



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

PUBLIC LAND AND RESOURCES (AMENDMENT) ACT 2016

Sponsored by:

HON. MINISTER WILBUR HEINE

Approved:

HON. SPEAKER KENNETH A. KEDI /s/

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



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Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

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37TH CONSTITUTIONAL REGULAR SESSION, 2016**



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Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

**PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2016**

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A BILL FOR AN ACT to amend the Public Land and Resources Act in order to re-establish the ownership of marine areas below the ordinary high water mark to customary landowners.

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

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§101. Short title.

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This Act may be cited as the Public Land and Resources (Amendment) Act 2016.

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§102. Amendment.

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(1) Section 102 of the Public Lands and Resources Act is hereby amended to read as follows:

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§102 Public lands" defined

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(1) Public lands are defined as being those lands situated within the Republic which were owned or maintained by the Japanese government during the Japanese administration ~~of the islands presently comprising the Republic,~~ as government or public lands, excluding all marine areas below the ordinary high water mark and any other submerged areas of distance where the reef fringes ends.. and such other lands as the government of the Republic has acquired or may hereafter acquire for public purposes.

- 1
2 (2) Section 103 of the Public Lands and Resources Act is hereby amended
3 to read as follows:

4 **§102 Rights in areas below high watermark.**

- 5 (1) ~~That portion of the law established during the Japanese~~
6 ~~administration of the area which is now the Republic, that all~~
7 ~~marine areas below the ordinary high watermark belong to the~~
8 ~~government, is hereby confirmed as part of the law of the~~
9 ~~Republic, with the following exceptions:~~

10 (a) ~~— Such rights in fish weirs or traps (including both types~~
11 ~~erected in shallow water and those sunk in deep water)~~
12 ~~and such rights right to erect, maintain and control the~~
13 ~~use of these weirs or traps as were recognized by local~~
14 ~~customary law at the time the Japanese administration~~
15 ~~abolished them, are hereby re-established; provided,~~
16 ~~that no weirs or traps or other obstruction shall be~~
17 ~~erected in such locations as to interfere with established~~
18 ~~routes of water travel or those routes which may~~
19 ~~hereafter be established:~~

20 (b) ~~— The right of the owners of abutting land to claim~~
21 ~~ownership of all materials, coconuts, or other small~~
22 ~~objects deposited on the shore or beach by action of the~~
23 ~~water or falling from trees located on the abutting land,~~
24 ~~and such fishing rights on, and in waters over reefs~~
25 ~~where the general depth of water does not exceed four~~
26 ~~feet at mean low water as were recognized by local~~
27 ~~customary law at the time the Japanese administration~~
28 ~~abolished them, are hereby reestablished where such~~
29 ~~rights are not in conflict with the inherent rights of the~~
30 ~~government as the owner of all marine areas below the~~
31 ~~ordinary high watermark, provided however, that his~~
32 ~~Section shall not be construed to apply to any vessel~~
33 ~~wrecked or stranded on any part of the reefs or shores~~
34 ~~of the Republic.~~

35 (c) ~~— The owner of land abutting the ocean or lagoon shall~~
36 ~~have the right to fill in, erect, construct and maintain~~
37 ~~piers, buildings, or other construction on or over the~~

~~1 water or reef abutting his land and shall have the
2 ownership and control of such construction; provided,
3 that said owner first obtains written permission of the
4 Chief Secretary before beginning such construction.~~

~~5 (d) Each of the rights described in Paragraphs (a), (b) and
6 (c) of this Subsection (1) are hereby granted to the
7 person or group of persons who held who held the right
8 at the time it was abolished by the Japanese
9 administration, or to his or their successor or successors
10 in interest. The extent of each right shall be governed by
11 the local customary law in effect at the time it was
12 abolished.~~

~~13 (e) Nothing in the foregoing Paragraph shall withdraw or
14 disturb the traditional and customary right of the
15 individual land owner, clan, family or municipality to
16 control the use of, or material in, marine areas below the
17 ordinary high watermark, subject only to, and limited
18 by, the inherent rights of the Government of the
19 Marshall Islands as the owner of such marine areas. The
20 foregoing Paragraphs of this Subsection (1) shall create
21 no right in the general public to misuse, abuse, destroy
22 or carry damage to such mangrove trees or abutting
23 land.~~

~~24 (f) Any legal interest or title in marine areas below the
25 ordinary high watermark specifically granted to an
26 individual or group of individuals by the Republic or
27 any previous administering authority, or recognized as
28 a legal right shall not be affected by this Section.~~

~~29 (2) Written notice of any legal interest or title must be filed
30 with the land office within two (2) years from January 8, 1958.
31 The validity of the claimed legal interest or title shall be
32 determined by the land officer notice to the person making the
33 claim or nay other known parties in interest, and an
34 opportunity for hearing, in the same manner and with the
35 same rights of appeal as in the case of claims to land which the
36 government had possession of under claim of ownership.~~

- 1 (1) All rights in marine areas below the ordinary high water mark to the
2 reef fringes shall be vested in the customary owners of all adjoining
3 land.
- 4 (2) The Government, with the approval of the customary landowner or
5 landowners of the particular area, may acquire access to areas below
6 the ordinary high water mark to the reef fringes to construct, build,
7 and or establish projects for the benefit of the Government and the
8 people of the Republic.
- 9 (3) An Agreement referred to under subsection (2) between the
10 Government and a landowner or landowners must be evidenced in
11 writing.
- 12 (4) Where an Agreement under subsection (2) has been confirmed in
13 writing, the landowner or landowners of the area concerned must, in
14 respect of the project for which approval has been granted:
- 15 (a) waive all rights to fishing activities which will or are likely to
16 interfere with the purpose of the project;
- 17 (b) ensure that fishing weirs or traps are not erected in such
18 locations as to obstruct or interfere with the purpose of the
19 project;
- 20 (c) refrain from any other activity that may obstruct or interfere
21 with the purpose of the project.
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23 **§102. Effective date.**

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

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

**PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2016**

BILL SUMMARY

This Bill proposes to amend sections 102 and 103 of the Public Lands and Resources Act, in order to re-define public lands and to clarify and re-established rights to marine areas below the ordinary high water mark.

Except for title to new lands created through land-fills or other land reclamation purposes, section 103(1) of the Public Lands and Resources Act currently vests ownership of all marine areas below the ordinary high watermark in the Government.

This Bill seeks to divest Government of this ownership and to vest ownership of marine areas in customary landowners. However, with the approval of a landowner or landowners for a specific area, the Government may acquire access to areas below the ordinary high water mark to do, build, and establish projects for the benefit of the Government and the people. An Agreement between the Parties must be in writing. Where an Agreement is reached, the landowner or landowners concerned must – (i) waive all rights to fishing activities so as not interfere with the proposed project; (ii) ensure that fishing weirs or traps are not erected in such locations as to obstruct or interfere with the purpose of the project; and (iii) refrain from any other activity that may obstruct or interfere with the purpose of the project.

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

**PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2016**

3 **SIGNATURES**

4 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_MIN. WILBUR HEINE_* *_/S/_*
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