



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

# JUDICIARY (AMENDMENT) ACT 2016

**Introduced by:**

---

**MINISTER THOMAS HEINE**

**Approved:**

---

PRINTED NAME

SIGNATURE



NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
37TH CONSTITUTIONAL REGULAR SESSION, 2016



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

## JUDICIARY (AMENDMENT) ACT 2016

A BILL FOR AN ACT to amend the *Judiciary Act 1983*, 27 MIRC Chp. 2, for the following four purposes: to amend §210(2) the Judiciary Act to expressly provide that associate justices of the High Court can be part-time justices; to amend §219 of the Judiciary Act to expressly mandate Court Rules for continuing legal education; to amend §219 of the Judiciary Act to expressly mandate Court Rules for the provision of pro bono and reduced-fee legal services; and to amend the Judiciary Act to add a new Section 279 that expressly provides for a code of judicial conduct.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

### §1. Short Title.

This Act may be cited as the Judiciary (Amendment) Act 2016.

### §2. Amendment.

(1) §210(2) of the *Judiciary Act 1983*, 27 MIRC Chp. 2 (“Judiciary Act”), is amended to read as follows:

(2) The High Court shall consist of a Chief Justice and one or more other judges who shall be designated as Associate Justices of the High Court. An Associate Justice may be employed to work full time or part time. An Associate Justice employed to work part time shall be paid such amounts as may be agreed upon by the Chief Justice and such judge; provided, however, that the amount of paid shall not exceed the pro rated salary of an Associate Justice based upon the highest salary payable, and, if the judge is resident in the Republic, pro rated

monetary benefits, or, if the judge is non-resident, air fare and per diem.

(2) §219 of the Judiciary Act is amended to read as follows:

**§219. Admission rules.**

Subject to this Chapter and any other law the Chief Justice of the Supreme Court, with the concurrence of the Chief Justice of the High Court, or if the position of the Chief Justice of the High Court is vacant, then the Chief Justice of the Supreme Court acting alone, shall adopt rules that:

- (a) regulate the admission of persons to practice as an attorney at law or trial assistant before any court and their continuing qualification to practice, including requirements for continuing legal education and requirements for pro bono or reduced-fee work in the Marshall Islands for the people of the Marshall Islands who cannot afford legal counsel or obtain free legal counsel;
- (b) establish the standards of professional responsibility and conduct for any person practicing law in the Republic; and
- (c) provide for the discipline, including suspension or disbarment, of any person practicing law in the Republic.

(3) A new §279 is added to the Judiciary Act that reads as follows:

**§279. Code of Judicial Conduct.**

Consistent with the Constitution and any Act, the Chief Justice of the Supreme Court and the Chief Justice of the High Court shall adopt a code of judicial conduct for all courts, with provisions for the Judicial Service Commission to handle complaints.

**§3. Effective Date.**

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

1

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
2 37TH CONSTITUTIONAL REGULAR SESSION, 2016

JUDICIARY (AMENDMENT) ACT 2016

3 SIGNATURES

---

4 DATE: \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_  
5 *Print Name* *Signature*  
6

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
2 37TH CONSTITUTIONAL REGULAR SESSION, 2016

3 JUDICIARY (AMENDMENT) ACT 2016

4 BILL SUMMARY

5 This Bill proposes to amend the Judiciary Act 1983 for four reasons.

6 First, the bill amends Section 210(2) of the Judiciary Act to expressly provide for  
7 part-time associate justices of the High Court. It is not enough to have an acting associate  
8 justice to cover conflict cases and temporary vacancies, as the statute now reads. Even when  
9 the High Court is staffed with a full-time chief justice and a full-time associate justice, there  
10 are times when a third or more justices are needed to move cases without undue delay. The  
11 High Court's caseload is uneven. A part-time justice, would be employed as needed and as  
12 the budget permits. For example, former justices, like Justice Plasman, who for family  
13 reasons have chosen not to live and work full time in the Republic, could be hired as part-  
14 time judges.

15 Second, the bill amends Section 219 of the Judiciary Act to expressly mandate Court  
16 Rules for continuing legal education ("CLE"). For decades now, courts around the world  
17 have recognized that the law changes so rapidly that legal counsel must be required to  
18 update their knowledge and skills. This would include CLE (i) in substantive law areas,  
19 such as customary law, (ii) in rules, such as ethics, evidence, procedure, and the like, and  
20 (iii) in new skills, such as mediation. The people of the Marshall Islands deserve well-  
21 trained legal counsel. See Const., Art. II, Sec. 14.

22 Third, the bill amends Section 219 of the Judiciary Act to expressly mandate Court  
23 Rules for the provision of pro bono and reduced-fee legal services. Consistent with Article  
24 II, Section 14, of the Constitution, wherein the Government of the Republic of the Marshall  
25 Islands recognizes the right of the people to legal services and the obligation to take every  
26 step reasonable and necessary to provide such services, the Nitijela has over the years  
appropriated to the Judiciary the Legal Aid Fund to complement existing and available

1 institutions for delivery of legal aid service in the Republic of the Marshall Islands. The  
2 Legal Aid Fund provides the means by which the people of the Marshall Islands (who, for  
3 one reason or another, are unable to utilize any of the existing institutions for legal aid  
4 delivery, and/or are otherwise unable to afford the cost of legal representation) may secure  
5 legal representation in the enforcement and/or protection of their rights.

6 Further to the Nitijela's appropriations for the Legal Aid Fund, the amendments to  
7 Section 219 expressly mandate Court Rules to require that licensed legal counsel to provide  
8 pro bono or reduced-fee legal services to those who cannot afford to pay. Such Court Rules  
9 would compliment the Nitijela's efforts to discharge its obligation to the people of the  
10 Marshall Islands under Article II, Section 14, of the Constitution. The license to practice as  
11 an attorney or trial assistant is a privilege, not a right. With the privilege to practice law  
12 comes the responsibility to the public.

13 Fourth, the bill amends the Judiciary Act to add a new Section 279 to expressly  
14 mandate that, consistent with the Constitution and any Act, the Chief Justice of the Supreme  
15 Court and the Chief Justice of the High adopt a code of judicial conduct for the courts of the  
16 Marshall Islands, with provisions for the Judicial Service Commission to handle complaints.  
17 This amendment is consistent with existing practice and best practices.