicant and the non-resident worker;
 - (b) if the employer is a foreign investor, whether the foreign investment has been granted a Foreign Investment Business License;
 - (c) evidence that the proposed non-resident worker meets the requirements of the occupational category specified under the Occupational Shortages List;
 - (d) valid police and health clearance for the applicant from place of residency in the last 5 years (proving the applicant has not been deported or removed from the country or any other country, has not been convicted of an offence punishable by the Courts for a term of imprisonment of 12 months or more, and does not adhere to any organization or group that has engaged in, or claimed responsibility for or is likely to engage in an act of terrorism in the country or any other country); and
 - (e) proof that the application fee has been paid.
- (2) A bond will be required as a pre-condition to the issuance of a work permit under this section.

§115. General work permit.

- (1) Any employer intending to apply for a work permit for any other occupation not listed on the Occupational Shortages List may apply for a general work permit.
- (2) Each application will be assessed on a case-by-case basis using the following criteria:

- (a) submission of a completed application form including statutory declaration by the employer and the non-resident worker;
 - (b) if the employer is a foreign investor, documentation showing whether or not the foreign investment has been granted a Foreign Investment Business License;
 - (c) proof the position has been advertised in local media for three (3) consecutive weeks;
 - (d) proof that the search process was unable to yield a suitably qualified and available citizen worker;
 - (e) evidence that the proposed applicant meets the prescribed minimum level of education and experience;
 - (f) valid police and health clearance for the applicant from place of residence within the last five (5) years; and
 - (g) proof that the application fee has been paid.
- (5) The purpose of work permits issued under this section to fill positions where citizens of the Republic are either not available or cannot be readily trained.
- (6) A bond shall be required as a pre-condition to the issuance of a work permit under this section.

§116. Temporary purpose work permit.

- (1) Any employer intending to hire a non-resident worker for a period of up to six (6) months in any calendar year to:
 - (a) address emergencies if and when they arise;
 - (b) train local staff; or
 - (c) carry out short-term technical work for which suitably skilled labor is not readily available, may apply for a work permit under this section. Any extension for another six (6) months after expiration shall be allowed only once with the extension fee. Any further extension of a temporary permit is not allowed and the applicant must apply for a general work permit.
- (2) Applications will be assessed using the following criteria:

- (a) if the employer is a foreign investor, documentation showing whether or not the foreign investment has been granted a Foreign Investment Business License;
 - (b) a letter stating the reason the worker is required and the length of time they will be in the country;
 - (c) a copy of the employment contract between the employer and non-resident worker; and
 - (d) proof that application fee has been paid.
- (3) Upon approval of the application, the Labor Division will issue a Letter of Authorization to the employer.
 - (4) Upon arrival in the Republic, the non-resident worker must present a valid return air ticket and a copy of a valid Letter of Authorization to enter the Republic, issued by the Director of Immigration, to Immigration officials at the point of entry.
 - (5) A bond will not be required as a pre-condition to the issuance of a work permit under this section.

§117. Family work permit.

- (1) Any person who is legally married to a citizen of the Republic of the Marshall Islands and is lawfully in the Republic under the *Immigration Act 2006*, or as may be amended from time to time, may apply for a work permit under this section.
- (2) Applications will be assessed using the following criteria:
 - (a) submission of a completed application form including a statutory declaration by the employer and the spouse who is a Marshallese citizen;
 - (b) if the employer is a foreign investor, documentation showing whether or not the foreign investment has been granted a Foreign Investor Business License;
 - (c) a certified copy of a marriage certificate indicating the applicant has been married to the Marshallese citizen for at least one year;
 - (d) if applicable, a valid residence or entry permit for the applicant issued by the Immigration Division;
 - (e) proof that the application fee has been paid.

- (3) A bond will not be required as a pre-condition to the issuance of a work permit under this section.

PART V - APPLICATION FOR A WORK PERMIT AND WORK VISA

§118. Application for a work permit.

- (1) An application for a work permit must be made in the manner prescribed under this Chapter and its regulations.
- (2) Except under those circumstances referred to in section 123, the Director shall not issue a work permit to a person who is already in the Republic.

§119. Application for a work visa.

- (1) Upon approval of an application for a work permit, the Director of the Labor Division shall make a request to the Immigration Division for the issuance of a work visa.
- (2) The manner in which a work visa is issued shall be in accordance with the *Immigration Act 2006* and regulations made under the Chapter.
- (3) Enforcement of a work visa will be in accordance with the provisions of the *Immigration Act 2006* and regulations made under the Chapter.

PART VI – GENERAL MATTERS RELATING TO APPLICATIONS

§120. Obligation to Register and provide all relevant facts, including changed circumstances.

- (1) Every employer, non-resident worker or agent must register with the Labor Division in the following manner:
 - (a) an employer of a non-resident worker must register with the Labor Division with the information set out below:
 - (i) name of entity as an employer;
 - (ii) employment identification number (“EIN”);
 - (ii) names of non-resident workers and information details, to include, point of hire, occupation, physical address

- and any other details as may be required by the Division of Labor;
- (b) every non-resident worker, irrespective of any exemptions under this Chapter, must register with the Labor Division with the information set out below:
 - (i) name, and name of principle, if applicable;
 - (ii) name of employer, address and physical location of place of employment, and if applicable, name of principle's employer, address and physical location of place of employment;
 - (iii) name(s) of dependent, if any, and age;
 - (iv) occupation and duration of current employment;
 - (v) previous occupation and employer(s) in the last 5 years;
 - (vi) any other details as may be required by the Division of Labor.
 - (2) Every employer, non-resident worker or agent, must inform the Director of Labor of any relevant fact, including any material change in circumstance that occurs after an application is made.
 - (3) The Director shall decline an application or revoke a work permit if satisfied that a person has, whether personally or through an agent:
 - (a) submitted false or misleading information; or
 - (b) withheld relevant information that was potentially prejudicial to the application or issuance of the permit; or
 - (c) failed to report a material change in circumstance between the time of making the application and the time of issuing the permit.
 - (4) The Director shall ensure all data is maintained and retained in the Division register database, including all records of any change in circumstance as reported under subsection (2) of this Section.

§121. Issuance of work permit to a personal ready in the Republic under exceptional circumstances.

- (1) The Director may, under exceptional circumstances, grant a work permit to a person who is already in the Republic, provided that the person is:

- (a) not in the Republic unlawfully; and
 - (b) not the subject of a removal or deportation order; and
 - (c) not in breach of any visa or permit issued under the *Immigration Act 2006*; and
 - (d) not convicted of any criminal offence; and
 - (e) there is sufficient justification for the application not being submitted prior to the person's arrival in the Republic.
- (2) Where any person applies for a work permit under subsection (1), the Director:
- (a) is not under any obligation to consider the application; and
 - (b) is not obliged to give reasons for any decision relating to the application.

§122. Extension of a work permit.

- (1) An employer may, in the manner prescribed by regulations, apply for an extension of a non-resident worker's permit.
- (2) Criteria for the extension of a permit shall be the same as the initial application process and the applicable fees shall be prescribed by regulations.
- (3) An application for extension of a work permit must be submitted to the Director no later than thirty (30) days prior to the expiration of current permit.

§123. Transfer of employment.

- (1) An employer may, in the manner prescribed by regulations, apply to transfer a non-resident worker to another employer in the Republic.
- (2) An application for a transfer must only be in respect of a person who holds a valid work permit.
- (3) A transfer shall be valid upon written authorization from the Director that the application to transfer has been approved.
- (4) Any transfer that takes place without the written authorization of the Director may result in the forfeiture of the employer's bond to the Government and revocation of the non-resident worker's permit.

- (5) Where a bond has been forfeited under subsection (4), it shall be used for the removal or deportation of the non-resident worker from the Republic.

§124. Requirement to exit every two years and repatriation the completion of the employment contract.

- (1) An employer must ensure that every non-resident worker in his or her employment is repatriated to the point of hire at the end of the two years from the date of hire, or upon earlier termination or resignation of the non-resident worker.
- (2) Failure to comply with the requirement to repatriate or exit may result in the forfeiture of the employer's bond to the Government, and the use of such bond to comply with the requirement under subsection (1).
- (3) Notwithstanding the exemption provided under section 10(2) to Government Ministries and Departments, Heads of Government Ministries and Departments shall, in consultation with the Public Service Commission, ensure that non-resident workers are repatriated to the point of hire at the end of their contracts or upon termination.
- (4) Where a non-resident worker transfer from one employer to another, the two year period for purposes of repatriation shall commence on the date the transfer is approved, unless the employment of the non-resident worker is earlier terminated.

PART VII - REVOCATION OF WORK PERMITS

§125. Revocation of a work permit as a result of an administrative error.

- (1) Where the Director grants a work permit to any person as a result of an administrative error, the work permit (and any consequent work visa) may be revoked at any time and shall take effect immediately.
- (2) Revocation of a work permit under this section may be written or oral.

§126. Revocation of a work permit in general.

- (1) The Director may, in writing, revoke any work permit issued under this Chapter, by service of a Notice of Revocation on the employer of the non-resident worker.
- (2) A Notice of Revocation shall:
 - (a) state the reason for the revocation of the work permit; and
 - (b) notify the employer that the revocation is effective immediately; and
 - (c) specify the date by which the non-resident worker must leave the Republic.

PART VIII – QUOTA FOR THE RECRUITMENT OF NON-RESIDENT WORKERS**§127. Quota for the recruitment of non-resident workers.**

- (1) Notwithstanding any other enactment to the contrary, all employers must, unless exempted by order of the Cabinet maintain at the commencement of the first year of operations and each subsequent year, a workforce of which at least fifty (50%) is comprised of Marshallese citizens.
- (2) All employers must give first preference to the employment of Marshallese citizens in the Republic.
- (3) Non-resident workers may only be recruited to supplement the local labor force of available and qualified workers as required from time to time and for positions in which there is a lack of suitably qualified resident workers.

PART IX – DEPORTATION OF PERSONS UNLAWFULLY IN THE REPUBLIC OF THE MARSHALL ISLANDS**§128. Initiation of deportation proceedings.**

- (1) The Director of Labor shall, in writing, request that the Director of Immigration initiate deportation proceedings according to the

Immigration Act 2006 in respect of a non-resident worker after being presented with evidence that:

- (a) a non-resident worker has been convicted of an offence under the Chapter or any other enactment; or
 - (b) the employer has been convicted of an offence under the Chapter in respect of the employment of that non-resident worker; or
 - (c) the employer or non-resident worker have breached a provision under the Chapter or regulations, the penalty for which is the deportation of the non-resident worker.
- (2) Any matter related to the deportation of a non-resident worker shall be in accordance with the *Immigration Act 2006*.
 - (3) Nothing in this Part is to be construed as preventing voluntary departure of the non-resident worker from the Republic at any time before a deportation order is made and served.

§129. Work Permit cancelled where Deportation Order issued.

Where a Deportation Order is issued against the holder of any work permit, the work permit shall automatically be void.

PART X – OFFENCES AND PENALTIES

§130. Employment of a non-resident worker without a work permit.

- (1) Any employer who employs a person knowing that he or she does not have a work permit is guilty of an offence and is liable to imprisonment for a term not exceeding five years, a fine not exceeding \$10,000 or both.
- (2) An information alleging an offence against subsection (1) may specify any day on which it is alleged the person was in the employment of the employer, and it shall not be necessary to state the date on which that employment is alleged to have commenced.

§131. Working without a work permit.

Any person who works without a work permit, or continues to work knowing that his or her work permit is expired or cancelled, is guilty of an

offence and is liable to imprisonment for a term not exceeding three years, a fine not exceeding \$5,000 or both.

§132. Knowingly making a false statement.

Every person whom makes any statement or provides any information, written or otherwise, knowing that it is false or misleading in any material respect, is guilty of an offence and is liable to imprisonment for a term not exceeding three years, a fine not exceeding \$5,000 or both.

§133. Knowingly providing a forged, false or misleading document.

Any person who produces, supplies or surrenders any document knowing that it is forged, false or misleading in any material respect is guilty of an offence and is liable to imprisonment for a term not exceeding five years, a fine not exceeding \$7,000 or both.

§134. Obstructing a Labor Officer in the execution of his duties.

Any person who threatens, assaults, or intentionally obstructs or hinders a Labor Officer or any other designated officer in the exercise or performance of a function, power or duty under this Chapter is guilty of an offence and is liable to imprisonment for a term not exceeding three years, a fine not exceeding \$5,000, or both.

§135. Failure to surrender any document or supply information.

Any person who without reasonable excuse, fails to produce or surrender any document or refuses to supply any information when required to do so by a Labor Officer or any other designated officer, is guilty of an offence and is liable to imprisonment for a term not exceeding two years, a fine not exceeding \$3,000 or both.

§136. Offence to offer bribe.

Any person who corruptly offers, gives or agrees to give any bribe to any person while executing a function under this Chapter, with the intent to influence that person in respect of any act or omission by that person in his or her official capacity, is guilty of an offence and is liable to imprisonment for a term not exceeding five years, a fine not exceeding \$10,000 or both.

§137. Offence to accept bribe.

Any person who corruptly obtains, attempts to obtain, accepts or agrees to accept, any bribe for himself or any other person, in respect of any act done or omitted by him in his official capacity, is guilty of an offence and is liable to imprisonment for a term not exceeding five years, a fine not exceeding \$10,000 or both.

§138. Aiding and abetting.

Any person who for a material benefit, aids, abets, incites, counsels, or procures any other person to be employed in the Republic without a work permit, or to breach any condition of a permit granted to the other person, or to obtain a work permit fraudulently, is guilty of an offence and is liable to imprisonment for a term not exceeding three years, a fine not exceeding \$5,000 or both.

§139. General penalties.

- (1) Every person who is convicted of an offence against this Chapter for which no penalty is provided other than in this subsection, shall be liable to imprisonment for a term not exceeding three years, a fine not exceeding \$5,000, or both.
- (2) Every employer who is convicted of an offence under this Chapter shall, in addition to any penalty imposed, be disqualified from recruiting non-resident workers in the next calendar year.

§140. Deportation following conviction.

- (1) Every non-resident worker who is convicted of an offence under this Chapters hall
(in addition to any penalty imposed) be deported from the Republic in accordance with deportation proceedings under the *Immigration Act 2006*.
- (2) Where a non-resident worker is to be deported from the Republic, a Judge may order that the non-resident worker or the employer pay the whole amount or any portion of the costs incurred or likely to be incurred in deporting that person from the Republic.

§141. Proceedings relating to offences.

- (1) All offences under this Chapter shall be triable by the High Court.
- (2) A prosecution for an offence against this Chapter or regulations shall be upon the information of the Attorney General or some other person authorized for that purpose.
- (3) In any proceedings relating to any matter under this Chapter, a certificate signed by the Director of Labor and containing a statement in relation to any person to the effect that:
 - (a) the person holds or does not hold a work permit; or
 - (b) any work permit granted to the person was granted for a specified period or purpose; or
 - (c) the person is or was at any material time, exempt from the requirement to hold a permit; or
 - (d) the person, or any work permit or other document was or was not the subject of a special direction given under the Chapter; or
 - (e) for the purpose of obtaining a work permit, the person made any statement or supplied any information that was false or misleading in any material respect, or produced or surrendered to the Director of Labor or a Labor Officer any passport, certificate of identity or other document that was forged or obtained fraudulently; or
 - (g) the person has, or has not, left the Republic at any particular time or during any particular period, shall, in the absence of proof to the contrary, be deemed to be proof of the truth of the content of the certificate.
- (4) In any legal proceedings relating to any matter under this Chapter:
 - (a) a document purporting to be a special direction given under this Chapters hall be conclusive evidence of the fact that such a special direction was given;
 - (b) a document purporting to be a Deportation Order issued under the *Immigration Act 2006*, shall be conclusive evidence of the fact that such a Deportation Order was made in respect of the person named and on the date specified in the document;

- (c) a certificate signed by the Minister charged with the administration of the *Immigration Act 2006* stating that a particular place is or was an official port of entry or arrival hall shall be sufficient evidence of that fact.

§142. Service of Notices.

Where under any of the provisions of this Chapter, any notice or other document is to be served on the holder of any work permit or employer, the document shall be deemed to have been given, served on or received by that person:

- (a) immediately on that person being served personally; or
- (b) immediately upon being served on the employer; or
- (c) within seven days of that document being sent by post.

PART XI – FUNCTIONS AND POWERS OF LABOR OFFICERS

§143. Power to require information.

- (1) Where a Labor Officer has good cause to suspect that any person has or is committing an offence against this Chapter, a Labor Officer may require the person to do all or any of the following things:
 - (a) supply the person's name and address;
 - (b) produce for inspection documentary or other evidence as to the person's identity;
 - (c) produce for inspection their passport or certificate of identity;
 - (d) produce for inspection their work permit or visa;
 - (e) take a photograph of that person;
 - (f) answer preliminary questions relating to that person's suspected employment at a particular place.
- (2) If a person refuses or fails to comply with any requirement of a Labor Officer under this section, a Labor Officer may:
 - (a) issue a Notice of Infringement as prescribed by regulations;
 - (b) arrest and detain a person at a Police station for a period of up to twenty-four (24) hours until proper documentation and details of that person's identity are provided.

- (3) Where a person who is arrested and detained under subsection (2) fails to provide proper documentation after twenty-four (24) hours, the Minister shall request that the Attorney General and Director of Immigration initiate deportation proceedings in accordance with the *Immigrations Act 2006* and the *Administrative Procedures Act 1979*.

§144. Powers of entry and inspection.

Where the Director of Labor or a Labor Officer believes on reasonable grounds that:

- (a) the information contained on any register or list kept by any person on any premise might lead to the apprehension of any person who is working in the Republic unlawfully; or
- (b) any wages and time record kept by an employer on any business premise might contain information relating to any person who is working in the Republic unlawfully, the Labor Officer may at any reasonable time with a search warrant, enter part of the premises in which he or she believes the register or record to be kept, and require any person to produce any part of that register, list or record.

§145. Powers of entry and search.

- (1) Where the Director of Labor or a Labor Officer believes on reasonable grounds that a person is working in the Republic unlawfully and that person is:
 - (a) hiding at a particular premise; or
 - (b) living at a particular premise, the Labor Officer shall at first instance request the consent of the lawful occupier to enter the premises for the purposes of carrying out the officer's functions under this Section.
- (2) If the lawful occupier refuses to provide consent, the Labor Officer shall enter upon presentation of a valid search warrant obtained in accordance with Article II, section (1) of the Constitution of the Republic of the Marshall Islands.

§146. Complaints against officers performing functions under the Act

- (1) Any person wishing to make a complaint in relation to any officer exercising functions or duties under this Chapter shall make that complaint, in writing, to the Attorney General.
- (2) The Attorney General may discipline or request the Public Service Commission to discipline, or initiate any legal proceedings against any officer, after being presented with evidence that the officer:
 - (a) accepted a bribe; or
 - (b) induced any person to pay a sum of money, not prescribed by this Chapter, in respect of any function or duty performed by that officer or any other officer; or
 - (c) assisted any person to obtain, extend or transfer a work permit or other document or certificate under this Chapter unlawfully; or
 - (d) altered any record or register or any information relating to any person unlawfully.

PART XII – TRANSITIONAL PROVISIONS**§147. Persons working unlawfully in the Republic of the Marshall Islands as at date of enactment.**

As of the date of enactment, all persons already in the Republic and are working must be holders of valid work permits. Those people intending to apply for work must exit the Republic before applying for a valid work permit in the prescribed manner – except as provided under Section 108 (2) (d) above with regards to citizens of the Republic of Palau and the Federated States of Micronesia.

§148. Persons holding a Foreign Investment Business License as at date of enactment.

Any person who is granted a valid Foreign Investment Business License after the date of enactment and intends to work in that business or company in the Republic shall apply, in the prescribed manner for a work permit.

PART XIII – LABOR (GENERAL) FUND

§149. Administration of Act.

- (1) This Chapter shall be administered by the Office of the Attorney General.
- (2) In this Part unless the context otherwise requires:
 - (a) “Labor (General) Fund Account” means the bank account held by the Ministry of Finance and administered by the Attorney General and the Secretary of Finance; and
 - (b) “Labor (Bond) Fund Account” means the bank account held by the Ministry of Finance and administered by the Attorney General and the Secretary of Finance.

§150. Labor (General) Fund.

- (1) There is hereby established a special revenue fund to be known as the Labor (General) Fund, which shall comprise of the sum of all fees and charges collected under the Chapter and regulations.
- (2) All monies shall be paid to the Ministry of Finance and deposited into the Labor (General) Fund Account.
- (3) The Labor (General) Fund Account shall be administered by the Secretary of Finance for the purposes of funding operational costs of the Labor Division, approved by the Cabinet, for the effective implementation and enforcement of the Chapter and regulations.
- (4) Secretary of Finance shall, no later than 01 October each year, provide the Minister with a report setting out, in respect of the financial year preceding:
 - (a) the total amount collected and paid into the Labor (General) Fund Account; and
 - (b) how the Labor (General) Fund Account was applied.
- (5) The Minister must present the report to the Nitijela within 14 sitting days after receipt of the report.

§151. Minister to prescribe fees.

- (1) The Minister shall, with the approval of Cabinet, by regulations made under this Chapter, prescribe fees in relation to any matter or service under or arising from this Chapter.
- (2) All fees prescribed under this Chapter must be paid to the Ministry of Finance and deposited into the Labor (General) Fund Account.

§152. Other charges.

- (1) The Minister may, with the approval of Cabinet, from time to time, prescribe fees for the following administrative matters:
 - (a) a telephone information service for which each caller pays according to their usage or on some averaged basis;
 - (b) the cost of mailing information;
 - (c) the cost of written material, unless required by regulations to be provided free of charge;
 - (d) access to any website operated by the Ministry;
 - (e) supply of forms to a person, where it is apparent that the forms are not for personal use.

§153. Fees and charges non-refundable.

All fees and charges paid under the Chapter and regulations shall be non-refundable.

PART XIV – LABOR (BOND) FUND**§154. Labor (Bond) Fund.**

- (1) There is hereby established a special revenue fund to be known as the Labor (Bond) Fund, which shall comprise of the sum of all bonds paid or forfeited by employers under the Chapter and regulations.
- (2) Subject to section 158, cash bonds must be paid to the Ministry of Finance and deposited in the Labor (Bond) Fund Account. Any interest earned may be used to cover the cost of administering the bond system, and any surplus must be retained in the Labor (Bond) Fund Account.

- (3) The Labor (Bond) Fund Account shall be administered by the the Secretary of Finance, and shall be applied for the purposes of funding the removal or deportation of any non-resident worker who has:
 - (a) unlawfully remained in the Republic after his or her work permit has expired; or
 - (b) breached the conditions of his or her work permit; or
 - (c) been convicted of any offence under this Chapter; or
 - (d) whose employer has breached any of the conditions required by this Chapter or regulations.
- (4) A bond must only be used for the removal or deportation of a non-resident worker to whom that bond attaches, and not in respect of any other person.
- (5) The Secretary of Finance shall, no later than 01 October each year, provide the Minister with a report setting out:
 - (a) the amount collected for non-resident workers' bonds in the preceding year; and
 - (b) the total accumulated amount in the Labor (Bond) Fund Account; and
 - (c) how the Labor (Bond) Fund Account was applied in the preceding year; and
 - (d) the balance remaining in the Labor (Bond) Fund Account.
- (6) The Minister must present the report to the Nitijela within 14 sitting days after its receipt.

§155. Minister to prescribe bonds.

- (1) The Minister shall, with the consent of the Cabinet, by regulations made under this Chapter, prescribe the amount of any bond to be paid as a pre-condition to the issuance of a work permit under this Chapter.
- (2) Payment of a bond for a work permit shall be sufficient and a payment of a further bond shall not be required for a work visa.
- (3) Procedures relating to the payment and refund of bonds shall be prescribed by regulations under this Chapter.

§156. Non-resident worker's bond.

- (1) Every employer must pay a bond, whether in cash or evidenced by letter of insurance in respect of each non-resident worker employed.
- (2) An employer who is entitled to a refund of a bond must within 12 months of the worker being repatriated, apply for a refund in the prescribed manner, or forfeit the bond to the Government.
- (3) An employer entitled to a refund of a cash bond must be refunded by the Ministry of Finance within 30 days of the employer lodging proof that the non-resident worker has departed from the Republic.

PART XV – MISCELLANEOUS PROVISIONS**§157. Relationship between this Act and other applicable laws.**

The issuance of work visas and procedures for obtaining Removal or Deportation Orders referred to under this Chapter shall be governed under the appropriate law on Immigration. Questions arising from or relating to these matters shall be governed by the provisions of that Act.

- (2) Any non-resident worker in the Republic who intends to apply for a Foreign Investor Business License under the *Foreign Investment Business License Act 1990* must either terminate or complete the term of their employment contract with the employer and exit the Republic before submitting an application for a Foreign Investment Business License.
- (3) Employers must pay non-resident workers' fees in respect of all non-resident workers in their employment pursuant to the *Non-resident Workers (Fee) Act 1987*.
- (4) Where applicable, financial matters in this Chapters hall be subject to the provisions of the *Financial Management Act 1990* and Procurement Code 1988.
- (5) Regulations promulgating any fees or penalties shall not be subject to the *Administrative Procedures Act 1979*. Any other regulation required to be promulgated by the Minister or under this Chapter shall be subject to the *Administrative Procedures Act 1979*.

§158. Regulations.

The Minister shall, with the approval of Cabinet, promulgate regulations as necessary to give effect to the provisions of this Chapter, for all or any of the following purposes:

- (a) prescribing matters of procedure in relation to any application under this Chapter;
- (b) prescribing conditions attach to work permits;
- (c) prescribing fees, charges and other costs not specified under this Chapter;
- (d) prescribing forms for the purposes of this Chapter;
- (e) prescribing Government work permit policy;
- (f) prescribing regulatory offences and penalties;
- (g) providing for such other matters as is contemplated by or necessary for giving full effect to the provisions of the Chapter and for its due administration.

§159. Transition and Repeal.

The Labor (Non-Resident) Act 2006 (16 MIRC Chapter 1) is hereby repealed. The Division of Labor is hereby accorded a period of up to sixty (60) days transition period to allow for a smooth transfer of the Division to the Ministry of Justice.

§160. Effective Date.

This Chapter shall take effect upon certification in accordance with Article IV Section 21 of the Constitution and in accordance with the Rules of Procedures of the Nitijela.

SCHEDULES**SCHEDULE 1****PROVISIONS RELATION TO THE EMPLOYMENT OF THIRD COUNTRY NATIONALS UNDER THE FEDERAL PROGRAMS AND SERVICES AGREEMENT (FPSA)****GENERAL GUIDLINES**

In providing services and related programs and related programs in the Republic of the Marshall Islands pursuant to Article II of Title Two of the Compact, As Amended, any other other provision of the Compact, As Amended or pursuant to any other provision of United States law, the Federal Agencies, United States contractors and local contractors shall give employment preferences to citizens of the Republic of the Marshall islands and citizens, national and lawful permanent residents of the United States.

Notification of intent to hire third country national.

1. The Government of the United States shall provide notification of the intent to hire a third country national, in writing, to the Government of the Republic of the Republic of the Marshall Islands through the Ministry of Foreign Affairs.
2. The Government of the Republic of the Marshall Islands may expressly approve the employment of the third country national. Alternatively, the Ministry of Foreign Affairs may suggest that there are local hire personnel or qualified local contractors available with the requisite skills for the position.

Application for Labor Permit and Entry Visa.

3. Prior to the third country national entering the Republic of the Marshall Islands, the Government of the United States, U.S. Contractors and U.S. Contractors and U.S. Federal Agencies responsible for hiring that third country national shall submit an application for a work permit to the Labor Division o the Ministry of Foreign Affairs. A third country national will be required to undertake the necessary health immunization requirements and provide requested forms of health clearance.

4. Upon being issued with labor permit, a third country national will also being issued with an entry permit, provided however that the work and entry permits shall be limited to employment by the Government of the United States, U.S. Contractors, or U.S. Federal Agencies
5. A third country national shall not acquire any right to remain permanently in the Republic of the Marshall Islands solely as a result of being a third country contractor personnel. A third country national will, at all times, be subject to the laws of the Marshall Islands relating to the exclusion of individual, undesirable aliens.

Licenses, permit to carry out functions

6. While employed by the Government of the United States, a third country national shall not be required to obtain any license, permit or certificate or undergo any examination in connection with the performance of his or her duties while employed by the Government of the United States, provided that the third country national has the required license, permit or certification to exercise that function under United States law or professional standards.

Repatriation

7. The Government of the United States, U.S. Contractors, and U.S. Federal Agencies shall make provision to promptly repatriate third country nationals at the termination of their employment to their country of origin or elsewhere outside of the Republic of the Marshall Islands. Transportation costs attendant to the departure and removal of third country nationals shall be the responsibility of the Government of the United States.

Income and Social Security Taxes

8. Income received by third country nationals for services with or employment by Federal Agencies and income received by third country nationals from sources outside the territory of the Republic of the Marshall Islands shall be exempt from any tax, fee or other charge, including income and social security taxes imposed by the Government of the Republic of the Marshall Islands.
9. Third country contractor personal including dependents, who are themselves third contractor personnel, shall be subject to a personal

income tax generally applicable within the Republic of the Marshall Islands up to a level of 5% of their annual income derived from their employment in the Republic of the Marshall Islands.

10. Income derived from and received by third country nationals for services rendered within the Republic of the Marshall Islands other than those specified in paragraph 9 shall be subject to the personal income tax (currently 8-12%) and social security taxes of the Republic of the Marshall Islands.
11. The Government of the United States shall be responsible for ensuring compliance with the foregoing provisions regarding any income earned by U.S. contractors or third country contractor personnel outside the scope of the employment by the United States.

SCHEDULE 2**PROVISIONS RELATION TO THE EMPLOYMENT OF THIRD COUNTRY NATIONALS UNDER THE FEDERAL PROGRAMS AND SERVICES AGREEMENT (FPSA)****GENERAL GUIDELINES**

Except for U.S. permanent resident aliens and U.S. nationals, all third country citizens or nationals residing in the Republic of the Marshall Islands are considered third country personnel for purposes of the SOFA.

Notification of intent to hire third country national

1. Prior to the employment of third country personnel or use of third country contractors, the Government of the United States shall notify the Government of the Republic of the Marshall Islands of the intent to hire a third country national and enquire as to the availability of local hire personnel or qualified local contractors. The Government of the United States shall provide notification, in writing, to the Government of the Republic of the Marshall Islands through the Ministry of Foreign Affairs.
2. Within 30 days, the Government of the Republic of the Marshall Islands shall, via the Ministry of Foreign Affairs, expressly approve the employment of a third country national or indicate the availability of local hire personnel or qualified local contractors. If no response is provided within 30 days, it shall be deemed that no local hire personnel or qualified local contractors are available.
3. Where the contract of employment is for a period of ninety (90) days or less within a year, the Government of the United States and U.S. Contractors are not required to notify the Government of the Republic of the Marshall Islands of the employment of a third country national. However, to enable the Ministry to maintain its records, the Government of the United States and U.S. Contractors shall notify the Ministry of Foreign Affairs of all third country personnel employed for a period of ninety days or less. Furthermore, they shall maintain written records of their efforts to seek qualified local hire personnel prior to invoking this provision, and make such records available to the Joint Labor Relations Authority and the Ministry of Foreign Affairs.

Application for labor permit and entry visa

4. Prior to a third country national entering the Republic of the Marshall Islands, the Government of the United States and U.S. Contractors responsible for hiring that third country national shall submit an application for a work permit to the Labor Division of the Ministry of Foreign Affairs. The third country national will be required to undertake the necessary health immunization requirements and provide requested forms of health clearance. Upon being issued with a work permit, the third country national will also be issued with an entry visa.
5. In application by a third country national for a work permit and entry permit shall be adjudicated expeditiously, provided however, that the work permit and entry permit shall be limited to employment at USAKA.
6. A third country national shall not acquire any right to remain permanently in the Republic of the Marshall Islands solely as a result of being a third country contractor personnel. A third country national will, at all times, be subject to the laws of the Marshall Islands relating to the exclusion of individual, undesirable aliens.
7. The Government of the United States and U.S. Contractors shall make provision to promptly repatriate all third country contractor personnel at the termination of their employment to their country of origin or elsewhere outside of the Republic of the Marshall Islands. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

Income Tax

8. Third country contractor personal do not enjoy the tax privileges granted to U.S. personnel under paragraph 1 (c) of Article V of the SOFA.
9. Third country contractor personnel shall subject to income tax generally applicable in the Republic of the Marshall Islands (currently 8-12%).
10. The Government of the United States shall take necessary measures to ensure that U.S. Contractors comply with income tax laws of the Republic of the Marshall Islands with respect to the employment of third country contractor personnel.

**TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 6 - MARSHALL ISLANDS EMPLOYMENT EQUAL OPPORTUNITY
ACT, 2017**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**MARSHALL ISLANDS EMPLOYMENT EQUAL
OPPORTUNITY ACT, 2017**

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TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 6 - MARSHALL ISLANDS EMPLOYMENT EQUAL OPPORTUNITY
ACT, 2017



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

MARSHALL ISLANDS EMPLOYMENT EQUAL
OPPORTUNITY ACT, 2017

AN ACT to ensure that all employees of a person or other entity doing business in the Republic of the Marshall Islands are treated equally in regard to obtaining employment benefits.

Commencement:

March 15, 2018

Source:

P.L. 2018-73

§601. Short title.

This Act may be cited as the Marshall Islands Employment Equal Opportunity Act, 2017.

§602. Purpose.

The purpose of this Act is to ensure that all employees of a person or other entity doing business in the Republic of the Marshall Islands are treated equally in regard to obtaining employee benefits.

§603. Equal Treatment of Employee Regarding Benefits.

- (1) It shall be the duty of any person or other entity doing businesses in the Republic of the Marshall Islands to offer all employees the same employee benefits.
- (2) Employee benefits shall include, medical, dental, vision and pharmaceutical insurance, life insurance, retirement and pension.

§604. Civil Penalty.

Any person or other entity who violates a provision of this Act shall be liable to a monetary in the amount not less than \$5,000 and not more than \$50,000.

§605. Enforcement.

An action to enforce the civil penalty against the person or entity may be commenced by the Attorney General or the affected employee or employees.

§606. Effective Date.

The Act shall take effect on the date of certification in accordance with the Article IV, Section 21 of the Constitution.

**TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 4 - MINIMUM WAGE**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

MINIMUM WAGE ACT 1986

Arrangement of Sections

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TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 4 - MINIMUM WAGE



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

MINIMUM WAGE ACT 1986

AN ACT to prescribe a minimum wage for all employees of the Government of the Marshall Islands and of the private sector, and to provide for matters connected therewith or incidental thereto.

<i>Commencement:</i>	<i>March 6, 1986</i>
<i>Source:</i>	<i>P.L. 1986-15</i>
<i>Amended By:</i>	<i>P.L. 1989-3 8 P.L. 1995-121 P.L. 1996-11</i>
	<i>P.L. 2016-12 P.L. 2018-77 P.L. 2024-13</i>

§401. Short title.

This Chapter may be cited as the “Minimum Wage Act 1986”. [P.L. 1986-15, §1.]

§402. Interpretation.

In this Chapter:

- (a) **“employee”** means any person who performs any type of work under contract with an employer, but does not include a casual worker or family employee, or employees who are employed by the United States Army Kwajalein Atoll (USAKA) or by its contractors or their agents or other employees employed by the U.S. Government;
- (b) **“employer”** means any person, corporation or organization licensed under the laws of the Republic to provide goods and services to the public, who engages the services of an employee for a wage, and includes the Government of the Marshall Islands;

- (c) **“minimum wage”** means the hourly rate paid to an employee by his employer;
- (d) **“private employer”** means any employer other than the Government of the Marshall Islands and includes any statutory or public corporation to which Article VII of the Constitution of the Marshall Islands does not apply. [P.L. 1986-15, §2.]

§403. Minimum wage.

- (1) The minimum wage for every employee of the Government of the Marshall Islands or any private employer shall be four dollars (\$4.00) effective on October 1, 2024 per hour of work performed by such employee. Subsequent increase shall take effect on October 1, 2025 to four dollars and fifty cents (\$4.50), October 1, 2026 to five dollars (\$5.00), and October 1, 2027 to five dollars and twenty-five (\$5.25).
- (2) In the event the assessment submitted to the Cabinet is not favourable pursuant to Subsection (1) above, Cabinet shall request to the Nitijela by resolution to halt any subsequent increase.
- (3) Qualified export oriented projects may be exempted from the application of the minimum wage by the Cabinet. This exemption shall apply only to qualified export oriented projects commenced after the date of certification of this Chapter. [subsection (3) added by P.L. 1996-11, certified on 11 March 1996]. [P.L. 1986-15 §3; amended by P.L. 1989-38, §2, amended in its entirety by P.L. 1995-121; subsection (3) added by P.L. 1996-11.] [previous §2 deleted by P.L. 2016-12 and amended §1] [amended by P.L. 2018-77][Minimum wage increased by P.L. 2024-13][Amended by P.L.2024-13]

§404. Penalty.

Any private employer who pays any of his employees a wage which is below the minimum wage prescribed by Section 402 of this Chapter shall be guilty of an offense and shall, upon conviction before the High Court, (i) for a first offender be liable to a fine not exceeding \$1,000 or in default, to a term of imprisonment not exceeding six (6) months. (ii) for a second offender, be liable to a fine not exceeding \$2,000, suspension of license, or imprisonment not exceeding 1 year. In addition, the Court shall recover and pay to the said employee all wages in arrears as prescribed by Section 402 of this Chapter, as though such arrears were a fine imposed by that Court. For the purpose of suspension of local business license, the Secretary of Finance shall request

the responsible local government for suspension of such business license.
[P.L. 1986-15, §4.]

§405. Regulation.

The Minister of Resources and Development shall promulgate regulations in respect of matters relating to:

- (a) maximum period of employment of Marshallese workers as trainees or apprentices,(b) the number of Marshallese workers who could be employed as trainees or apprentices at one particular time, and
- (c) such other matters that may be necessary to give effect to the exemption in Section 403 of this Chapter.[P.L 1989-38, §3.]

**TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 2 - NONRESIDENT WORKERS**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

NONRESIDENT WORKERS (FEE) ACT 1987

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TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 2 - NONRESIDENT WORKERS



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

NONRESIDENT WORKERS (FEE) ACT 1987

AN ACT to repeal the Nonresident Workers Act 1983 and to levy a fee from the employers of nonresident workers and for matters connected therewith or incidental thereto.

<i>Commencement:</i>	<i>April 1, 1987</i>
<i>Source:</i>	<i>P.L. 1987-6</i>
<i>Amended By:</i>	<i>P.L. 1988-32 P.L. 1994-99 P.L. 1996-9</i>
<i>P.L. 2004-7 P.L. 2005-49 P.L. 2009-23</i>	

§201. Short title.

This Chapter may be cited as the Nonresident Workers (Fee) Act, 1987.
 [P.L. 1987-6, §1.]

§202. Interpretation.

In this Chapter:

- (a) “**employer**” means any person who employs, or on whose behalf any other person employs, any nonresident worker, and includes any individual, firm, partnership or corporation, but does not include the Government of the Marshall Islands or any of its agencies, the United States military, the United States Government or any of its corporations, agents, or contractors, and the United States Army Kwajalein Atoll and all its agents and contractors;
- (b) “**Minister**” means the Minister in charge of the subject of Finance;

- (c) “**nonresident worker**” means any workman who is not a citizen of the Republic;
- (d) “**resident worker**” means a person who is a citizen of the Republic’
- (f) “**wages**” means a salary, compensation or any payment made by the employer to the nonresident worker for any type of work performed by him. [P.L. 1987-6, §2].

§203. Fee to be charged from employers of nonresident worker.

- (1) Every employer of a non-resident worker shall pay to the Secretary a fee of \$250 per worker per quarter. The payment of this fee shall also apply to an employer who receives any remuneration in such position and who is not a citizen of the Republic. The Cabinet may exempt an employer of a non-resident worker from the fee in qualified export oriented projects commenced after the date of certification of this Chapter.
- (2) The payment due under subsection (1) of this section shall be made on or before the last day of the months of March, June, September and December each year.[amended by P.L. 2009-23; original subsection (2) is deleted].

§203A. Distribution of Fees Collected Under this Chapter.

- (1) All monies collected under this chapter shall be paid into the National Training Fund established under the National Training Council Act, 14 MIRC 6.
- (2) On or after the effective date of this Chapter, all funds in the Repatriation of Non-resident Workers Account shall be deposited into the National Training Fund referred to under Subsection (1).[amended and modified by P.L. 2009-23].

§204. Penalty.

- (1) In the event the employer fails to pay the amount due on or before the due date, he shall be liable to a surcharge of ten percent (10%) on the sum due for each quarter of default in addition to any sums and surcharges that may become due on subsequent quarters. [amended by P.L. 2009-23].

- (2) In the event of any default as referred to in Subsection (1) of this section, the employer shall, in addition to the said surcharge, be guilty of an offense and shall be liable to a fine not exceeding \$1,000 for each quarter of default and any sums due under Subsection (1) of this Section shall be recovered as if it were a fine imposed by the COURT. [P.L. 1987-6, §4][amended by P.L.2009-23].

§205. Reserved [repealed by P.L. 2009-23].

§206. Repatriation of nonresident workers.

It shall be the responsibility of every employer to ensure the repatriation of every nonresident worker at the end of the period of employment of such worker, If any employer fails to so repatriate he shall not be permitted to employ any nonresident workers in the future. [P.L. 1987-6, §6].

§207. Administration.

The Secretary shall be in charge of the administration of this Chapter, and of the Repatriation of Non-Resident Workers Account. [P.L. 1987-6, §7]. [Amended by P.L. 2005-49]

§208. Regulations.

The Minister may make regulations for the purpose of giving effect to and carrying out the provisions of this Chapter.

**TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 3 - NONRESIDENT WORKER’S HEALTH CERTIFICATES**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

NONRESIDENT WORKER’S HEALTH CERTIFICATE ACT

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TITLE 16 – LABOR AND INDUSTRIAL RELATIONS
CHAPTER 3 - NONRESIDENT WORKER'S HEALTH CERTIFICATES



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

NONRESIDENT WORKER'S HEALTH CERTIFICATE ACT

AN ACT regulating entry of nonresident workers in the Republic on the basis of health.

<i>Commencement:</i>	<i>Not Specified</i>
<i>Source:</i>	49 TTC 1970
<i>Amended By:</i> COM P.L.5-45 (1973)	49 TTC 1980

§301. Short title.

This Chapter may be cited as the "Nonresident Worker's Health Certificate Act".

§302. Statement of policy.

It is the policy of the Government of the Marshall Islands to insure the health of its citizens, and to prevent the over taxation of its medical and hospital facilities and personnel in the care and treatment of non-citizens of the Republic who arrive in the Republic in a condition of ill health. To this end, it shall be the practice of the Government of the Marshall Islands, in accordance with the terms of this Chapter, to require each nonresident worker and each member of his family entering the Republic to have in his possession a certificate of freedom from contagious disease, to conduct a physical examination of every entrant into the Republic who holds an entry permit for employment in the Republic, and to revoke such entry permit upon a showing that the continued presence of such person in the Republic would violate the statement of intent in this Section. [COM P.L. 5-45, §1 (1973); 49 TTC 1980, §51, modified.]

§303. Required.

In addition to any other requirements contained in this Chapter or the *Citizenship, Immigration and Emigration Act 1986*, every person admitted to the Republic for employment under the provisions of the Protection of Resident Workers Act and every person admitted to the Republic as a member of the family of such person shall have in his possession, and thereafter shall keep in his possession, a certificate of freedom from communicable diseases. Such certification shall be executed and validated not more than thirty (30) days preceding the date of entry of such person into the Republic by a physician licensed to practice medicine in the country of origin of that person. [COM P.L. 5-45, §2 (1973); 49 TTC 1980, §52, modified.]

§304. Physical examination required.

- (1) Within ten (10) days after his entry into the Republic, each holder of an entry permit which authorizes such person to enter the Republic for the purpose of employment and each member of the family of such person shall be subject to a physical examination to be conducted by or under the auspices of the Ministry of Health. The cost of such physical examination shall be borne by the entry permit holder.
- (2) Each person who is within the Republic on the effective date of this Chapter and who is the holder of an entry permit which authorizes such person to enter the Republic for the purpose of employment or who is a member of the family of such person shall be subject to a physical examination to be conducted by or under the auspices of the Ministry of Health within three (3) months after the effective date of this Chapter. The cost of such physical examination shall be borne by the entry permit holder. [COM P.L. 5-45, §3 (1973); 49 TTC 1980, §53, modified]

§305. Notification to Cabinet of reasons for rejecting permit holder.

- (1) The Ministry of Health shall, within a reasonable time after the completion of the physical examination required in Section 302 of this Chapter, notify the Cabinet as to any medical reasons why the entry permit holder or the member of the family of the entry permit holder should not be allowed to remain in the Republic, if any, and shall state the basis of his judgment.

- (2) No such notification shall be made if the continued presence of the entry permit holder or the member of the family of the entry permit holder in the Republic would not, in all medical probability, result in substantial danger to the health of the inhabitants of the Republic or in a need for prolonged medical care and treatment while in the Republic.
- (3) Such notification shall be made upon any positive finding of any contagious disease, including any social disease. [COM P.L. 5-45, §4 (1973); 49 TTC 1980 §54, modified.]

§306. Revocation of entry permit.

Upon notification from the Ministry of Health to the Cabinet as provided in Section 304 of this Chapter, the Cabinet shall revoke the entry permit of the entry permit holder or the member of his family in question on the grounds that his continued presence in the Republic would not be in the best interests of the Republic. [COM P. L. 5-45, §5 (1973); 49 TTC 1980, §55, modified.]

§307. Penalties for violation of Chapter.

Failure by a nonresident worker to have the certification required by Section 303 of this Chapter in his possession, or failure to take the physical examination required by Section 304 of this Chapter within the time prescribed, shall:

- (a) be grounds for denial of entry or for revocation of nonresident worker's permit or entry permit; and
- (b) constitute a violation of Section 114(2) of Chapter 1 of this Title. [COM P. L. 5-45, §6 (1973); 49 TTC 1980, §56, modified.]

§308. Regulations.

The Cabinet shall have the power, in the manner which is or may be provided by law, to establish and promulgate regulations not inconsistent with this Chapter, and may delegate any or all of his responsibilities under this Section to the Controller, Secretary of Resources and Development, the Ministry of Health, or any of them. [COM P. L. 5-45, §6 (1973); 49 TTC 1980, §57, modified.]

**TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 7 - WORKERS COMPENSATION ACT, 2019**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

WORKERS COMPENSATION ACT, 2019

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**TITLE 16 - LABOR AND INDUSTRIAL RELATIONS
CHAPTER 7 - WORKERS COMPENSATION ACT, 2019**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

WORKERS COMPENSATION ACT, 2019

AN ACT to provide for under Title 16, Chapter 7 of MIRC, Workers Compensation law for the compensation and rehabilitation of workers in respect of work related injuries or fatalities

Commencement: September 30, 2019
Source: P.L. 2019-107
P.L.2023-65 P.L.2023-71

PART 1 - PRELIMINARY

§701. Short title.

This Act may be cited as the Workers Compensation Act, 2019.

§702. Purpose.

The purpose of this Act is to provide for the compensation and rehabilitation of workers in respect of work related injuries or fatalities.

§703. Interpretation.

In this Chapter, unless the context requires:

- (a) "Administrator" means the Administrator of the Marshall Islands Social Security Administration (MISSA) or a designee;
- (b) "Adoption" or "adopted" refers to a legal and customarily adoption prior to the time of the injury;

- (c) "Board" means the Board of Directors established under section 107 of the Social Security Act;
- (d) "Carrier" includes stock corporations or mutual associations from which any employer has obtained workers' compensation insurance or guaranty insurance in accordance with the provisions of this Chapter;
- (e) "Child", has the same meaning under section 103(h) of the Social Security Act;
- (f) "Compensation" means the payment for medical services and supplies, the disability benefits payable to an employee or to his or her dependents, and such other payments arising from the injury of an employee as provided for in this Chapter;
- (g) "Date of Disability" means the date after which an employee can no longer earn the wages he or she was earning at the time of the injury resulting in the disability. The date of disability is not necessary the date of injury;
- (h) "Death" when used as a basis for a right to compensation under this Chapter, mean only death resulting from an injury;
- (i) "Disability" has the same meaning under section 103(p) of the Social Security Act;
- (j) "Disability benefits" means the money allowance payable periodically to an employee or to his or her survivors as provided for under Section 137 of the Marshall Islands Social Security Act;
- (k) "Domestic Company or companies" means any legal entity or business (i.e. sole proprietorship, partnership, corporation and limited liability company, enterprise, etc), regardless of citizenship of the owner(s), that provide commodities, goods, or services and whose operations are located and transacted in the Marshall Islands for profit;
- (l) "Employee" has the same meaning under section 103(s) of the Social Security Act;
- (m) "Employer" has the same meaning under section 103(t) of the Social Security Act;
- (n) "Immediate Family" includes father, mother, spouse, biological and legally adopted children, biological siblings, step-parents, grandparents and parents in-law (both for legally and customarily married);
- (o) "Independent" means any person who renders service for a specified recompense for a specified result, under the control of his principal as to

the result of his work only and not as to the means by which such result is accomplished;

- (p) "Injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accident or injury. The term includes an injury caused by the wilful act of a third person inflicted upon any employee in the course of his or her employment;
- (q) "Local Students" means any person regardless of citizenship, who resides in the Marshall Islands and enrolled in any schools accredited by the Ministry of Education;
- (r) "Non-resident worker" for the purpose of this Chapter means a worker who is not permanently resident in the Republic of the Marshall Islands, or a worker who is temporarily working in the Republic of the Marshall Islands for periods not exceeding a total of 90 days during a taxable year, provided however, it does not include Marshallese Government workers who are working for the Marshall Islands Embassies, Consulate, and other Government Offices establishes outside of the Marshall Islands.
- (s) "Parent" has the same meaning under section 103(ff) of the Social Security Act;
- (t) "Person" means an individual, partnership, corporation, association, governmental entity or agency including local government, or any other entity.
- (u) "Republic" means the Republic of the Marshall Islands;
- (v) "Resident worker" for the purpose of this Chapter means any natural person who is performing services or labor and who is a citizen of the Republic or an immigrant alien admitted to the Republic for permanent residence under the provisions of the Immigration Act 2006 or the Citizenship Act of 1984, including persons acting in a professional managerial, or executive capacity for more than 90 days in the Republic;
- (w) "Spouse" has the same meaning under section 103(nn) of the Social Security Act;
- (x) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury; including the reasonable value of board, rent, housing, lodging, or other similar advantages received from the employer, and gratuities

received in the course of employment from other than the employer [new definitions mended by P.L.2023-71].

§704. Coverage.

- (1) Compensation shall be payable under this Chapter in case of disability or death of an employee, but only if the disability or death results from an injury sustained while engaged in employment.
- (2) Except for those employees excluded under Subsection (5) of this Section, or unless exempted by other laws, where a worker who has been hired in the Republic receives personal injury by accident arising out of and in the course of his employment, he or she shall be entitled to compensation according to the law of the Republic even though such injury was received outside the Republic.
- (3) Any person who may be injured in performing service for the Government in any voluntary or unpaid capacity under the authorized direction of a public officer or employee, and who shall not have secured payment of his hospital and medical expenses from Government or under any other provision of law and shall both have secured payment thereof from any third person, shall be paid his reasonable hospital and medical expenses by the Government.
- (4) No compensation shall be payable under this Chapter to the employee if the injury was proximately caused by the intoxication of the employee or by the wilful intention of the employee to injure or kill himself, herself or others. The onus of proof to establish that a claim is not compensable due to this part rests with the employer.
- (5) The following individual may not be covered by this Act:
 - (a) A Marshallese worker who is contracted to work on the USA Army Garrison – Kwajalein Atoll (USAG-KA), or on any operations of the USAG-KA, and had opted to be covered under Defence Base Act (DBA) of the United States, so long as all the provisions of the DBA and attendant Worker's Compensation insurance are compatible with those provisions included in this Chapter, and provided that such Marshallese worker shall choose to be covered either under the DBA or under this Chapter but not both;
 - (b) A Non-resident consultant who is working in or on behalf of the RMI;

- (c) A Non-resident, or a Marshallese worker who is not already covered and whose project or job assignment is carried outside of the Marshall Islands, other than Marshallese Government workers who are working for the Marshall Islands Embassies, Consulate, and other Government Offices established outside of the Marshall Islands. Such exclusion for Marshallese workers without existing insurance specifically relates to constructions workers who are employed by Marshall Islands local companies, and are temporarily assigned to complete a project or contract outside of the Marshall Islands;
 - (d) Non-Resident members of foreign or international diplomatic Corps who are assigned to work in the Marshall Islands, excluding Marshallese employees;
 - (e) Non-Resident employees of regional or international organizations;
 - (f) Self-employed workers, regardless of nationality, who opted not to be covered by this Act and who have submitted a valid exemption to the Administrator;
 - (g) Local students under practicum training and interns; and
 - (h) Non-Resident or local volunteers, or church missionaries;
- (6) Any injury to an employee which arises out of, or in the course of, the employee's employment may not be covered where the employee is on a journey between the employee's home and place of employment, unless such injury results from the employee traveling as part of an approved travel arrangement.[Subsections (5) and (6) amendments by P.L.2023-71]

§705. Liability for Compensation.

- (1) Every employer shall be liable for and shall secure payment of such compensation as may be required under this Chapter.
- (2) For a Marshallese worker who is contracted to work on USA Army Garrison – Kwajalein Atoll (USAG-KA), or on any operations of the USAG-KA, and had opted to be covered under this Chapter, his or her employer shall be liable and secure payment of such compensation as may be required under this Chapter.
- (3) Compensation shall be payable irrespective of fault as to the injury.

- (4) In the case of an employer who is a subcontractor or jobber in the construction or garment manufacturing industries the contractor or fisheries industry shall be liable for and shall secure payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payments.[Subsection (2) is amended by P.L.2023-71]

§706. Exclusiveness of Liability.

Where the conditions of compensation exist, the right to recover such compensation, pursuant to the provisions of this Chapter, is against the employer or against any other employee of the employer acting within the scope of such other employee's employment; provided that, if an employer fails to secure payment of compensation as required by this Chapter, an injured employee, or his or her legal representative in the case of death resulting from the injury, may elect to claim compensation under this Chapter, or to maintain an action at law or for damages on account of such injury or death. In such action, the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his or her employment, nor that the injury was due to the contributory negligence of the employee.

§707. Disability Benefits:

- (1) Time for Commencement, Maximum Amount.
 - (a) If an injury causes disability, a disability benefit payment shall be made for one week in advance on the fourth day after the date of disability.
 - (b) Disability benefits shall not exceed \$140 per week

§708. Medical Services and Supplies.

- (1) The employer shall furnish to the injured employee such remedial treatment, care, and attendance under the direction of a qualified physician or surgeon or other recognized practitioner, nurse or hospital, as the nature of the injury or the process of recovery may require, including medicines, crutches, artificial limbs and other apparatus and vocational rehabilitation services.

If the employer refuses to provide, after request by the injured employee, or neglects to provide, having knowledge of the injury,

treatment and services required by the injury, the injured employee may do so and shall be entitled to recover from the employer the amount expended.

No such claim for medical or surgical treatment shall be valid and enforceable, as against such employer, unless within 20 days following the first treatment, the physician giving such treatment shall furnish to the employer and the Administrator a report of such injury and treatment on a form prescribed by the Board. The Administration may, however, excuse the failure to furnish such report within 20 days when he finds it to be in the interest of justice to do so, and he may, upon application by a party of interest, make award for the reasonable value of such medical or surgical treatment so obtained by the employee.

If at any time during such period the employee unreasonably refuses to submit to medical or surgical treatment, the Administrator may, by order, suspend the payment of further compensation during such time as such refusal continues.

- (2) Whenever, in the opinion of the Administrator, a physician has not impartially estimated the degree of permanent disability or the extent of temporary disability of any injured employee, the Administrator shall have the power to cause such employee to be examined by a physician selected by the Administrator and to obtain a report containing the physician's estimate of such disabilities. If the report of the second physician shows that the estimate of the first physician has not been impartial from the standpoint of such employee, the Administrator shall have the power, at his/her discretion, to charge the cost of such examination to the employer.
- (3) Any fees and other charges for treatment or service shall be limited to such charges as prevail in the same community for similar treatment of injured persons.
- (4) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his employee was injured through the fault or negligence of a third party, not in the same employment. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in section 734 of this Chapter.

§709. Disability Benefits.

Disability benefits shall be paid to the employee as follows:

(1) Permanent Total Disability.

In case of total disability, adjudged to the permanent, sixty-six and two thirds (66-2/3) percent of this average weekly wages shall be paid to the employee during the continuance of such total disability.

Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitutes permanent total disability. In all other cases, permanent total disability shall be determined in accordance with the facts. [compare: MISSA disability calculations]

(2) Temporary Total Disability.

In case of temporary total disability, sixty-six and two-thirds (66 – 2/3) percent of the average weekly wages shall be paid to the employee during the continuance thereof.

(3) Permanent Partial Disability.

In case of permanent partial disability, the disability benefits shall be sixty-six and two-thirds (66-2/3) percent of the average weekly wages, which shall be in addition to disability benefits for temporary total disability or temporary partial disability paid in accordance with Subsection (2) or Subsection (4) of this section respectively and shall be paid to the employee as follows:

- (a) Arm lost 280 weeks disability benefits;
- (b) Leg lost, 248 weeks disability benefits;
- (c) Hand lost, 212 weeks disability benefits;
- (d) Foot lost, 172 weeks disability benefits;
- (e) Eye lost, 140 weeks disability benefits;
- (f) Thumb lost, 51 weeks disability benefits;
- (g) First finger lost, 28 weeks disability benefits;
- (h) Great toe lost, 26 weeks disability benefits;
- (i) Second finger lost, 18 weeks disability benefits;
- (j) Third finger lost, 17 weeks disability benefits;
- (k) Toe other than great toe lost, 8 weeks disability benefits;

- (l) Fourth finger lost, 7 weeks disability benefits;
- (m) Loss of hearing. Disability benefits for loss of hearing of one ear, 52 weeks, or of both ears, 200 weeks.
- (n) Phalanges. Disability benefits for loss of more than one phalange of a digit shall be the same as for lost of the entire digit. Disability benefits for loss of the first phalange of a digit shall be one-half (1/2) of the disability benefits for the loss of the entire digit.
- (o) Amputated arm or leg. Disability benefits for an arm or leg, if amputated at or above the elbow or the knee, shall be the same as for a loss of an arm or leg, but, if amputated between elbow and the wrist or the knee and the ankle, disability benefits shall be the same as for the loss of a hand or foot.
- (p) Binocular vision or percent of vision. Disability benefits for loss of binocular vision or for 80 percent or more of the vision of an eye shall be the same as for loss of the eye.
- (q) Two or more digits. Disability benefits for loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot shall be proportioned to the loss of the hand or foot.
- (r) Total loss of use. Disability benefits for permanent total loss of use of a member shall be the same as for loss of the member.
- (s) partial loss or loss or loss of use. Disability benefits for permanent partial loss or loss of use of the member.
- (t) Disfigurement. The Administrator shall award proper and equitable disability benefits for serious facial or head disfigurement.
- (u) Other cases. In all other cases of permanent partial disability the disability benefits shall be two-thirds (2/3) of the difference between the employee's average weekly wages and his wage earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability; provided that, disability benefits shall be subject to reconsideration as to the degree of such impairment by the Administration on his own motion or upon application of any party in interest.

- (v) In any case in which there shall be loss, or loss of use of more than one member or parts of more than one member set forth in paragraphs (1) to (19) of this subsection, not amounting to permanent total disability, the award of disability benefits shall be for the loss of, or loss or use of each such member of part thereof, which awards shall run consecutively, except that where the injury affects only two one more digits of the same hand or foot, paragraph (17) of the subsection shall apply.
- (4) An award for disability may be made after death of the injured employee. Any disability benefits to which any deceased claimant would be entitled under Subsection (3) of this Section shall, despite death arising from contributing causes other than the injury, be payable to and for the benefit of the following persons:
 - (a) If there be a surviving spouse, and no child of the deceased, to such spouse.
 - (b) If there be a surviving spouse, and surviving child or children of the deceased, one half (1/2) shall be payable to the surviving spouse and the other half to the surviving child or children.
 - (c) If there be a surviving child or children of the deceased, but no surviving spouse, then to such child or children.
 - (5) Temporary partial disability. In case of temporary partial disability resulting in a decrease of earning capacity the disability benefits shall be two-thirds (2/3) of the difference between the injured employee's average weekly wages before the injury and his wage earning capacity after the injury in the same or another employment. Disability benefits are to be paid during the continuance of such disability, but no longer than five years.
 - (6) Injury increasing disability.
 - (a) If an employee receives an injury which of itself would only cause permanent partial disability but which, combined with a previous disability does in fact cause permanent total disability, the employer shall provide compensation only for the disability caused by the subsequent injury; provided, however, that in addition to compensation for such permanent partial disability and after the cessation of the payments for

the prescribed period of weeks, the employee shall be paid the remainder of the compensation that would be due for permanent total disability. Such additional compensation in bi-weekly installments and at the same rate as the disability benefits paid for the subsequent injury shall be paid out of the Special Disability Fund established in Section 742.

- (b) In all other cases in which, following a previous disability, an employee receives an injury which is not covered by paragraph (1) of this subsection, the employer shall provide compensation only for disability caused by the subsequent injury. In determining disability benefits for the subsequent injury or death resulting therefrom, the average weekly wages shall be such sum as will reasonably represent the earning capacity of employee at the time of subsequent injury.
- (7) The wage earning capacity of an injured employee in cases of partial disability under Subsection (3) (u) of this Section and Subsection (5) of this Section shall be determined by his or her actual earnings if such actual earnings or if his or her actual earnings do not fairly and reasonably represent his or her wage earning capacity, the Administrator may, in the interest of justice, fix such wage earning capacity as shall be reasonable, having due regard for the nature of the injury, the degree of physical impairment, the employee's usual employment, and any other factors or circumstances in the case which may affect the capacity of the employee to earn wages in a disabled condition including the effects of disability as it may extend into the future.
- (8) In cases under Subsection (3) (u) and Subsection (5) of this section, upon the determination of the Administration that it is in the best interest of an injured employee entitled to disability benefits, the Administrator may approve agreed settlements of the interested parties discharging the liability of the employer for such disability benefits, despite the provisions of Section 716 (2) and Section 717 of this Chapter; provided, that the sum so agreed upon shall be payable in installments and shall be subject to commutation under Section 715 (10); and provide, further, that if the employee shall die from causes other than the injury after the Administration has approved an agreed settlement as provided for herein, the sum so approved shall

be payable in manner prescribed in this section, to and for the benefit of the persons enumerated in Subsection (4) of this section.

- (9) Where in the determination of the disability benefit there is inconsistency with section 137 of the Social Security Act, this Act shall prevail.
- (10) The claimant or in case of death of the claimant, the nearest surviving family member(s), may be given an option to choose whether to receive periodic benefit payments or lump-sum, as approved by the Administrator with due regard to Section 715. On a case-by-case basis, however, the Administrator may decide on behalf of the deceased claimant if the decision of the surviving dependent(s) is deemed not practicable or not beneficial to the claimant's family on a long-term basis.
- (11) If the claimants or surviving family member(s) are not permanent residents of the Marshall Islands, a lump sum payment may be allowed by the Administrator.[Subsections (10) and (11) amended by P.L.2023-71]

§710. Compensation for Death.

If the injury causes death, the disability benefits shall be payable in the amounts and to or for the benefit of the persons following:

- (1) Reasonable funeral expenses not exceeding \$1,200;
- (2) If there be a surviving spouse and no child of the deceased, to such surviving spouse 35 percent of the average wages of the deceased until such time as the surviving spouse remarries, with two years' disability benefits in one sum upon remarriage; and, if there be a surviving child children of the deceased, the additional amount of 15 percent of such wages for each child. In the case of the death or remarriage of such surviving spouse, if there be one surviving child of the deceased employee, such child shall have his or her disability benefits increased to 35 percent of such wages; and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 35 percent of such wages, increased by 15 percent of such wages for each child in excess of one; provided, that the total amount payable shall in no case exceed two-thirds (2/3) of such wages;

- (3) If there be one surviving child of the deceased, but no surviving spouse, then for the support of such child 35 percent of the wages of the deceased. If there be more than one surviving child of the deceased, but no surviving spouse, then for the support of such children, in equal parts, 35 percent of such wages increased by 15 percent of such wages for each child in excess of one. The total amount payable under this section shall in no case exceed two-thirds ($2/3$) of such wages;
- (4) If there be no surviving spouse or child or if the amount payable to a surviving spouse and to children shall be less in the aggregate than sixty-six and two-thirds ($66\frac{2}{3}$) percent of the average wages of the deceased, then an amount no greater than the difference between two-thirds ($2/3$) of such wages and the amount, if any, payable as hereinbefore provided to the surviving spouse and the surviving child or children shall be apportioned in the following percentages of such wages and in descending order of priority to:
 - (a) grandchildren, fifteen (15) percent for each;
 - (b) brother and sisters, fifteen (15) percent for each;
 - (c) parents, if dependent upon the deceases at the time of the injury, twenty-five (25) percent for each;
 - (d) grandparents, if dependent upon the deceased at the time of the injury, twenty-five (25) percent for each.

§711. Determination of Pay.

Except as otherwise provided in this Chapter, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute disability benefits and shall be determined as follows:

- (1) If the injured employee shall have worked in the occupation in which he or she was working at the time of the injury, whether for the same or another employer, during a substantial portion of the twelve calendar months immediately preceding the injury, the average annual earnings shall consist of 313 times the average daily wage or salary (for a six day worker) or 261 times the average daily wage or salary (for a five day worker), which the employee shall have earned in such employment during the days when so employed.

- (2) If the injured employee shall not have worked in such occupation during a substantial portion of the immediately preceding twelve calendar months, his or her average annual earnings shall consist of 313 times (for a six day worker) and 261 times (for a five day worker) of the average daily wage or salary which an employee of the same occupation working a substantial portion of the immediately preceding twelve calendar months in the same or in a similar occupation in the same or a neighboring place shall have earned in such employment during the days when so employed.
- (3) If either of the foregoing methods of arriving at the average annual earnings of the injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as shall reasonably represent the annual earning capacity of the injured employee in the occupation in which he or she was working at the time of the injury, and of other employees of the same or most similar occupation working in the same or neighboring locality or other employment of such employee, including the reasonable value of the services of the employee if engaged in self-employment.
- (4) The average weekly wages of an employee shall be one fifty-second (1/52) part of the employee's average annual earnings.
- (5) If it be established that the injured employee was a minor when injured, and that under normal conditions the employee's wages would be expected to increase during the period of disability, that fact may be considered in arriving at the average weekly wages.

§712. Guardian for Minor or Incompetent.

The Administration may require the appointment of a guardian or any other representation, by a court of competent jurisdiction, for any person who is mentally incompetent or a minor. The guardian or representative shall receive the disability benefits payable to such person under this Chapter and shall exercise the powers granted to, or perform the duties required of, such person under this Chapter.

PART 2 - PROCEDURE FOR CLAIMS AND COMPLIANCE.

§713. Notice of Injury or Death.

- (1) Notice of an injury or death for which compensation is payable under this Chapter shall be given within 30 days after the date of such injury or death both to the Administrator and to the employer.
- (2) Such notice shall be in writing; shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by some person on his behalf, or in case of death, by any person claiming to be entitled to compensation for such death or by a representative of such person.
- (3) Notice shall be given to the Administration by personal delivery or by first class mail, addressed to the Administrator's office; and to the employer by personal delivery or by sending it by first class mail, postage prepaid, addressed to the employer at its last known place of business or electronic email to all his or her available webmail based addresses. If the employer is a partnership, such notice may be given to any partner, or if a corporation, such notice shall be given to any agent or officer thereof upon whom legal process may be served or who is in charge of the business in the place where the injury occurred.
- (4) Failure to give such notice shall not bar any claims under this Chapter if:
 - (a) the employer (or the employer's agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death, and the Administrator determines that the employer or carrier has not been prejudiced by failure to give such notice; or
 - (b) the Administrator excuses such failure on the ground that for some satisfactory reason such notice could not be given; or
 - (c) the objection to such failure is not raised before the Administrator at the first hearing of a claim for compensation in respect to such injury or death.

§714. Time for Filing of Claims.

- (1) The right to compensation under this Chapter shall be barred unless a claim therefore is filed within one year after the injury, and the right to compensation for death shall be barred unless a claim therefore is filed within one year after death; provided, that:
 - (a) if payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the Administrator;
 - (b) Where an employer fails to secure payment of compensation, and an employee elects to maintain an action at law for damages account to such injury or death. In the case of a government as the employer, the employee shall file within the requirements of the Government Liability Act. Other than the Government, the employee shall file within requirements of the Civil Procedures Act.
- (2) Notwithstanding the provisions of Subsection (1) of this section, failure to file a claim within the period prescribed in such subsection shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim.
- (3) If a person who is entitled to compensation under this Chapter is mentally incompetent or a minor, the provisions of Subsection (1) of this section shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable, in the case of a person who is mentally incompetent or a minor, from the date of appointment of such guardian or other representative; or in the case of a minor, where no guardian is appointed before he or she becomes age, from the date he or she becomes age.[Subsection (1) amended by P.L.2023-71]

§715. Payment of Compensation.

- (1) Compensation under this Chapter shall be paid promptly and directly to the person entitled thereto, without an award, except where liability to pay compensation is controverted by the employer.
- (2) Disability benefits shall be paid in bi-weekly installments, except where the Administrator determines that payment in installments should be made monthly or at some other interval.
- (3) Upon making the first payment, and upon suspension of payment for any cause, the employer shall immediately notify the Administrator in accordance with a form prescribed by the Board, that payment of disability benefits has begun or has been suspended, as the case may be.
- (4) If the employer controverts the right to compensation the employer shall file with the Administrator, on or before the 14th day after the employer has knowledge of the alleged injury or death, a notice in accordance with a form prescribed by the Board stating that the right to compensation is controverted, the name of the claimant, the name of employer, the date of the alleged injury or death, and the grounds upon which the right to compensation is controverted.
- (5) If any installment of disability benefits payable without an award is not paid within 15 days after it becomes due, as provided in Subsection (2) of this section, there shall be added to such unpaid installment an amount equal to 10 percent thereof, which shall be paid at the same time as, but in addition to such instalment, unless notice is filed under Subsection (4) of this section, or unless such nonpayment is excused by the Administrator after a showing by the employer that, owing to conditions over which the employer had no control, such installment could not be paid within the period prescribed for the payment.
- (6) If any disability benefits, payable under the terms of an award, are not paid within 10 days after it becomes due, there shall be added to such unpaid disability benefits an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such disability benefits unless review of the compensation order making such award is had as provided in section 722.

- (7) Within 15 days after final payment of compensation has been made, the employer shall send to the Administrator a notice, in accordance with a form prescribed by the Board, stating that such final payment has been made, the total amount of compensation paid, the name of the employee, and of any other person to whom compensation has been paid. If the employer fails to notify the Administrator within such time, the Administrator shall assess against such employer a civil penalty in the amount of \$100.
- (8) The Administrator may at any time in a case in which payments are being made without an award, and shall in any case where right to compensation is controverted, or where payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation, or from the employer that the right to compensation is controverted, or that payment of compensation has been stopped or suspended, make such investigation, causes such medical examinations to be made, or hold such hearings, and take such further action as he or she considers will properly protect the rights of all parties.
- (9) The Administration may require any employer to make a deposit with a carrier to secure the prompt and convenient payment of such compensation. Payments upon any awards shall be made from such deposits by the Carrier upon order of the Administrator.
- (10) Whenever the Administrator determines that it is in the interest of justice, applying the guiding indicators set out in the Regulations, the liability of the employer for compensation or any part thereof, as determined by the Administrator, may be discharged by the payment of a lump sum equal to the present value of future compensation payments commuted, computed at four (4) percent true discount compounded annually. The probability of death of the injured employee or other person entitled to disability benefits before the expiration of the period during which he or she is entitled to disability benefits shall be determined in accordance with American Experience Table or Mortality or such table as the Board may deem appropriate, and the probability of the remarriage of the surviving spouse shall be determined in accordance with any such table as the Board may deem appropriate. The probability of the happening of any other contingency affecting the amount or duration of the disability benefits shall be disregarded.

- (11) An employer, who has made advance payments of compensation, shall be entitled to reimbursement out of any unpaid installment or installments of compensation due.
- (12) Any recipient with disability payments under this Chapter shall give receipts for such payments to the employer for inspection by the Administrator, whenever required by the employer.
- (13) The total disability benefits for either injury or death payable under this Chapter to one employee for one occurrence of injury shall in no event exceed the sum of Forty Thousand Dollars (\$40,000). [Subsections (6) and (10) amended by P.L.2023-71]

§716. Invalid Agreements.

- (1) No agreement by an employee to pay any portion of a premium paid by the employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation as required by this Chapter shall be valid, and any employer who makes a deduction for such purpose from any pay of any employee entitled to the benefits of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000).
- (2) No agreement by any employee to waive the right to compensation under this Chapter shall be valid.

§717. Assignment and Exemptions from Claims of Creditors.

No assignments, release, or commutation of compensation due or payable under this Chapter, shall be valid, except as provided by this Chapter, and such compensation shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

§718. Compensation a Lien Against Assets.

Any person entitled to compensation under the provisions of this Chapter shall have a lien against the assets of the carrier or employer for such compensation without limit or amount, and shall, upon insolvency, bankruptcy, or reorganization in bankruptcy proceedings and have priority in the distribution of assets of such carrier or employer, or both.

§719. Collection of Defaulted Payments.

In case of default by the employer in the payment of compensation due under any award of compensation for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within one year after such default, make application to the Administrator for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in Section 20, the Administrator shall make a supplementary order declaring the amount of the default, if any which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award, the Administrator may, at his or her discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary payment in default as an installment of the award, the Administrator may, at his or her discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Republic High Court. Such supplementary order of the Administrator shall be final, and the court shall, upon the filing of the copy, enter judgment for the amount declared in default by the supplementary order, if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suit for damages at common. Final proceedings to execute the judgment may be had by writ of execution. No fee shall be required for filing the supplementary order not for the entry of judgment thereon, and the applicant shall not be liable for the cost in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the court.

§720. Procedure in Respect of Claims.

- (1) Subject to the provision of Section 714, a claim for compensation may be filed with the Administrator in accordance with regulations prescribed by the Board at any time after the first four days following any injury, or at any time after death, and the Administrator shall have full power and authority to hear and determine all questions in respect of such claim.
- (2) Within 10 days after such claim is filed, the Administrator, in accordance with regulations prescribed by the Board, shall notify the employer and any other person (other than the claimant), whom the

Administrator considers an interested party, that a claim has been filed. Such notice may be served personally upon the employer, or other person, or sent to such employer or person by registered email.

- (3) The Administrator shall cause to be made such investigations as he or she considers necessary in respect of the claim, and upon application of any interested party shall order a hearing thereon. If the hearing on such claim is ordered, the Administrator shall give the claimant and other interested parties at least 10 days notice of such hearing, served personally upon the claimant and other interested parties by registered or electronic mail, and shall within 20 days after such hearing is had, by order, reject the claim or make an award in respect of the claim. If no hearing is held within 20 days after notice is given as provided in subsection (2) of this section, the Administrator shall, by order, reject the claim or make an award in respect of the claim.
- (4) At such hearing the claimant and the employer may each present evidence in respect of such claim and may be represented by any person authorized in writing for such purpose.
- (5) The order rejecting the claim or making award (referred to in this Chapter as a compensation order) shall be filed in the office of the Administrator, and a copy thereof shall be transmitted to the claimant and to the employer by delivery to them in person or by registered or electronic mail sent to their last known addresses.
- (6) An award of disability benefits may be made after the death of an injured employee.
- (7) An injured employee claiming or entitled to compensation shall submit to such physical examination, by a medical officer of the Department of Public Health, or by a qualified physician designated or approved by Board, as the Administrator may require. The place or places of such examination shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and apply for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee refuses to submit such examination.

§721. Presumption.

In any proceedings for the enforcement of a claim for compensation under this Chapter, it shall be presumed, in the absence of substantial evidence to the contrary:

- (1) that the claim comes within the provisions of this Chapter;
- (2) that sufficient notice of such claim has been given;
- (3) that the injury was not proximately caused by intoxication of the injured employee;
- (4) that the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or herself or other.

§722. Review of Compensation Order.

- (1) A compensation order shall become effective when filed in the office of the Administrator as provided in Section 720, and unless an appeal to the Board is instituted as provided in subsection (2) of this section, shall become final at the expiration of the 15th day thereafter.
- (2) Within 15 calendar days of the filing of a compensation award in the office of the Administrator, any party in interest may file a notice of appeal with the Board. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceedings unless upon application for an interlocutory injunction the court, on hearing, after not less than three (3) days notice to the parties in interest and the Administrator, allows the stay of such payments, in whole or in part, where irreparable damage would otherwise ensure to the employer. The order of the court allowing any such stay shall contain a specific finding, based upon evidence submitted to the court and identified by reference thereto, that such irreparable damage would result to the employer, and specifying the nature of the damage.
- (3) Any person filing a notice of appeal as provided in Subsection (2) of this Section shall at the same time file a written statement of objection to the Administrator's decision. Any parties in interest may file an opposing statement within 5 business days of service upon them of the appellant's statement.

- (4) Oral argument before the Board shall be permitted upon the written request of any party in interest to the appeal, or upon the Board's own request, and shall be confined to the written statements in support of or in opposition to the Administrator's decision. A majority of the authorized number of directors of the Board of Directors of the MISSA shall be a quorum, and a decision of the Board must be supported by a majority of the directors then in office. For the purpose of reviewing the Administrator's decision, the Board shall consider only the record which was before the Administrator; provided, the Board may consider additional facts if they are supported by substantial evidence, could not upon reasonable inquiry have been discovered earlier, and could materially have affected the Administrator's decision had they been known to the Administrator at the time the decision was rendered.
- (5) Within 30 business days of the filing of the notice of appeal, the Board shall issue a written decision supported by written findings of fact and conclusions of law. The decision of the Board shall be a final administrative decision subject of judicial review.
- (6) If any employer or its offices or agents fails to comply with a final order of the Board making award, any beneficiary of such award or the Administrator may apply to the High Court for enforcement of the order. If the court determines that the order was made and served in accordance with law and that such employer or his or her officers or agents have failed to comply therewith, the court shall enforce the order by injunction or other proper process.
- (7) The provision of the Administrative Procedure Act shall apply in any proceedings for suspending, setting aside, or enforcing a compensation order. In the event of any inconsistency between the provisions of this Chapter and the provisions of the Administrative Procedure Act, the provisions of this Chapter shall prevail. Except for a proceeding to suspend payments pending a final decision, no court proceeding may be brought until all available administrative remedies have been exhausted, or unless filed after one year after injury or death, whichever is sooner.[Subsections (3), (4), (5), (6) and (7) amended by P.L.2023-71]

§723. Modification of Awards.

Upon his or her own initiative, or upon the application of any party in interest, on the ground of a change in conditions or because of a mistake in a determination of fact by the Administrator, the Administrator may, at any time prior to one year after the date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in Section 720. In accordance with the provisions of such section the Administrator will issue a new compensation order which may terminate, continue, reinstate, increase or decrease such compensation or award of compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the disability benefits may be made effective from the date of injury; and if any part of the disability benefits due or to become due is unpaid, an award decreasing the disability benefits may be made effective from the date of the injury, and any payment made prior to the time of the award in excess of such decreased rate shall be deducted from any unpaid disability benefits, in such manner and by such method as may be determined by the Administrator with the approval of the Board.

§724. Procedure Before the Administrator.

- (1) In making an investigation or inquiry or conducting a hearing the Administrator shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this Chapter, but may make such investigation or inquiry, or conduct such hearing in such manner as to best ascertain the rights of the parties. Declarations, whether oral or written, of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.
- (2) Hearings before the Administrator shall be open to the public and shall be recorded. The Board shall by regulation provide for the preparation of a record of the hearings and other proceedings before the Administrator.

§725. Witnesses.

No person shall be required to attend as a witness in any proceeding before the Administrator at a place outside the Republic; but the testimony of any witness may be taken by deposition or interrogatories according to the rules of practice and procedures of the High Court of the Marshall Islands.[amended by P.L.2023-71]

§726. Witness Fees.

Witnesses summoned in a proceeding before the Administrator or whose deposition are taken shall receive the same fees and mileage as witnesses in the High Court.

§727. Cost in Proceedings Brought Without Reasonable Grounds.

If the court having jurisdiction of proceedings in respect of any claim or compensation order determines that the proceedings in respect to such claim or order have been instituted or continued without reasonable ground, the costs and attorneys' fees of such proceedings shall be assessed against the party who so instituted or continued such proceedings.

§728. Powers of the Administrator.

- (1) The Administrator shall have the power to preserve and enforce order during proceedings before her or him; to issue subpoenas for, to administer oaths to, and to compel the attendance and testimony of witnesses, or for the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law which may be necessary to enable the effective discharge of the Administrator's duties.
- (2) If any person in proceedings before the Administrator disobeys or resists any lawful order or process, or misbehaves during a hearing at or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath, refuses to be examined according to law, the Administrator shall certify the facts to the Republic's High

Court which shall thereupon in a summary manner hear the evidence and if in the judgment of the court, the evidence so warrants, punish such person in the same manner and to the same extent as for contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

§729. Fees for Legal or Other Services.

- (1) No claim for legal services or for any other services rendered in respect of a claim or award for compensation, to or on account of any person, shall be valid for more than fifteen (15) percent of the total award of disability benefits and unless approved by the Administrator, or if proceedings for review of the order of the Administrator in respect of such claim or award are had before any court, unless approved by such court. Any claim so approved shall, in the manner and to the extent fixed by the Administrator or such court, be a lien upon such disability benefits.

§730. Record of Injury or Death.

Every employer shall keep a record of any injury to an employee. Such record shall contain such information of disease, other disability or death in respect of such injury as the Board may by regulation require, and shall be available for inspection by the Administrator or by other government authorities at such times and under such conditions as the Board may by regulation prescribe.

§731. Reports.

- (1) Within 30 days of the date of any injury or death, or of the date that the employer has knowledge of such injury or of a disease or infection in respect to such injury, the employer shall send to the Administrator a report setting forth:
 - (a) the name, address, and business of the employer;
 - (b) the name, address, and occupation of the employee;

- (c) the cause and nature of the injury or death or of the disease or infection arising from such injury;
- (d) the year, month, day and hour, and the particular locality where the injury or death occurred; and such other information as the Administrator may require,

A copy of such report shall be sent at the same time to the employee.

- (2) Additional reports in respect of such injury and of the condition of such employee shall be sent by the employer to the Administrator at such times and in such manner as the Board may prescribe.
- (3) Any report provided for in subsections (1) or (2) shall not be evidence of any fact stated in such report in any proceeding in respect of any injury or death concerning which the report is made.
- (4) The employer may comply with the obligations of this Section by mailing any required report, with a copy thereof, by secure email electronically or by first class postage prepaid, to the Administrator within the appropriate time limit prescribed in Subsection (1) or (2).
- (5) Any employer who fails or refuses to send any report required of it by this Section shall be subject to a civil penalty not to exceed \$500 for each such failure or refusal.
- (6) Where the employer or the carrier has been given notice, or the employer (or his or her agent in charge of the business in the place where the injury or death of an employee occurs) fails, neglects, or refuses to file a report thereof as required by the provisions of Subsection (1) of this section, the limitations in Subsection (1) of Section 714 of this Chapter shall not begin to run against the claim of the injured employee or the employee's survivors entitled to compensation, or in favor of either the employer other carrier, until such report shall have been furnished.

§732. Penalty for Misrepresentation.

Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this Chapter or for the purpose of evading liability for any benefit or

payment under this Chapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment not to exceed one year, or both.

§733. Security of Compensation.

- (1) Every employer shall secure the payment of compensation under this Chapter by insuring and keeping insured the payment of such compensation with an insurer granted by a certificate of authority to transact general casualty insurance in the Republic. However, the Republic Government or any non-government employer authorised by the Board, may make compensation payments under the provision of this Chapter from the Government Employee's or other non-government employer's Self Insurance fund referred to in Sections 743 and 743A and need not otherwise secure compensation.
- (1A) Any employer whose annual gross income is not more than \$25,000 may be exempted from securing insurance. However, such employer shall remain liable for payment of compensation, and for cost of medical treatment and expenses related to the injury or death as required in this Chapter.
- (1B) Any such employer under Subsection (1A), will need to apply to the Administrator for an exemption from the requirement to secure insurance, consistent with the Regulations.
- (2) An employer who pays more than one-half the cost of medical insurance for an employee as a benefit of employment shall be required to secure the payment of medical services and supplier provided for in Section 708 of this Act only to the extent that such payment is not secured by the aforementioned medical insurance.[amended by P.L.2023-71]

§734. Compensation For Injuries Where Third Persons are Liable.

The claim of an employee for compensation does not affect his or her claim or right of action for all damages proximately resulting from such injury or death against any person other than the employer. Any employer who pays, or becomes obligated to pay compensation, may likewise make a claim or bring an action against such third person and may recover in the same suit, in addition to the total amount of compensation, damages for which he or

she was liable including all salary, wage, pension, or other emolument paid to the employee or to the employee's survivors.

If the employer shall recover from such other third person damages in excess of the compensation already paid or awarded to be paid under this Chapter, then any such excess shall be paid to the injured employee, or other person entitled thereto, less the employer's expenses, including reasonable attorneys fees, and cost of action.

In the absence of a written agreement that provides otherwise, an alleged third party tortfeasor, named in a suit by an injured employee or on behalf of a deceased employee, may not obtain indemnification, reimbursement, or contribution from an employer in excess of the amounts for which this Chapter mandates the employer compensate the injured or deceased employee.

§735. Compensation Notice.

Every employer who has secured compensation under the provisions of this Chapter shall keep posted in a conspicuous place in or about each of its places of business, typewritten or printed notices, in accordance with a form prescribed by the Board, stating that such employer has secured the payment of compensation in accordance with the provisions of this Chapter. Such notices shall contain the name and address of the carrier with whom the employer has secured the payment of compensation and the date of the expiration of the policy.

§736. Substitution of Carrier for Employer.

In any case where the employer is not a self-insurer, in order that liability for compensation imposed by this Chapter may be most effectively discharged by the employer, and in order that the Administrator of this Chapter in respect to such liability may be facilitated, the Board shall by regulation provided for the discharge, by the carrier for such employer, as it considers proper in order to effectuate the provisions of this Chapter. For such purposes:

- (1) notice to or knowledge by an employer of the occurrence of the injury shall be deemed notice to or knowledge by the carrier;

- (2) jurisdiction over the employer by the Administrator, the Board, or any court under this Chapter shall be sufficient to confer jurisdiction over the carrier, and
- (3) any requirement by the Administrator, the Board, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

§737. Insurance Policies.

- (1) Every policy or contract of insurance issued under authority of this Chapter shall contain:
 - (a) A provision to carry out the provisions of section 736, and a provision that the insolvency or bankruptcy of the employer or the employer's discharge in any insolvency or bankruptcy proceedings, or both, shall not relieve the carrier from payment of compensation for disability or death sustained by an employee during the period covered by such policy or contract.
 - (b) No contract or policy of insurance issued by a carrier under this Chapter shall be cancelled prior to the date specified in such contract or policy for its expiration until at least 30 days after a notice of cancellation has been sent to the Administrator and to the employer in accordance with the provision of subsection (3) of Section 713.

§738. Certificate of Compliance with the Law.

Within 30 days of the effective date of this Act every employer shall file with the Administrator a certificate that payment of compensation to the employer's employees is secured as required in Section 733 of this Chapter.

§739. Penalty for Failure to Secure Payment of Compensation.

- (1) Civil Penalty.

The Administrator shall assess against any employer required to secure the payment of compensation under this Chapter who fails to secure such compensation a civil fine of not more than One Hundred Dollars (\$100) per day for each day such failure continues.

(2) Criminal Penalty.

- (a) In addition to the other penalties provided for in this Chapter, any employer required to secure payment of compensation or required to make payment such compensation under this Chapter, who fails to do so, shall be guilty of a misdemeanor and, upon conviction thereof by a Court of competent jurisdiction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment for not more than one year, or both. Where such employer is a corporation, the president, secretary, and treasure thereof shall be liable for imprisonment by a Court of competent jurisdiction as provided herein, and shall be jointly and severally liable personally for such fine and for any compensation or other benefit which may accrue under this Chapter in respect to any injury which may occur to any employee of such corporation during such time as it fails to secure the payment of compensation as required by Section 733 of this Chapter.
- (b) Any employer who knowingly transfers, sells, encumbers, assigns, or in any other manner dispose of, or who conceals, secretes, or destroys property belonging to the such employee, after one of its employees has been injured within the purview of this Chapter, with the intent to avoid the payment of compensation under this Chapter to such employee or survivors of such employee, who are entitled to compensation, shall be guilty of a misdemeanour and, upon conviction thereof by a Court of competent jurisdiction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment for not more than one year, or both. Where such employer is a corporation, the president, secretary, and treasurer thereof shall be liable for imprisonment as provided for herein, and shall be

- jointly and severally liable personally for such fine.
- (c) Where the total annual premium for all employees is more than the maximum penalty of \$1,000 and the Administrator has sufficient reasons to believe that an employer had intentionally decided to pay the \$1,000 fine in order to avoid covering the costs of total annual premium for all employees, the Administrator may seek a Court of competent jurisdiction to penalize such employer up to the amount of the total annual premium, plus \$1,000, or by imprisonment of not more than one year, or both.
- (3) This Section shall not excuse or diminish any other liability of the employer under this Chapter.[Subsection (2) amended by P.L.2023-71]

PART 3 - WORKERS COMPENSATION BOARD.

§740. Administration.

- (1) Except as otherwise specifically provided, the Workers' Compensation Board shall administer the provision of this Chapter, and for such purpose the Board may:
- (a) make rules and regulations in conformance with this Chapter, including any requirements its reasonably determines are necessary to assure timely payment of compensation and reporting by insurance carriers of compensable injuries;
- (b) select technical assistants, medical advisors, offices, and employees, as its deems necessary; and make from appropriate funds such expenditure (including expenditures for personal services, rent, law books of reference, periodicals, and printing, binding and other necessities) as it deems necessary for the proper administration of this Chapter.
- (c) The Board of Directors of the MISSA shall serve as the Workers' Compensation Board. Whenever possible persons employed by the MISSA shall also render services to the Workers' Compensation Board. If any member of the Board is

removed from office or for any reason ceases to act as a member, all of his or her official records and papers shall be transferred to the Board. No member nor any business associate of a member shall appear as attorney in any proceedings under this Chapter, and no member shall act in any such case in which he or she has an interest, or when he or she is employed by any party in interest or related to any party in interest by consanguinity or affinity within the third degree as determined by the common law.

- (2) The Workers' Compensation Administrator shall be same as the Administrator of the MISSA or his or her designee, approved by a majority vote of the Board. The Administrator shall maintain and keep open a Workers' Compensation office during reasonable business hours.[Subsection (2) amended by P.L.2023-71]

§741. Investigations by the Board.

- (1) The Board shall make studies and investigations with respect to safety provisions, and causes of injuries in employment covered by this Chapter, and shall from time to time make to the Nitijela and to employers and carriers recommendations of means to prevent such injuries.
- (2) In making such studies and investigations, the Board may:
 - (a) Cooperation with any agency charged with the duty of enforcing any law securing safety against injury in any employment covered in this Chapter, or with any agency engaged in enforcing any laws to assure safety for employees; and
 - (b) permit any such agency to have access to the records of the Board. In carrying out the provisions of this section, the Board or any officer or employee of the Board is authorized to enter at any reasonable time upon the premises, tracks, wharf, dock, or to enter any building, where an employment covered by this Chapter is being carried on, and to examine any tool, appliances, or machinery used in such employment.

§742. Special Disability Fund.

- (1) A Special Disability Fund (the Fund) is established in the Republic for the purpose of making payments in accordance with the provisions of Subsection (6) of Section 709 of this Chapter. Such Fund shall be administered in accordance with the provisions of the Social Security Act.
- (2) Payments into the Fund shall be made as follows:
 - (a) Each employer shall contribute Ten Thousand Dollars (\$10,000) for the death of an employee of such employer resulting from injury where the Administrator determines that there is no person entitled, under this Chapter, to disability benefits for such death.
 - (b) Each insurer providing security for payment of workers' compensation claims under this Chapter shall annually pay 2% (two percent) of the total premium paid for such security during the preceding year. Except, in any year in which the Special Disability Fund has sufficient monies to meet its actuarially predicted obligations, the Board may waive these payments by insurers.
 - (c) All amounts collected as fines and penalties under the provisions of this Chapter shall be paid into the Fund.
- (4) The Administrator shall deposit any monies paid into the Fund into such depository banks as the Board may direct. The Board may invest any portion of the funds which is not needed for current requirements in bonds or notes of the United States or Republic or of any insured Bank of the Republic.
- (5) Neither the Republic nor the MISSA shall be liable in respect of payments authorized under Section 707 in an amount greater than the money or property deposited in or belonging to such Fund.

However, should the Board find that the present obligations of the Fund exceed the Fund balance; the Board shall immediately report such deficit to the Nitijela.

- (6) The account for the Fund shall be subject to audit in accordance with established auditing procedures of the Republic which resembles the United States auditing codes, but the action of the Board in making payments from such fund shall be final and not subject to review.

- (7) Should the Board determine, based on the Fund balance and the actuarially predictable obligations of the Fund, that an excess of funds exists in the Fund, then the Board may release such excess funds to the General Fund of the Republic.[Subsection (1) amended by P.L.2023-71]

§743. RMI Government Self-Insurance Fund.

- (1) The Nitijela may establish, out of any money in the general Fund not otherwise appropriated, a fund sufficient to secure compensation payments under this Chapter in respect of employees of the Government, its agencies and instrumentalities, including any public corporation, state owned enterprise (SOE) and any other organization approved by the Nitijela, elected officials of both the national and local Governments, local government employees whose operations are being funded in full by the RMI Government and subject to audit under the supervision of the National Government.
- (2) The Secretary of Finance shall be the custodian of such fund and may disburse monies from such fund only upon the order of the Board. The Secretary of Finance shall deposit any monies appropriated or paid into such fund into such depository banks as the Board may designate, and may invest any portion of the funds which in the opinion of the Board is not needed for current requirements, in bonds or notes of the Republic or United States or of any insured Bank in the Republic.
- (3) The account for such fund shall be subject to audit in accordance with established auditing procedures of the Republic, but actions of the Board in making payments from such fund shall be final and not subject to review.
- (4) With respect to Republic employees, the Administrator may authorize direct compensation payments from such fund or, if its deems desirable, insure and keep insured the payment of such compensation with any stock company or mutual company or association. [Subsection (1) amended by P.L.2023-71]

§743A. Individual/Company Self-Insurance Fund.

- (1) The Board may consider, authorise and revoke applications from non-government employers to establish their own self-insurance fund sufficient to secure compensation and reimbursement payments in respect of all employees (however employed) of the employer, irrespective of where they are located in the Republic, subject to the following considerations:
 - (a) whether the employer is able to meet its financial liabilities and can manage financial transactions necessary to make timely payments of compensation and reimbursements as required under this Chapter;
 - (b) does the employer demonstrate they have the necessary resources for the purpose of administering claims under this Chapter;
 - (c) evidence of the employer actively monitoring the incidence and severity of work injuries arising from employment on all of its locations;
 - (d) the working conditions under which their employees are employed and the health and safety arrangements for those workers; and
 - (e) a sound understanding of the supports required for the rehabilitation of injured employees to achieve their recovery and return to work, including providing suitable employment to employees who suffer work injuries.
- (2) Upon the consideration of the criteria identified in Subsection (1) above, and where satisfied, the Board may authorize an employer to establish its own self-insurance fund sufficient to secure compensation and reimbursement payments in respect of all employees, subject to terms and conditions specified under Regulations.[§743A newly inserted by P.L.2023-71]

§744. Annual Report.

The Board shall report to the Nitijela at the beginning of each calendar year a report of the administration of this Chapter for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the funds established or authorized in Section 742 and 743. Annually the Board

shall advise the Nitijela of needed changes in the laws of the Republic regarding compensation of workers for injuries sustained while working and shall provide data from other jurisdictions on amounts of compensation payable therein.

§745. Effects of Unconstitutionality.

If any part of this Chapter is adjudged unconstitutional by the courts, and such adjudication has the effect of invalidating any payment of compensation under this Chapter, the period intervening between when the injury was sustained and the time of such adjudication shall not be computed as a part of the time prescribed by this Chapter for the commencement of any action against the employer in respect of such injury; but the amount of any compensation paid under this Chapter on account of such injury shall be deducted from the amount of damages awarded in such action in respect of such injury.

§746. Compensation Rates.

Nothing in this chapter shall prevent an employer or employee from purchasing insurance coverage in addition to that coverage required by this chapter.

§747. Amendments.

§748. Transition Provisions

This Chapter shall be implemented by October 1, 2023, after the date of certification of this law. [Amended by P.L.2023-65]

§749. Severability.

If any provision of this Act or any rule, regulation, or promulgated hereunder, or the application of any such provision, rule, regulation, or order to any person or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of this Chapter or any rules, regulation, rules or order to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

§750. Effective Date.

This act shall be effective on the date of certification pursuant to the Constitution and the Rules of Procedures of the Nitijela.