

**TITLE 26 - FAMILY**  
**CHAPTER 7 - GENDER EQUALITY ACT, 2019**



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

**GENDER EQUALITY ACT, 2019**

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**AN ACT** to create a new Chapter under Title 26 of the MIRC to recognize, protect, promote and enforce the human rights and fundamental freedoms of all women and girls, on an equal basis with men and boys, and to further implement the legal obligations of the Marshall Islands as a State Party to the Convention on the Elimination of All Forms of Discrimination against Women; and to make related provisions.

11  
12

*Commencement:*

*October 1, 2019*

*Source:*

*P.L. 2019-116*

13

**§701. Short title.**

14

This Act may be cited as the Gender Equality Act, 2019.

15

**§702. Interpretation.**

16

**In this Act, unless the context otherwise requires –**

17  
18

**“Committee”** means the Human Rights Committee established by the *Human Rights Committee Act 2015*;

19  
20

**“communication”** includes accessible information and communication technology;

21  
22

**“Constitution”** means the Constitution of the Republic of the Marshall Islands;

23  
24  
25

**“Convention”** means the Convention on the Elimination of All Forms of Discrimination against Women as adopted by the United Nations on 18 December 1979 and entering into force on 3 September 1981, and

1 to which the Republic of the Marshall Islands acceded on 2 March  
2 2006;

3 “**Convention Committee**” means the Committee on the Elimination of  
4 Discrimination against Women established under the Convention;

5 “**Court**” means the High Court;

6 “**courts**” include the High Court;

7 “**direct discrimination**” means any act, law, practice or measure that  
8 purposefully treats a person unequally or purposefully restricts a  
9 person from the exercise, enjoyment or fulfillment of any human  
10 right or fundamental freedom;

11 “**disability**” includes a long-term physical, mental, intellectual or sensory  
12 impairment which, in interaction with various attitudinal and  
13 environmental barriers, may hinder full and effective participation of  
14 a person in society on an equal basis with others;

15 “**domestic violence**” is an offense defined in accordance with Section 904 of  
16 the Domestic Violence Prevention and Protection Act, 2011;

17 “**formal equality**” means equality of treatment under the law including the  
18 absence of discrimination, as distinguished from substantive equality;

19 “**gender**” means the socially determined status, roles, and responsibilities  
20 attributed to men and women on the basis of their sex in any given  
21 society;

22 “**gender discrimination**”:

23 (a) means any distinction, exclusion or restriction on the basis of  
24 sex, which has the effect or purpose of impairing or nullifying  
25 the recognition, enjoyment or exercise by women, irrespective  
26 of their marital status, on a basis of equality of men and  
27 women, of human rights and fundamental freedoms in any  
28 area ;

29 (b) may be indirect or direct, and committed in either the public or  
30 private sphere, including by a public authority, organization,  
31 enterprise, or private individual; and

32 (c) includes multiple and intersectional discrimination.

33 “**gender equality**” means both formal equality and substantive equality and  
34 includes the absence of gender discrimination;

1           **“gender mainstreaming”**:

2           (a)       means a strategy for integrating the concerns, needs, and experiences  
3                   of women as well as men into the design, implementation,  
4                   monitoring and evaluation of legislation, policies and programs in all  
5                   areas and at all levels, to ensure that women and men benefit equally;  
6                   and

7  
8           (b)       includes the process of assessing the implications for women and  
9                   men of any planned action, including legislation, policies or  
10                  programs in all areas and at all levels;

11           **“gender quota”** means a minimum measure of representation of women in  
12                  a decision-making body;

13           **“gender stereotypes”** means a generalized view or assumption about the  
14                   respective attributes or characteristics of men and women, including  
15                   the roles and responsibilities they are prescribed within the family  
16                   and in society at large;

17           **“indirect discrimination”** means any act, law, practice or measure that  
18                  appears to be neutral but which has a detrimental affect;

19           **“intersectional discrimination”** means discrimination against a person on  
20                  several grounds which interact concurrently and which are based on  
21                  the multiple identities of women including age, ethnicity, disability,  
22                  marital status, HIV or health status, migrant status, religion, sexual  
23                  orientation or gender identity;

24           **“Minister”** means the Minister responsible for women and gender;

25           **“Ministry”** means the Ministry responsible for women and gender;

26           **“multiple discrimination”** means discrimination against a person on  
27                  several grounds which apply at different times or in different  
28                  circumstances and which are based on the multiple identities of  
29                  women including age, ethnicity, disability, marital status, HIV or  
30                  health status, migrant status, religion, sexual orientation or gender  
31                  identity;

32           **“multiple identities”** means the multiple identities of women including age,  
33                  ethnicity, disability, marital status, HIV or health status, migrant  
34                  status, religion, sexual orientation or gender identity, which may be a  
35                  basis for multiple or intersectional discrimination;

1 “**persons with disabilities**” include persons who have long-term physical,  
2 mental, intellectual or sensory impairments which, in interaction with  
3 various barriers, may hinder their full and effective participation in  
4 society on an equal basis with others;

5 “**relevant organization**” means an organization that –

- 6 (a) represents the interests of women and girls;  
7 (b) provides services to women and girls;  
8 (c) is engaged in advocacy to promote gender equality or the  
9 empowerment of women and girls; or  
10 (d) provides training or education to the public in matters relating  
11 to gender equality;

12 “**Secretary**” means the Secretary of the Ministry responsible for women and  
13 gender;

14 “**sex**” means the physical and biological characteristics that distinguish  
15 females and males;

16 “**sexual harassment**” means an unwelcome sexual advance made in verbal,  
17 physical and/or other forms, intimidation, threat and/or other form of  
18 coercion or pressure that makes intimate sexual relations unavoidable  
19 for the victim or that creates an unbearable hostile environment  
20 and/or causes damage in terms of the person’s employment,  
21 professional, economic, psychological and/or any other aspect of their  
22 well-being;

23 “**special measures**”:

- 24 (a) mean targeted measures designed to achieve substantive  
25 equality for women in all areas where they are historically  
26 underrepresented or disadvantaged;  
27 (b) include positive action, preferential treatment, and gender  
28 quotas;  
29 (c) with the exception of measures relating to maternity rights, are  
30 temporary and shall be discontinued once the objective of  
31 substantive equality for women has been achieved and  
32 sustained over a reasonable period of time;  
33 (d) shall not be considered as gender discrimination;

1 “**substantive equality**” means de facto equality or equality of results or  
2 impact, as distinguished from formal equality or equality under the  
3 law;

4 “**Universal Declaration of Human Rights**” means the first declaration  
5 about the rights and freedoms of the individual as adopted by the  
6 United Nations General Assembly in December 1948;

7 “**vulnerable women**” include pregnant women, including adolescent  
8 pregnant women, single mothers, adolescent or young mothers,  
9 female heads of households, women with disabilities, older women,  
10 and rural and outer island women.

11 **§703. Purpose of the Act.**

- 12 (1) The purpose of this Act is to –
- 13 (a) recognize, protect, promote, and enforce the full and equal  
14 enjoyment of all human rights and fundamental freedoms by  
15 all women and girls, on an equal basis with men and boys,  
16 thereby promoting gender equality and non-discrimination;
- 17
- 18 (b) further implement the legal obligations of the Marshall Islands  
19 as a State Party to the Convention;
- 20 (c) adopt and implement a legal framework that:
- 21 (i) establishes gender equality in the political, economic,  
22 social, domestic, and any other sphere;
- 23 (ii) incorporates the Convention into domestic policy and  
24 legislation;
- 25 (iii) recognizes and upholds all human rights and  
26 obligations related to women and girls in all their  
27 diversities under the Universal Declaration of Human  
28 Rights and other international human rights  
29 instruments; and
- 30 (iv) promotes gender mainstreaming in all sectors and at all  
31 levels.

32 **§704. Scope and objectives of the Act.**

- 33 (1) This Act –

- 1 (a) recognizes that –
- 2 (i) all women are entitled to substantive equality in all
- 3 areas of their lives, on an equal basis with men; and
- 4 (ii) gender discrimination is a violation of human rights;
- 5 (b) seeks to extend to all women, regardless of their sex, gender or
- 6 any other of their multiple identities, full protection of their
- 7 human rights and fundamental freedoms;
- 8 (c) recognizes the valuable contribution of women as equal
- 9 partners to the development of the Marshall Islands, and
- 10 therefore their right:
- 11 (i) to be consulted and actively involved in all decision-
- 12 making processes, policies, planning, and
- 13 programming; and
- 14 (ii) to be equally represented on all decision-making
- 15 bodies;
- 16 (d) supports there distribution of responsibilities between men
- 17 and women, particularly in the home, to enable women to
- 18 participate in all areas of economic, social and political life on
- 19 an equal basis with men; and
- 20 (e) recognizes the importance of allocating adequate human,
- 21 financial and technical resources to realize the commitments
- 22 under this Act.
- 23 (2) In giving effect to this Act, and all other relevant legislation, the
- 24 Government, the courts and all other persons and bodies must have
- 25 regard to –
- 26 (a) the purpose and principles of the Convention;
- 27 (b) all interpretative guidelines, statements, general
- 28 recommendations, and jurisprudence of the Convention
- 29 Committee; and
- 30 (c) all other relevant international human rights standards and
- 31 principles.
- 32 (3) This Act must be read and applied so as to achieve in the Marshall
- 33 Islands the following strategic objectives –
- 34 (a) enhanced and effective participation of women as equal
- 35 partners in national and local development;

- 1 (b) gender inclusive and gender responsive development as part  
2 of a rights-based approach to development and poverty  
3 reduction;
- 4 (c) effective collaboration and coordination with development  
5 partners;
- 6 (d) improved gender statistics, including sex-disaggregated data,  
7 in all areas of women's lives; and
- 8 (e) effective mainstreaming of gender equality across all policies,  
9 planning, programming and budgets at all levels and in all  
10 sectors.

11 **§705. Application of the Act.**

- 12 (1) This Act binds every person in the Marshall Islands, irrespective of  
13 the person's nationality or citizenship.
- 14 (2) This Act binds the State, civil society and the private sector, including  
15 every Government department, local Government, statutory  
16 authority, and person in the employment of national or local  
17 Government.
- 18 (3) Any law that is inconsistent with the provisions of this Act shall be  
19 declared invalid to the extent of the inconsistency.

20 **§706. Prohibition of gender discrimination.**

- 21 (1) Gender discrimination, whether direct or indirect discrimination, is  
22 prohibited in all areas, in particular in the political, legal, economic,  
23 employment, social and domestic spheres, and by any person, State  
24 entity, enterprise or organization.
- 25 (2) Gender discrimination under subsection (1) includes multiple and  
26 intersectional discrimination.
- 27 (3) Violence against women and girls, including sexual harassment,  
28 constitutes gender discrimination.
- 29 (4) The following do not constitute gender discrimination:
- 30 (a) provision of health, educational and other services designed to  
31 cater for the specific needs of men and women;
- 32 (b) special measures under this Act including Section 708; or

- 1 (c) any distinction, exclusion or preference in respect of a  
2 particular job based on the inherent requirements of the job.

3 **PART II – HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**  
4 **TO GUARANTEE GENDER EQUALITY AND NON-**  
5 **DISCRIMINATION**

6 **§707. Guarantees for gender equality.**

- 7 (1) The Government must ensure substantive equality for women in all  
8 areas of political, economic and social life, including education,  
9 marriage, family life, employment, vocational training, public or  
10 political office, health, social protection, and information.

11 **§708. Special measures.**

- 12 (1) The Government must collect sex-disaggregated data and  
13 information in all areas and identify any areas where there is  
14 inequality, underrepresentation or disadvantage for women;
- 15 (2) Where there is evidence of inequality, underrepresentation or  
16 disadvantage for women under subsection (1), the Government,  
17 private sector and civil society organizations must consider the  
18 adoption of policies, legislation or programs, including special  
19 measures, aimed at achieving or accelerating substantive equality for  
20 women.
- 21 (3) In particular, special measures may be implemented for the purpose  
22 of:
- 23 (a) achieving gender equality in the labor market, including  
24 through eliminating occupational segregation, wage  
25 disparities, and gender disparities in the composition of the  
26 workforce, and protecting the maternity rights of women;
- 27 (b) addressing gender inequalities in education at all levels,  
28 including through the provision of scholarships and support  
29 to pregnant students and young mothers; or
- 30 (c) promoting substantive gender equality in all other  
31 development sectors.

- 1 (4) The Ministry must provide for officials and policymakers, at all levels  
2 of Government, capacity-building on:  
3 (a) gender equality;  
4 (b) gender mainstreaming; and  
5 (c) special measures for achieving substantive gender equality.

6 **§709. Stereotypes and harmful practices.**

- 7 (1) The Ministry must:  
8 (a) adopt measures to eliminate gender stereotypes, prejudice,  
9 and harmful practices relating to women, including those  
10 aggravated by age, disability and any other form of multiple  
11 or intersectional discrimination;  
12 (b) strengthen public education and provide training, particularly  
13 in rural areas and the outer islands, on the negative impacts of  
14 gender stereotypes, and promote public awareness about the  
15 Convention and gender equality;  
16 (c) ensure that educational and training institutions at all levels,  
17 including educational curricula, textbooks and learning  
18 materials, do not promote gender stereotypes;  
19 (d) encourage the media to:  
20 (i) project positive images of women including older  
21 women and women and girls with disabilities; and  
22 (ii) promote the value of gender equality for society as a  
23 whole; and  
24 (e) monitor and evaluate the measures taken under this Section in  
25 order to assess their impact.

26 **§710. Violence against women and girls.**

- 27 (1) Any form of violence against women and girls in the domestic or  
28 public sphere is prohibited without exception.  
29 (2) Violence against women and girls includes:  
30 (a) any form, or threat, of assault, abuse, intimidation,  
31 exploitation or other harm, whether physical, sexual,  
32 psychological, emotional, or economic, and whether occurring

1 within the family or in the community, including in any  
2 educational institution, workplace, or any other public place;

3 (b) domestic violence as defined in Section 2; and

4 (c) sexual harassment as defined in Section 2.

5 (3) No legal defense of justifiable force or any other defense that  
6 infringes on the rights of women and girls under this Act is  
7 permitted.

8 (4) The Ministry, in collaboration with the Public Service Commission,  
9 the Public Schools System, and other relevant stakeholders, must:

10 (a) establish and implement comprehensive first response  
11 protocols, including emergency treatment, reporting  
12 obligations, and sanctions;

13 (b) develop and implement a training program for health  
14 professionals to ensure they understand their responsibilities  
15 as first responders and are able to provide appropriate  
16 treatment, care and referrals for any woman or girl who is the  
17 victim of violence, including domestic violence;

18 (c) integrate content on gender equality and non-discrimination  
19 into curricula at all levels of education, both public and  
20 private, from early childhood onwards;

21 (d) raise awareness in the community, including through  
22 educational and media campaigns, on the criminal nature of  
23 all forms of violence against women and girls;

24 (e) target both men and women in any awareness campaign  
25 under paragraph (d), in order to counter the social acceptance  
26 of violence against women and girls, and to encourage  
27 reporting of any violation of rights;

28 (f) establish an efficient and reliable system of data collection on  
29 violence against women and girls, including domestic  
30 violence, disaggregated by sex, age, disability, ethnicity, and  
31 relationship between the victim and perpetrator; and

32 (g) ensure that women and girls who are victims of violence,  
33 including those living in rural areas and the outer islands,  
34 have access to adequate support including shelters, legal aid  
35 and rehabilitation services.

1 **§711. Access to justice.**

2 (1) The Government must:

- 3 (a) provide women with affordable, accessible and timely  
4 remedies for any violation of rights under this Act; and  
5 (b) ensure that the judicial system is sufficiently robust to deliver  
6 services throughout the Marshall Islands, including rural areas  
7 and the outer islands, through the allocation of sufficient  
8 human, technical and financial resources.

9 (2) The Government must promote impartiality and fairness in the  
10 justice system in particular in cases of sexual offences and violence  
11 against women by:

- 12 (a) actively discouraging gender stereotypes that promote gender  
13 bias and discrimination; and  
14 (b) establishing a program of gender-sensitive training for judicial  
15 and law enforcement officers and other public officials,  
16 including on all rights under the Convention and all forms of  
17 discrimination, including multiple or intersectional  
18 discrimination.  
19

20 (3) The Government must consider the adoption of special measures to  
21 address the under-representation of women in the judiciary.

22 (4) The Government may:

- 23 (a) provide vulnerable women with:  
24 (i) legal aid services;  
25 (ii) exemption from court fees;  
26 (iii) counseling services; and  
27 (iv) transport subsidies for court attendance and to access  
28 the legal aid and counseling services under (i) and (iii);  
29 and  
30 (b) ensure that legal proceedings are held privately in whole or in  
31 part, and that testimony can be given remotely, as may be  
32 necessary to protect the safety, privacy and human rights of  
33 women who are party to any proceedings.

**§712. Participation in political and public life.**

- (1) Women are entitled to participate in all areas of political and public life on an equal basis with men.
- (2) Any act of exclusion, restriction or discrimination against women in respect of the following is prohibited:
  - (a) the right to participate in the political process, including the right to vote, stand for election, or occupy any political office, whether at national or local Government level;
  - (b) the right to join and participate in any activities of a political party, labor union or other organization of choice;
  - (c) the right to be a member of, or occupy any position of seniority, management or leadership in, a political party, civil society or community organization, church institution or group, local Government, or private sector body; and
  - (d) the right to be a member of, or occupy any position of seniority, management or leadership in, the civil service and labor market, including any board, committee, task force, or State-owned enterprise.
- (3) The Government may consider the adoption of special measures to address the under-representation of women in decision-making in the Nitijela, local councils, boards, committees, taskforces, and State-owned enterprises.
- (4) The Ministry must, in collaboration with relevant stakeholders, conduct awareness-raising activities among political leaders, community leaders, civil servants, the media, private sector, and the general public on the importance and benefits of women participating in political life and decision-making.
- (5) The Government may build the capacity of women electoral candidates, including by seeking technical assistance from international development partners.

**§713. Education.**

- (1) Women and girls have an equal right to education.
- (2) Women and girls, including women and girls with disabilities, must have equal opportunities to:

- 1 (a) obtain preschool, primary, secondary, vocational, and higher  
2 education, including equal access to all subjects;
- 3 (b) access professional training and re-training; and  
4 (c) be awarded scholarships.
- 5 (3) An educational or training institution, excluding private institution,  
6 must not refuse enrolment, restrict or refuse training, or deny any  
7 other educational or training opportunity to a person on the basis of  
8 sex, gender, or any of the multiple identities of women, including  
9 suspending or expelling a female student on the grounds of  
10 pregnancy, breastfeeding, marital or maternity status.
- 11 (4) Educational and training institutions must:
- 12 (a) promote gender equality, human rights, and positive gender  
13 roles;
- 14 (b) apply a strict no-tolerance policy on sexual harassment, and  
15 protect the right of women and girls to be treated with respect  
16 and dignity;
- 17 (c) ensure that the working and learning environment is free from  
18 gender discrimination, and all textbooks and learning  
19 materials are without any content that perpetuates gender  
20 stereotypes;
- 21 (d) ensure that women and girls are able to freely choose their  
22 course of study and career, on an equal basis with men and  
23 boys;
- 24 (e) encourage women and girls to study non-traditional subjects  
25 including science, technology, mathematics, and engineering;
- 26 (f) provide age-appropriate education on sexuality and  
27 reproductive health and rights, and incorporate traditional  
28 knowledge, including the traditional knowledge of women, in  
29 school curricula;
- 30 (g) administer mandatory gender awareness training for teaching  
31 staff and students at all levels;
- 32 (h) actively seek ways to remove gender disparities in education  
33 where they exist, including by special measures; and
- 34 (i) promote inclusive education, as provided for under the Rights  
35 of Persons with Disabilities Act, 2015.

- 1 (5) Educational and training institutions may ensure that female  
2 students who become pregnant or are young mothers are given  
3 support to continue and complete their education or training,  
4 including through special measures.
- 5 (6) Special measures under subsection (5) comprise targeted support to  
6 safeguard the health and welfare of mother and child and may  
7 include:
- 8 (a) prenatal and postnatal checkups during school hours;  
9 (b) free school lunches for pregnant and breastfeeding mothers;  
10 (c) breastfeeding and child care facilities within the educational  
11 compound; and  
12 (d) adjustment of rules relating to homework, examinations, sport,  
13 or other activities, as may be required.

#### 14 **§714. Employment.**

- 15 (1) Gender discrimination is prohibited in any area or aspect of  
16 employment, including the following:
- 17 (a) recruitment and hiring, wages and salaries, conditions of  
18 employment, benefits, training opportunities, promotion,  
19 retirement, retrenchment, termination, or any other relevant  
20 area; and  
21 (b) occupational segregation or any restriction on female  
22 employment in a particular sector, industry, trade or  
23 occupation.
- 24 (2) Women are entitled to maternity protection as a fundamental human  
25 right.
- 26 (3) The Government must establish in both the public and private sectors  
27 a system of paid maternity leave consistent with international labor  
28 standards.
- 29 (4) Every employer in the public and private sector must:
- 30 (a) adopt and implement a gender policy aimed at ensuring non-  
31 discrimination and gender equality in the workplace;  
32 (b) adopt and implement a zero-tolerance policy on workplace  
33 harassment and bullying, including sexual harassment,  
34 supported by a confidential complaints mechanism,

- 1 disciplinary sanctions, staff training, and an information and  
2 communication strategy;
- 3 (c) actively seek ways to remove gender disparities in the  
4 composition of the workforce and promote gender balance,  
5 including by special measures;
- 6 (d) apply the principle of equal pay for work of equal value in line  
7 with international labor standards;
- 8 (e) protect pregnant women from types of work likely to be  
9 harmful to them during pregnancy; and
- 10 (f) provide support to mothers in the workplace including  
11 breastfeeding and child care facilities, and nursing breaks.

12 **§715. Health.**

- 13 (1) The Government must provide women, including pregnant women  
14 and mothers, affordable and quality health care including sexual and  
15 reproductive health information and services.
- 16 (2) Any form of gender discrimination in health care services is  
17 prohibited.
- 18 (3) The Government must:
- 19 (a) establish appropriate health services for women;
- 20 (b) develop a comprehensive national strategy to promote  
21 women's health, recognizing the importance of women's  
22 traditional knowledge and medicine;
- 23 (c) make adequate human and administrative resources and  
24 budgetary provision for service delivery under paragraph (a),  
25 including in rural areas and the outer islands;
- 26 (d) integrate a gender perspective into all policies and programs  
27 affecting women's health; and
- 28 (e) involve representative organizations of women and other  
29 relevant organizations in the planning, implementation and  
30 monitoring of all activities under (a) - (d).
- 31 (4) The Government must ensure that all health services are consistent  
32 with the human rights of women, including their rights to autonomy,  
33 privacy, confidentiality, informed consent, and choice, and no  
34 woman, including any woman with disability, must be subject to any

1 forced or non-consensual treatment or procedure including forced  
2 sterilization.

3 **§716. Economic empowerment of women.**

- 4 (1) Women are entitled, on an equal basis with men, to:
- 5 (a) establish an economic enterprise;
- 6 (b) engage in any economic activity;
- 7 (c) access markets;
- 8 (d) access loans, grants, mortgages, credit or any other financial  
9 services, including from a commercial or development bank;  
10 and
- 11 (d) access social protection.
- 12 (2) The Government must promote women's economic empowerment  
13 including through financial services such as credit schemes and  
14 financial literacy training, social protection and other support or  
15 special measures, especially for women in the informal economy and  
16 in the rural areas and outer islands.

17 **§717. Environment, climate change and natural disasters.**

- 18 (1) The Government must ensure:
- 19 (a) equal opportunities for women to participate and engage in  
20 the design, development, implementation, and monitoring of  
21 all activities relating to disaster risk management and climate  
22 change;
- 23 (b) the inclusion of a gender perspective in all policies, legislation,  
24 plans, programs and budgets under paragraph (a);
- 25 (c) equal access of women to climate finance;
- 26 (d) equal opportunities for women to access training on climate  
27 change mitigation and adaptation; and
- 28 (e) equal participation of women in international climate dialogue  
29 and negotiations.
- 30 (2) The Government must collect information and data on the gendered  
31 impacts of natural disasters and climate change, and use the  
32 information and data to inform gender-responsive legislation,

1 policies, programs and budgets to improve disaster risk management  
2 and climate resilience.

3 **§ 718. Women and girls with disabilities.**

4 (1) Women and girls with disabilities are entitled to gender equality and  
5 non-discrimination on an equal basis with other women.

6 (2) The Ministry must adopt appropriate measures to ensure the full and  
7 equal enjoyment of all human rights and fundamental freedoms by  
8 women and girls with disabilities, as provided for under the Rights of  
9 Persons with Disabilities Act, 2015.

10 **§ 719. Marriage and family relations.**

11 (1) The legal age for marriage for both men and women is 18 years.

12 (2) Women are entitled to marry on an equal basis with men including  
13 choosing their own partner and entering marriage on the basis of free  
14 and full consent.

15 (3) It is prohibited under any circumstances for a person to force or  
16 pressure a woman or girl to enter marriage.

17 (4) Marriage is only permissible with one partner to the exclusion of all  
18 others and every marriage must be registered in accordance with the  
19 *Births, Deaths and Marriages Act 1988*.

20 (5) Women and men have equal rights and shared responsibilities in  
21 marriage, including the equal right to decide on the number and  
22 spacing of children, and the shared responsibility to provide and care  
23 for any children, elderly parents, relatives, or other dependent family  
24 members.

25 **PART III – FUNCTIONS AND POWERS TO PROMOTE GENDER**  
26 **EQUALITY**

27 **§720. Obligations of the Nitijela.**

28 (1) The Nitijela must:

29 (a) ensure that legislation is consistent with a human rights-based  
30 approach;

- 1 (b) strengthen the legal framework to ensure compliance with the  
2 principles and norms of gender equality established by this  
3 law, other relevant laws, and international treaties to which  
4 the Marshall Islands is a State Party; and
- 5 (c) approve funds sufficient for the achievement of objectives on  
6 gender equality as adopted by this law, other relevant laws,  
7 and international treaties to which the Marshall Islands is a  
8 State Party.

9 **§721. General obligations of Government.**

- 10 (1) The Government must promote and ensure the full realization of  
11 human rights and fundamental freedoms for all women and girls  
12 without any discrimination.
- 13 (2) Without limiting the generality of subsection (1), the Government  
14 must –
- 15 (a) refrain from engaging in any act or practice that is inconsistent  
16 with the rights set out in Part II of this Act, and ensure that  
17 public authorities and institutions, civil society, and private  
18 agencies and individuals act in conformity with those rights;
- 19 (b) adopt and implement national strategies, policies and targets  
20 to eliminate all forms of gender discrimination, and promote  
21 gender equality;
- 22 (c) modify or abolish any legislation, regulation, or practice that  
23 discriminates against women or is otherwise inconsistent with  
24 the Convention;
- 25 (d) mainstream gender across all national and sectoral  
26 development policies, planning and programs;
- 27 (e) introduce and maintain a gender responsive budgeting  
28 system;
- 29 (f) appoint gender focal points in different agencies for effective  
30 coordination, mainstreaming, and implementation of the  
31 Convention and this Act;
- 32 (g) promote equality of opportunity and treatment for women;
- 33 (h) implement all laws on gender equality and ensure effective  
34 enforcement;

- 1 (i) ensure that instances of violence, abuse, control or punishment  
2 of women are identified, investigated and, where appropriate,  
3 prosecuted;
- 4 (j) adopt measures to prevent workplace gender discrimination in  
5 the civil service, private sector and civil society;
- 6 (k) provide training on gender equality;
- 7 (l) publicize national information on gender equality and carry  
8 out awareness raising activities; and
- 9 (m) routinely consult and coordinate with relevant civil society  
10 organizations including representative organizations of  
11 women.

12 **§722. Functions of the Minister.**

- 13 (1) The Minister must –
- 14 (a) ensure compliance with reporting obligations under the  
15 Convention;
- 16 (b) report to the Nitijela –
- 17 (i) annually on Government’s fulfillment of its obligations  
18 under this Act and the Convention; and
- 19 (ii) periodically, as may be required;
- 20 (c) perform any other functions assigned to the Minister under  
21 this Act or any other Act.

22 **PART IV – ADMINISTRATION AND IMPLEMENTATION**

23 **§723. Administration and implementation of this Act.**

- 24 (1) The Ministry is responsible for the administration and  
25 implementation of this Act.
- 26 (2) The Ministry is the focal point for matters relating to the  
27 implementation of the Convention and this Act, including  
28 coordinating implementation with other departments and agencies.
- 29 (3) The Secretary –

- 1 (a) may delegate, in writing, any of his or her powers or duties to  
2 a public officer in the Ministry with relevant qualifications and  
3 experience; and
- 4 (b) must designate one or more public officers with relevant  
5 qualifications and experience to coordinate the Ministry's  
6 responsibilities under this Act.

7 **§724. Functions of the Secretary.**

- 8 (1) The Secretary must –
- 9 (a) consult with other Ministries, local councils, representative  
10 organizations of women, and other relevant organizations to  
11 ensure the effective implementation of this Act;
- 12 (b) assist the Minister in the performance of the Minister's  
13 functions under this Act;
- 14 (c) keep records relating to gender equality matters as required by  
15 this Act;
- 16 (d) report to the Minister and the Committee at least twice yearly;  
17 and
- 18 (e) perform any other function ascribed to the Secretary under  
19 this Act.

20 **§725. Statistics and data.**

- 21 (1) The Ministry must ensure the collection of appropriate information  
22 and data to enable the Government to formulate and implement  
23 policies to give effect to the Convention and this Act.
- 24 (2) Statistics and data collected must–
- 25 (a) cover all areas relevant to women's lives including:
- 26 (i) poverty;
- 27 (ii) violence;
- 28 (iii) domestic, care giving, and subsistence responsibilities;
- 29 (iv) employment;
- 30 (v) climate change and natural disasters; and
- 31 (vi) access to health care, social protection, housing, and  
32 social and economic benefits;

- 1 (b) be disaggregated by sex, age, ethnicity, disability, geographical  
2 location, socio-economic background, sexual orientation,  
3 gender identity and any other status;
- 4 (c) be used to:
- 5 (i) assess the situation of women and determine the nature  
6 and extent of discrimination, inequality, and violence  
7 against women and girls;
- 8 (ii) measure and value the unremunerated domestic, care  
9 giving, and subsistence responsibilities of women;
- 10 (iii) make visible the full extent of women’s work, and the  
11 contributions they make to the national economy,  
12 including within the informal economy and the  
13 unremunerated domestic sector;
- 14 (iv) inform the development of all government policy and  
15 guide targeted policy initiatives;
- 16 (v) support mainstreaming of gender equality across all  
17 legislation, policies, planning and programming;
- 18 (vi) support monitoring and evaluation of progress towards  
19 achieving gender equality; and
- 20 (vii) assess the impact and effectiveness of gender inclusive  
21 policies and programming.
- 22 (3) In the collection of data, the Secretary must:
- 23 (a) collaborate with the Economic Planning Policy and Statistics  
24 Office; and
- 25 (b) consult with civil society organizations including  
26 representative organizations of women.

27 **§726. Gender mainstreaming and gender responsive budgeting.**

- 28 (1) The Government must adopt gender mainstreaming as a strategy to  
29 promote gender equality and eliminate gender discrimination across  
30 all government departments and agencies, at all levels, including in  
31 all legislation, policies, planning, programming, and budgeting.
- 32 (2) The Government must establish and implement a policy of gender  
33 responsive budgeting which shall be applied by all government

1 departments and agencies, at all levels, to all policy making, planning  
2 and programming.

- 3 (3) A training program must be developed to support implementation  
4 and enhance understanding across Government of the principles and  
5 processes for gender inclusion in the budgetary process.
- 6 (4) Gender responsive budgeting must consider the particular needs of  
7 women subject to multiple or intersectional discrimination, as well  
8 other vulnerable women.

## 9 PART V - ENFORCEMENT OF RIGHTS

### 10 §727. Right to complain to the Committee.

- 11 (1) Any person may make a complaint to the Committee through the  
12 Ministry if the person reasonably believes that an act of gender  
13 discrimination or any other violation of rights under this Act has  
14 been committed.
- 15 (2) A complaint to the Committee must be dealt with in accordance with  
16 Part IV of the *Human Rights Committee Act 2015*.

### 17 §728. Committee investigation where no complaint.

- 18 (1) The Committee may initiate an investigation in accordance with  
19 Section 1216 of the *Human Rights Committee Act 2015* where the  
20 Committee reasonably believes –
- 21 (a) that a person or group of persons, including a government  
22 department or any public officer, or a private sector  
23 organization, has committed an act of gender discrimination or  
24 any other violation of rights under this Act; and
- 25 (b) the act of discrimination or other act involves a significant  
26 infringement of rights which raises an issue of public interest.

## 27 PART VI – OFFENSES AND PROCEEDINGS

### 28 OFFENCES

1 **§729. Gender discrimination offence.**

- 2 (1) A person who commits an act of gender discrimination, or other  
3 violation of rights under this Act, commits an offence.
- 4 (2) It is not a defense to a charge under this Section that the  
5 discrimination or other unlawful act arose out of, or was consistent  
6 with, any ethnic, religious or other identity or practice.

7 **§730. Penalties.**

- 8 (1) A person convicted of an offense under Section 29 is liable to a fine  
9 not exceeding \$5,000, or to imprisonment for a term not exceeding  
10 one year, or both.
- 11 (2) In the case of a second or subsequent offense, a person convicted of  
12 an offense under Section 729 is liable to a fine not exceeding \$10,000,  
13 or to imprisonment for a term not exceeding two years, or both.
- 14 (3) For any other offense under this Act for which a specific penalty is  
15 not provided, the penalty is a fine not exceeding \$5,000, or  
16 imprisonment for a term not exceeding one year, or both.

17 **§731. Offenses by corporate bodies.**

- 18 (1) A corporate body that commits an offense under this Part is liable to  
19 a maximum fine five times the maximum fine prescribed in Section  
20 730.
- 21 (2) If a corporate body commits an offense against this Act, a director or  
22 any other person concerned with the management of the body  
23 corporate commits the same offense, unless the director or other  
24 person proves that –
- 25 (a) the offense was committed without his or her consent or  
26 complicity; and
- 27 (b) he or she exercised reasonable diligence to prevent the  
28 commission of the offense, having regard to the nature of his  
29 or her functions in the corporate body and to all the  
30 circumstances.

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## OTHER PROCEEDINGS

### §732. Discipline of public officers.

- (1) If, in the course of duty, a public officer wilfully commits an act of gender discrimination or other violation of rights under this Act, the public officer must be disciplined in accordance with the *Public Service Commission Act 1979* or the *Public School System Act, 2013*, as appropriate.
- (2) Subject to Section 733(3), subsection (1) does not affect any complaint proceedings, prosecution, or other measure adopted against the public officer under Part V or VI.

### §733. Civil remedies.

- (1) A person alleging gender discrimination or other violation of rights under this Act may apply to the Court for redress by way of –
  - (a) injunctive relief; or
  - (b) an award of damages.
- (2) This Section -
  - (a) is without prejudice to any other action with respect to the same matter which is lawfully available to a person; and
  - (b) does not affect the right to claim damages for any other civil wrong.
- (3) Nothing in this Section entitles a person to bring an action for damages against a government department, Minister or public officer who performs their official duties in good faith.

## DAMAGES

### §734. Assessment of damages

- (1) For the purpose of determining appropriate compensation in all civil, criminal, administrative or other proceedings, the Court must take full account of the unremunerated domestic, care giving and subsistence responsibilities of women when assessing damages.

1 **§735. Severability of contracts.**

- 2 (1) Any contract for employment or for the provision of goods, facilities  
3 or services, or any other agreement, is void to the extent that it  
4 purports to deny to a person, on the basis of sex, gender, or any of the  
5 multiple identities of women, any right or privilege conferred by or  
6 under this Act or in any other way limits the operation and effect of  
7 this Act.

8 **PART VII – MISCELLANEOUS**

9 **§736. Regulations.**

- 10 (1) The Minister may, in accordance with the *Marshall Islands*  
11 *Administrative Procedures Act 1979*, make regulations for the effective  
12 implementation of this Act.
- 13 (2) Without limiting subsection (1) or affecting any other regulation-  
14 making power in this Act, regulations may –
- 15 (a) prescribe fees and charges for services provided by  
16 Government under this Act;
- 17 (b) create other offenses;
- 18 (c) prescribe penalties not exceeding a fine of \$5,000 for an  
19 individual or \$25,000 for a corporate body; and
- 20 (d) prescribe any other matter required for giving effect to this  
21 Act.
- 22 (3) In making regulations, the Minister must–
- 23 (a) obtain the advice of the Committee and the Secretary; and  
24 (b) consult other Government departments, agencies, and  
25 statutory authorities, as appropriate.

26 **§737. Severability.**

- 27 If any provision of this Act is deemed to be unconstitutional, the other  
28 provisions remain in full force and effect.

1 **§738. Effective date.**

- 2 (1) This Act commences one year from the date of certification in  
3 accordance with the Constitution and the Rules of Procedures of the  
4 Nitijela.
- 5 (2) A prosecution for an offense under this Act must not be commenced  
6 until after one year of the commencement of this Act.

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