

**TITLE 43 - FOREIGN AFFAIRS CITIZENSHIP AND IMMIGRATION**  
**CHAPTER 11 - PASSPORT ACT 2020**



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

**PASSPORT ACT, 2020**

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**PASSPORT ACT, 2020**

**AN ACT** to provide for the Regulation of the Passports application and issuance process; the establishment of the Division of Passports and Citizenship, the Passport Review Panel; the functions and powers of the Director and the Panel; the authority of the Attorney General; establishment of the Passport application process, and the attending requirements; the application review process; the approval and issuance of Passports; the creation of prohibitions; establishment of offenses and penalties; and for related matters.

*Commencement:*

*December 11, 2020*

*Source:*

*P.L. 2020-0018*

**PART I - PRELIMINARY**

**§1101. Short title.**

This Act may be cited as Passport Act, 2020.

**§1102. Interpretation.**

Unless the context determines otherwise, the following terms and phrases shall have the following meaning:

- (a) 'Attorney General' means the Attorney General of the Republic of the Marshall Islands or his/her designee;
- (b) 'Cabinet Minute' means the official record of a Cabinet decision maintained by the Clerk of Cabinet;

- (c) Certificate of Citizenship means the certificate issued by the Passport Review Panel to a person who was lawfully naturalized or registered as a citizen under the provisions of the Constitution and the Citizenship Act 1984 evidencing the grant of Marshall Islands Citizenship;
- (d) Decree means any Order of the High Court of the Republic or of any other jurisdiction;
- (e) Diplomatic Passport means the Passport issued under Section 17;
- (f) Director means the Director, Division of Passports and Citizenship appointed pursuant to Section 4, or his/her designee.
- (g) Division means the Division of Passports and Citizenship established pursuant to Section 3;
- (h) Foreign jurisdiction means a jurisdiction other than the Republic;
- (i) Foreign Service Officer means a person employed through the public service system to perform diplomatic duties, functions and responsibilities in the Ministry of Foreign Affairs, including serving and performing foreign affairs duties, functions and responsibilities in the RMI foreign Missions. A Foreign Service officer shall hold the rank and title as an Ambassador, Chief of Mission, Deputy Ambassador, etc.
- (j) Incompetent means a person who, by reason of medical condition, congenital defect, mental or physical disability, age, or otherwise, is unable to perform any of the functions required under this Act competently or independently;
- (k) Lawful Citizen of the Republic means a person that is a natural born citizen pursuant to Article XI, Section 1 of the Constitution; a person registered as a citizen of the pursuant to Article XI, Section 2 of the Constitution; or a naturalized citizen pursuant to the provisions of the Citizenship Act 1984;
- (l) Legal Guardian means a person with legal authority to act in the place of the parents or a parent in regard to the welfare of a minor, or to act in the interests of an incompetent in regard to the his/her personal or property interests;

- (m) Loco parentis means a person who, in regard to the welfare and interests of a minor, has legal authority to exercise certain responsibilities of the parents;
- (n) Master List means the original list of persons that were issued Passports under the Passport Investment Program;
- (o) Ministry means the Ministry of Justice;
- (p) Minor means a person who has not attained the age of 18 years;
- (q) Natural born means having been converted either through himself or either of his parents, from a Trust Territory citizenship immediately before the effective date of the Constitution to a Marshall Islands citizenship, conditional on whether or not one or either of one's parents had land rights in the Marshall Islands at the time as espoused under Article XI, Section 1(1) of the Constitution; or if born on or after the effective date of the Constitution to either parent who is a Marshall Islands citizen, or one who is born in the Marshall Islands and at his birth is not entitled to be or become a citizen of any other country, as espoused under Article XI, Section (1)2 of the Constitution;
- (r) Oath of Allegiance means the Oath administered by the Director to a person who has been lawfully naturalized or registered as a citizen prior to the issuance of the Certificate of Citizenship;
- (s) Official Passport means the Passport issued under Section 16 below;
- (t) Passport Investment Program means the Passport Investment Program established in 1994, but was since abolished in 2001 through the enactment of the repealer under Nitijela Public Law No. 2001-30
- (u) Passport officer means a person appointed by the Public Service Commission to serve as such in the Division;
- (v) Passport Review Panel or Panel means the Panel established under Section 10;
- (w) Regular Passport means a Passport issued under Section 15;
- (x) Sale means the exchange of a Marshall Islands Passport for money or other incentive prohibited under Section 46;
- (y) Secondary Evidence means the evidence referred to under Section 31;

- (z) Temporary Identification Document means the temporary identification document provided under Section 43;
- (aa) Former Trust Territory of the Pacific Islands means the countries of the Marshall Islands, Palau, Federated States of Micronesia (Chuuk, Pohnpei, Kosrae, Yap), and Commonwealth of the Northern Mariana Islands (CNMI) as established by United Nations mandate in 1947.
- (bb) Immediately Before the Effective Date of the Constitution shall mean the year 1978.

## **PART II – ADMINISTRATIVE ARRANGEMENTS**

### **§1103. Establishment - Passports and Citizenship Division.**

- (1) There is hereby established under the Office of the Attorney General a Division to be known as the Passports and Citizenship Division.
- (2) The Division shall be headed by a Director appointed pursuant to Section 4.
- (3) The Staff of the Division shall comprise:
  - (a) Passport Officers appointed by the Public Service Commission or designated by the Attorney General hereunder; and
  - (b) Administrative staff as appointed to the Division from time to time by the Public Service Commission upon the recommendation of the Attorney General.
- (4) The staff of the Division shall be accountable to the Director, who shall in turn be accountable to the Attorney General.

### **§1104. Appointment of the Director and Staff of the Division.**

- (1) The Public Service Commission may appoint a suitable person to serve as Director for the Division in consultation with the Attorney General,
- (2) The Public Service Commission may, after consultation with the Director and Attorney General, in addition, appoint to the Division suitable persons to serve as Passport Officers, and administrative



and support staff to assist the Director in the administration of the Division.

- (3) Where necessary, the Attorney General may, by designation, and in consultation with the Public Service Commission, assign staff from the Office of the Attorney General to serve in the Division as Passport Officers and to provide administrative support to the Division.
- (4) A designation as described above shall continue in force until it is revoked by the Attorney General in consultation with the Public Service Commission.

### **§1105. Functions of the Division.**

- (1) Without limiting the generality of powers vested in the Division under this Act, the functions of the Division shall include, but are not limited to:
  - (a) receiving, reviewing and processing applications for issuance of Passports submitted by or on behalf of lawful citizens of the Republic;
  - (b) printing, otherwise creating Passports for issuance to lawful citizens of the Republic;
  - (c) maintaining databases, files and collations of all applications submitted by or on behalf of lawful citizens of the Republic;
  - (d) maintaining databases, files and collation of all supporting documents submitted by or on behalf of lawful citizens of the Republic in support of each application;
  - (e) maintaining database, files and collation of all Decrees issued by the High Court granting citizenship through registration pursuant to Article XI, Section 2(1) of the Constitution and the *Citizenship Act 1984*;
  - (f) liaising with the Clerk of Courts to ensure timely receipt of all High Court Decrees granting citizenship through registration;
  - (g) maintaining databases, files and collation of all Cabinet Minutes granting naturalization pursuant to the *Citizenship Act 1984*;
  - (h) liaising with the Clerk of Cabinet to ensure timely receipt of all Cabinet Minutes granting naturalization pursuant to section

402 and section 403 of the Citizenship Act (1984) 43 MIRC Chapter 4.;

- (i) ensuring that the final Master List of all persons who lawfully acquired citizenship under the previous Passport Investment Program is completed;
- (j) submitting to the Passport Review Panel all applications for renewal or issuance of Passports submitted by persons that were issued Passports under the previous Passport Investment Program, or any issued Passport that raises questions of validity;
- (k) supporting the work of the Passport Review Panel,
- (l) maintaining high security over the Passport books, the data bases, files and collation containing the records referred to above;
- (m) maintaining adequate stock of passbooks to meet the demand for Passports by lawful citizens of the Republic;
- (n) placing the necessary orders for Passport books with the supplier of Passport books. Such order shall be except from the provisions of the Procurement Code (Act) 1988 44 MIRC Chapter 1 for reasons of security;
- (o) liaising and communicating with applicants on status of applications for Passports submitted by or on behalf of lawful citizens of the Republic;
- (p) liaising and communicating with applicants on the procedural requirements and the applicable fees related to applications for Passports submitted by or on behalf of lawful citizens of the Republic;
- (q) liaising with other relevant Government departments and agencies to ensure effective administration of the Passport application and issuance process;
- (r) ensuring that Passport Officers and other administrative staff of the Division obtain periodic and regular training when new Passport application and issuance systems are introduced;
- (s) updating and advising the Attorney General as to developments in the Division at the request of the Attorney General;

- (t) submitting to the Attorney General policy and technical proposals aimed at improving the efficiency and security of the Passport application and issuance process;
  - (u) reporting to the Attorney General all suspicious and potentially illegal attempts and efforts aimed at securing the issuance of Passports, by persons that are not lawful citizens of the Republic;
  - (v) attending to any other matters not identified above that is integral to the Passport application process and issuance process;
- (2) Staff of the Division shall at all times comply with the lawful instructions of the Director and/or the Attorney General.

#### **§1106. Functions of the Director.**

- (1) The Director, under the supervision of the Attorney General, shall be responsible for:
- (a) overseeing the administration and management of the Division, the Passport Officers and administrative staff, and in particular, that the functions of the Division, as enumerated above, are undertaken in an efficient manner;
  - (b) receiving all applications for issuance of Passports and the payment of the required fees through the establish RMI Department of Finance practices;
  - (c) reviewing all applications to ensure the applications are genuine applications submitted by or on behalf of lawful citizens of the Republic;
  - (d) reviewing all applications to ensure that the applications received are properly supported by the material required under each section below;
  - (e) forwarding to the Passport Review Panel all applications by persons who were issued Passports under the previous Passport Investment Program, and any other application that requires a review by the Passport Review Panel;
  - (f) ensuring the timely processing and printing of Passports following favorable decision of the Passport Review Panel, where applicable;

- (g) formulating and providing policy and technical advice to the Attorney General on means to improve the efficiency and security of the Passport application and issuance process;
  - (h) performing any other functions as directed by the Attorney General.
- (2) The Director may, by written instrument, delegate to any of the staff of the Division, his/her powers and functions as set out under this Act and the attending Regulations, with the approval of the Attorney General.
- (3) Such 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 the Act.

#### **§1107. Administrative Authority of the Director.**

- (1) The Director acting under the supervision of the Attorney General shall have the authority to:
- (a) make final decisions on the administration of the Division;
  - (b) recommend to the Attorney General administrative improvements in the work of the Division;
  - (c) place orders for Passport book;
  - (d) to receive for safe-keeping within the official premises of the Division or the Office of the Attorney General, stocks of Passport books;

#### **§1108. Substantive Authority of the Director.**

- (1) The Director, acting under the supervision of the Attorney General shall have the authority to:
- (a) reject an application that does not comply with the requirements of this Act and the Regulations;
  - (b) grant an application by lawful citizens of the Republic that are natural born pursuant to Article XI, Section 1 of the Constitution; those who acquired citizenship through registration pursuant to Article XI, Section 2 of the Constitution; and those who acquired citizenship or were naturalized pursuant to the *Citizenship Act 1984*; provided that

the application conforms to the requirements of this Act, and the Director is satisfied that the applicant is a lawful citizen of the Republic;

- (c) administer Oaths of Allegiance to persons lawfully granted citizenship of the Republic;

### **§1109. Supervisory Authority of the Attorney General.**

- (1) In the exercise of functions and authority under this Act, the Director and staff of the Division shall act under the supervision of the Attorney General. The Attorney General shall have the authority to reverse any decision of the Director in any case that may have been contradictory to the provisions of the Constitution and of the *Citizenship Act 1984*.

## **PART III - ESTABLISHMENT OF PASSPORT REVIEW PANEL**

### **§1110. Establishment and Composition of the Panel.**

- (1) There is hereby established the Passport Review Panel. The membership of the Panel shall comprise:
  - (a) three members appointed by the Cabinet from within the Government; and
  - (b) two Assistant Attorneys General designated by the Attorney General;
- (2) The members so appointed shall among themselves elect a Chairperson.
- (3) The Panel may promulgate its own rules and procedures, consistent with this Act, in the discharge of its functions under this Act.
- (4) The Director shall serve as the Secretary to the Panel.
- (5) The panel shall convene during normal do business hours and its membership shall not receive a sitting fee or allowance.

### **§1111. Functions of the Panel.**

- (1) The Panel shall be responsible for:
  - (a) the review of all applications for issuance of Passports and submitted to the Panel by the Director;

- (b) liaising with the Director and Passport Officers on the review of Passport applications;
- (c) liaising with the Attorney General on its decisions;
- (d) maintaining a record of their decisions;
- (e) maintaining copies of Passport application files submitted for its review by the Director;
- (f) transmitting in writing to the Attorney General its decisions.

### **§1112. Authority of the Panel.**

- (1) The Panel is hereby vested with the following:
  - (a) the authority to review all applications submitted by the Director;
  - (b) the authority to reject an application on the grounds that an application does not meet the requirements of the Act;
  - (c) the authority to reject an application on the grounds of reasonable suspicion that an applicant is not a lawful citizen of the Republic;
  - (d) the authority to defer review of an application pending receipt of required information;
  - (e) the authority to request from the applicant additional information on an application;
  - (f) the authority to request oral testimony from an applicant or relevant witnesses; and
  - (g) the authority to investigate the validity of any Passport application or issued passport.

### **§1113. Decisions of the Panel.**

- (1) Decisions of the Panel shall be carried by at least 4 members of the Panel.

## **PART IV -TYPES OF PASSPORTS**

**§114. Types of Passports.**

- (1) There shall be three types of Passports issued by the Office of the Attorney General:
  - (a) Regular Passports;
  - (b) Official Passports;
  - (c) Diplomatic Passports;
- (2) Prior to the issuance of any Passports, an application must be supported by the required material pursuant to Sections 22 to 35 below, including the payment of the required fees, and that the Director is satisfied that the applicant is a lawful citizen of the Republic.

**§1115. Regular Passports.**

- (1) Regular Passports, issued under a dark blue cover, may be issued to a lawful citizen of the Republic in his/her private capacity, upon application, and shall serve as the official Government of the Republic of the Marshall Islands confirmation of the identity of the bearer.
- (2) A lawful citizen of the Republic who is the bearer of a Regular Passport is authorized to present said Passport in foreign ports as proof of identity in order to facilitate his/her travels in a private capacity.
- (3) Regular Passports are the property of the Government of the Republic of the Marshall Islands and must be surrendered upon demand by the Attorney General or an authorized representative of the Attorney General.

**§1116. Official Passports.**

- (1) Official Passports, issued under a black cover, may be issued only to a lawful citizen of the Republic that is in the employment of the Government, or an entity or agency of the Government, and only for the purposes of facilitating travel associated with the lawful citizen's official duties. Such Passport shall serve as the official Government of the Republic of the Marshall Islands confirmation of the identity of the bearer. Prior to the issuance of an official Passport, an applicant must have a valid regular Passport.

- (2) A lawful citizen of the Republic who is in the employment of Government or other entity or agency of Government, and who is the bearer of an Official Passport is authorized to present said Passport in foreign ports as proof of identity in order to facilitate travels associated with his/her official duties.
- (3) Official Passports shall be surrendered to the Office of the Attorney General upon demand or upon the cessation of employment with the Government or the entity or agency upon which the Official Passport was initially granted for.
- (4) Official Passports may be issued to a lawful citizen of the Republic who for the time being serves:
  - (a) All Ministerial Secretaries and Assistant Secretaries
  - (b) Clerk of Cabinet, Clerk of the Council of *Iroij*, Clerk of Court and Clerk of *Nitijela*, including assistant Clerks;
  - (c) Police Commissioner and Deputy Commissioner;
  - (d) Commissioner of Education and Associate Commissioners;
  - (e) All Attorneys of the Office of the Attorney General and staff;
  - (f) Auditor General and Assistant Auditor Generals;
  - (g) Any other Government Employee approved by the Director with the concurrence of the Attorney General.
- (5) A lawful citizen in possession of an Official Passport is not entitled to hold a Diplomatic Passport. A lawful citizen that seeks to obtain a Diplomatic Passport must surrender his/her Official Passport to the Office of the Attorney General.

### **§1117. Diplomatic Passports.**

- (1) Diplomatic Passports, issued under a red cover, may be issued to a lawful citizen of the Republic who for the time being serves:
  - (a) as the duly elected President of the Republic;
  - (b) as the Chairman of the Council of *Iroij*;
  - (c) as a member of the *Nitijela*;
  - (d) as a duly appointed Ambassador;
  - (e) as a duly appointed Consul General;



- (f) in diplomatic posts in regional and international organizations;
  - (g) as the Attorney General;
  - (h) Secretary of Foreign Affairs;
  - (i) as a Foreign Service Officer;
  - (j) any other lawful citizen of the Republic that for the time being enjoys diplomatic status or comparable status;
  - (k) Chaplain of Nitijela;
  - (l) Chief Justice and Associate Justices of the High Court;
  - (m) Chief Secretary; and
  - (n) spouses of such persons listed from a-n.
- (2) A lawful citizen of the Republic who enjoys diplomatic privileges and who is the bearer of a Diplomatic Passport is authorized to present said Passport in foreign ports as proof of identity in order to facilitate travels associated with his/her official duties.

## **PART V -VALIDITY OF PASSPORTS**

### **§1118. Signature of the Attorney General.**

- (1) The Attorney General, or his/her designee, may only append his/her signature to a Passport that is issued in the name of a lawful citizen of the Republic, and the issuance of which has been approved by the Director, or in the applicable case, by the Panel.
- (2) A Passport that does not bear the signature of the Attorney General is not valid, as an official Government of the Marshall Islands form of identification.

### **§1119. Period of validity of Regular Passports.**

- (1) A Regular Passport issued to a lawful citizen of the Republic shall remain valid for a period of ten (10) years from the date of issuance.
- (2) A Regular Passport issued to a lawful citizen of the Republic may be retained by the bearer at its expiry, provided that a photo copy of the most recently expired Passport is submitted during the renewal process.

- (3) The Minister, in consultation with the Attorney General and with the approval of the Cabinet, may promulgate Regulations prescribing any fees and changes to the validity period of a Regular Passport.

**§1120. Period of validity of Official Passports.**

- (1) An Official Passport issued to a lawful citizen of the Republic shall remain valid for a period of five (5) years from the date of issuance.
- (2) An Official Passport issued to a lawful citizen of the Republic must be returned to the Director:
  - (a) upon its expiry; or
  - (b) on the date of the termination of the employment of the bearer with the Government; or
  - (c) at such other time as maybe directed by the Attorney General.
- (3) The Minister, in consultation with the Attorney General and with the approval of the Cabinet, may promulgate Regulations prescribing the fees and any changes to validity period of an Official Passport.

**§1121. Period of validity of a Diplomatic Passports.**

- (1) A Diplomatic Passport issued to a lawful citizen of the Republic shall remain valid for a period of five (5) years from the date of issuance.
- (2) A Diplomatic Passport issued to a lawful citizen of the Republic must be returned to the Director:
  - (a) upon its expiry; or
  - (b) on the date of the termination of the diplomatic status of the bearer; or
  - (c) such other time as may be directed by the Secretary of Foreign Affairs.
- (3) The Minister, in consultation with the Attorney General and with the approval of the Cabinet, may promulgate Regulations prescribing the fees and validity period of a Diplomatic Passport

## PART VI -THE PASSPORT APPLICATION PROCESS

### §1122. Applications to be Submitted to the Director.

- (1) All applications for the issuance of Passports shall be submitted to the Director in the manner set out below.
- (2) The applicant must truthfully answer all questions and must state every material matter of fact pertaining to his/her eligibility for a Passport.
- (3) All information and evidence submitted in connection with an application is considered part of the application.
- (4) A person providing false information as part of a Passport application, whether contemporaneously with the form or at any other time, is subject to prosecution, cancellation or revocation of Passport.
- (5) Any application that does not comply with the requirements set out below shall be rejected by the Director.
- (6) The Minister, in consultation with the Attorney General and with the approval of Cabinet, may promulgate Regulations prescribing additional requirements needed to process a Passport application.

### §1123. Applications by lawful Citizens – Natural Born.

- (1) All such applications for the issuance of Passports submitted by natural born citizens of the Republic:
  - (a) must be submitted in a form attached as Annexure A and accompanied by:
    - (i) a certified true copy of the birth certificate of the applicant,
    - (ii) two (2) Passport size photographs of the applicant; and
    - (iii) a copy of the receipt from the Ministry of Finance as proof of payment of the required fees;

- (2) All applications submitted pursuant to Article XI, Section 1(1) of the Constitution must provide evidence of proof before an application is approved.
- (3) All evidence of proof of citizenship shall include but not limited to:
  - (a) a birth certificate showing birthplace of applicant or either of his parents as being one of the former Trust Territories; and
  - (b) proof of land right may include but shall not be the determining factor, a signed Affidavit from the Iroijlaplap of a particular land or family tree clearly illustrating the Marshallese lineage. The Attorney General may waive the second requirement where land rights are reasonably clear.
- (4) The Director or Attorney General shall automatically deny any application that raises any doubt or where the Office is unable to verify on its own the authenticity of any of the above requirements and may advise the applicant to submit for court declaration any claim for citizenship under this section where applicant or either of his parents was not a citizen of the former Trust Territories, or where there are unclear claim of land right.
- (5) An application is unclear when the claim of land right shall include but not limited to claims where land right title was held by an ancestor twice or more removed from the applicant.

**§1124. Applications by lawful citizens that acquired Citizenship through Registration.**

- (1) All applications for the issuance of Passports submitted by persons that acquired citizenship through Registration:
  - (a) must be submitted in a form attached as Annexure A and
  - (b) accompanied by a certified true copy of the High Court Order issuing the Decree on the applicant's eligibility for registration as a citizen of the Republic; and
  - (c) Certificate of Citizenship;
  - (d) certified copies of the Oath of Renunciation and Oath of Allegiance to the Republic of the Marshall Islands; and
  - (e) two Passport size photographs of the applicant taken no more than six (6) months prior to the date of an application; and

- (f) a copy of the receipt from the Ministry of Finance as proof of payment of the required fees; and
  - (g) any other information as may be requested by the Director or the Panel.
- (2) In the interest of justice, in no event shall a Passport be issued on an application submitted under this Section where the High Court's declaration of eligibility for registration as a citizen of the Republic is based on claim of land right or descent through, on, or under an ancestor twice or more removed from the applicant.

**§1125. Applications by lawful citizens that acquired citizenship through Naturalization.**

- (1) All applications for the issuance of Passports submitted by persons that acquired citizenship through naturalization by the Cabinet:
- (a) must be submitted in a form attached as Annexure A;
  - (b) accompanied by a certified true copy of the Cabinet Minute granting citizenship;
  - (c) two passport sized photographs of the applicant taken no more than six months prior to the date of the application;
  - (d) Copy of Certificate of Citizenship;
  - (e) certificated copies of the Oath of Renunciation (where applicable) and Oath of Allegiance to the Republic of the Marshall Islands;
  - (f) a copy of the receipt from the Ministry of Finance as proof of payment of the required fees; and
  - (g) any information as may be requested by the Director or the Panel.

**§1126. Applications by Persons Issued Passports under the Passport Investment Program.**

- (1) All applications for the renewal of Passports submitted by persons that were issued Passports under the Passport Investment Program:
- (a) must be accompanied by documentation to the satisfaction of the Director and the Panel that the applicant was lawfully issued a Passport under the Passport Investment Program;

- (b) where necessary, copies of receipts of purchase of a Passports under the Passport Investment Program;
  - (c) certified copy of Certificate of Citizenship issued to the applicant under the said program;
  - (d) evidence of past issuance of Passport, including producing to the Director and the Panel for their review, the actual Passport last issued;
  - (e) two Passport size photographs of the applicant taken no more than six months prior to the date of the application;
  - (f) a receipt from the Ministry of Finance as proof of payment of the required fees; and
  - (g) any additional information as may be requested by the Director or the Passport Review Panel;
- (2) All applications submitted pursuant to this Section must first be proven that such names were listed in the Master List.
  - (3) The Master List shall contain all the names of those persons who legally bought his/her Passport during the Passport Investment Program. The Master List may also include the names of all those Naturalized and Registered citizens that have successfully obtained citizenship pursuant to the Citizenship Act 1984 and the Constitution, respectively.
  - (4) The Cabinet shall cause that all persons on the Master List are streamlined into the naturalization process, ensuring that the Passport Investment Program and any references to it are forever barred from national legislation and Regulations.
  - (5) Any Passport issued under this section shall be bound by the relevant provisions of the Compact of Free Association between the Government of the United States of America and the Government of the Republic of the Marshall Islands, as amended.

### **§1127. Application by Mail--Persons abroad.**

- (1) A lawful citizen of the Republic who is a resident abroad may submit an application by mail in a form attached as Annexure A.
- (2) Nothing in this Act prohibits the designation by the Attorney General of a Marshall Islands Mission for the purposes of accepting

applications from lawful citizens of the Republic that are resident abroad for transmission of such applications to the Director.

**§1128. Submission of Currently Valid Passport.**

- (1) When applying for a new Passport, an applicant must submit for cancellation any currently valid Passport of the same type.
- (2) If an applicant is unable to produce a Passport under subsection (1) of this Section, he/she must submit a signed statement in the form attached as Annexure B as prescribed by the Office of the Attorney General setting forth the circumstances regarding the disposition of the Passport.
- (3) The Director or Panel may reject an application if the applicant has failed to provide sufficient and credible explanation for the lost, stolen, altered or mutilated Passport(s) previously issued to the applicant after being given a reasonable opportunity to do so.
- (4) The applicant must truthfully answer all questions and must state every material matter of fact pertaining to his/her eligibility for a Passport.
- (5) All information and evidence submitted in connection with an application is considered part of the application.
- (6) A person providing false information as part of a passport application, whether contemporaneously with the form or at any other time, is subject to prosecution, cancellation or revocation of Passport, or all three sanctions.

**§1129. Establishing Identity –Burden.**

- (1) The applicant has the burden of establishing his/her identity.

**§1130. Primary Evidence of Birth to a Parent who is lawful citizen of the Republic.**

- (1) A person born in the Marshall Islands to a parent who is a lawful citizen of the Republic must submit a certified copy of his/her birth certificate.
- (2) The birth certificate must show the full name of the applicant, the applicant's place and date of birth, the full name of the parent(s), and

must be signed by the official custodian of birth records, bear the seal of the issuing office, and show a filing date within one year of the date of birth.

**§1131. Secondary evidence of birth in the Marshall Islands.**

- (1) Where the applicant is not able to submit a certified copy of his/her birth certificate that meets the requirement above, he/she must submit secondary evidence sufficient to establish to the satisfaction of the Director that he/she was born in the Marshall Islands or abroad to a parent who is a lawful citizen of the Republic.
- (2) Secondary evidence includes but is not limited to hospital birth certificates, baptismal certificates, medical and school records, certificates of circumcision, or any other documentary evidence created shortly after birth but generally not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

**§1132. Name of Applicant to be Used in Passport.**

- (1) The Passport shall be issued in the full name of the applicant, generally the name recorded in official documents of the Republic, or such other foreign jurisdiction if an applicant was born abroad.
- (2) The applicant bears the burden of clearing to the satisfaction of the Director or the Panel any material discrepancies between the name on the application and the name recorded in the official documents of the Republic or the relevant foreign jurisdiction.
- (3) The name provided by the applicant on the application may be used if the applicant submits the documentary evidence prescribed by the Office of the Attorney General.
- (4) A name change will be approved for purposes of issuance of a passport only where:
  - (a) the applicant provides a copy of a Decree granting name change;
  - (b) the applicant provides a copy of a Decree granting a divorce and declaring the return of applicant to a former name; and
  - (c) an applicant who has adopted a new name following marriage must present a certified copy of the marriage certificate.



**§1133. Incompetents and Minors.**

- (1) A legal guardian or other person with the legal capacity to act on behalf of a person declared incompetent may execute a Passport application on the incompetent person's behalf.
- (2) Except as specifically provided in this Section, the parents or, if applicable, legal guardians must execute the application on behalf of a minor and provide documentary evidence of parentage or legal guardianship showing the minor's name, date and place of birth, and the name of the parent(s) or legal guardian(s).
- (3) A Passport application may be executed on behalf of a minor by only one parent or legal guardian provided there is no Decree pertaining to custody of said minor requiring the consent of both parents. Where there is such a Decree pertaining to custody of said minor, the following documentation shall be required:
  - (a) a notarized written statement or affidavit from the non-applying parent or legal guardian, if applicable, consenting to the issuance of the passport, or
  - (b) documentary evidence that such person is the sole parent or has sole custody of the minor.
- (4) Such evidence includes, but is not limited to, the following:
  - (a) A birth certificate providing the minor's name, date and place of birth and the name of only the applying parent or legal guardian;
  - (b) A copy of the death certificate for the non-applying parent or legal guardian;
  - (c) An adoption decree showing the name of only the applying parent;
  - (d) A Decree granting sole legal custody to the applying parent or legal guardian containing no travel restrictions inconsistent with issuance of the Passport; or, specifically authorizing the applying parent or legal guardian to obtain a passport for the minor, regardless of custodial arrangements; or specifically authorizing the travel of the minor with the applying parent or legal guardian;

- (e) A Decree terminating the parental rights of the non-applying parent or declaring the non-applying parent or legal guardian to be incompetent.
  - (f) A Decree for joint legal custody or requiring the permission of the parents or the court for important decisions will be interpreted as requiring the permission of the parents or the court, as appropriate.
- (5) Notwithstanding the existence of any Decree, a Passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the minor exist.
  - (6) The Director may at any time require a minor to submit the notarized consent of a parent, a legal guardian, or a person in loco parentis to the issuance of the Passport.
  - (7) Where said minor has been adopted pursuant to custom, a court certificate of customary adoption shall be submitted as part of the documentations required.

#### **§1134. Rules Applicable to All Minors.**

- (1) At any time prior to the issuance of a Passport to a minor, the application may be disapproved and a Passport may be denied upon receipt of a written objection from a parent or legal guardian of the minor, or from another party claiming authority to object, so long as the objecting party provides sufficient documentation of his/her custodial rights or other authority to object.
- (2) A Decree for joint legal custody or requiring the permission of the parents for important decisions will be interpreted as requiring the permission of both parents as appropriate.
- (3) Either parent or any legal guardian of a minor may upon written request obtain information regarding the application for and issuance of a Passport to a minor, unless the requesting parent's rights have been terminated by a Decree, a copy of which has been provided to the Director.

## PART VII -REVIEW OF APPLICATIONS AND DECISIONS

### §1135. Review by the Director.

- (1) All applications for Passports shall be lodged with the Director.
- (2) Upon receipt of an application, the Director shall acknowledge receipt of an application, and undertake a review of the application to ensure that an application conforms to the requirements of this Act.
- (3) Where an application does not conform to the requirements of this Act, the Director must reject the application;
- (4) Upon satisfaction that an application conforms to the requirements of this Act, and subject to relevant sections under this Act, the Director may proceed to review applications submitted by lawful citizens of the Republic whether applicants are natural born or who acquired citizenship through naturalization and registration pursuant to the Article XI of the Constitution and the *Citizenship Act 1984*.
- (5) Where the Director is satisfied that an applicant is a lawful citizen of the Republic, the Director shall certify such decision in the form attached as Annexure C as approved by the Attorney General to the Attorney General for his/her signature.

### §1136. Referral to and Review by the Passport Review Panel.

- (1) Notwithstanding the above, all applications submitted by persons claiming to have been issued Passports under the Passport Investment Program shall be referred to the Passport Review Panel for its determination.
- (2) Upon the referral of applications as described above, the Panel may proceed, pursuant to its own rules and procedures, to undertake a review of an application.
- (3) Where upon review the Panel is satisfied that an application has met all the requirements of this Act and that the applicant is a lawful citizen of the Republic, the Panel may approve the application.
- (4) Where an application does not meet the requirements of this Act, or where the Panel is not satisfied as to the lawfulness of an applicant's citizenship, the Panel may reject an application.

- (5) Where upon review the Panel forms the view that additional information is required from an applicant, the Panel may defer its decision until such time that the additional information requested is received.

### **§1137. Approval and Issuance by the Panel.**

- (1) Where the Panel has completed its review of an application, the Panel shall certify its decision to the Attorney General in the form attached as Annexure D.
- (2) Where the Panel has approved an application and the issuance of a Passport, the Attorney General may proceed to append his/her signature to the passport and shall transmit same to the Director for delivery to the applicant.
- (3) Where an application is rejected by the Panel, the Panel shall likewise certify its decision to the Attorney General in the approved form attached as Annexure E.
- (4) Decisions of the Panel certified to the Attorney General are final.

### **§1138. Denial or Rejection by the Panel.**

- (1) An application for the issuance of a Passport shall be denied by the Director or the Passport Review Panel where:
  - (a) the application does not conform to the requirements of this Act;
  - (b) the applicant has submitted false information;
  - (c) the applicant has not provided sufficient documentation to prove that he/she is a lawful citizen of the Republic; or
  - (d) the applicant is not a lawful citizen of the Republic.
- (2) Where an applicant is a lawful citizen of the Republic, an application for the issuance of a Passport may be denied where:
  - (a) the applicant is the subject of a Criminal Investigation, and the Office of the Attorney General has received a report from the Marshall Islands Police Department or from the Office of the Auditor General to that effect; or
  - (b) the applicant is subject to imprisonment or supervised release as the result of a felony conviction.

## PART VIII -PASSPORTS SUBJECT TO CANCELLATION

### §1139. Passports Reported Lost or Stolen.

- (1) A Passport issued to a lawful citizen of the Republic shall be revoked and cancelled by the Attorney General where a Passport is reported lost or stolen to the Director, the Office of the Attorney General, or a diplomatic or consular post abroad, and the Office of the Attorney General has recorded the loss or theft.
- (2) The loss or theft of a Passport:
  - (a) must be reported forthwith to the Director if the loss or theft occurs in the Republic; or
  - (b) must be reported to the Police or the relevant authority in a foreign jurisdiction if the loss or theft occurs in a foreign jurisdiction.

### §1140. Other Grounds for Cancellation of Passport.

- (1) The Passport is cancelled by the Director or by the Attorney General (physically, electronically, or otherwise):
  - (a) upon issuance of a new Passport of the same type to the bearer;
  - (b) the bearer has failed to pay the applicable fees;
  - (c) the Passport has been materially changed in physical appearance or composition;
  - (d) the Passport contains a damaged, defective or otherwise non functioning bar code;
  - (e) the Passport includes unauthorized changes, obliterations, entries or photographs;
  - (f) the Passport has observable wear or tear that renders it unfit for use and the Office of the Attorney General either takes possession of the Passport or sends a written notice to the bearer;
  - (g) the bearer of a Passport is the subject of a Criminal Investigation, and the Office of the Attorney General has received a report from the Marshall Islands Police Department

or from the Office of the Auditor General showing probable cause that the bearer has committed an offense;

- (h) the bearer is subject to imprisonment or supervised release as the result of a felony conviction for a human trafficking offense; or
- (i) the Passport was issued in violation of the provisions of this Act and/or through any administrative error.

### **§1141. Temporary Identification Documents.**

- (1) In the event that:
  - (a) the Division does not have in stock the necessary Passport books;
  - (b) that the Passport printing machinery has encountered technical issues;
  - (c) a lawful citizen of the Republic has lost his/her Passport in a foreign jurisdiction;
  - (d) in the case of any emergency; or
  - (e) in any other case determined by the Director or the Attorney General;
  - (f) the Director may issue to lawful citizens of the Republic Temporary Identification Documents in a form attached as Annexure F as approved by the Attorney General to facilitate travel and for other identification purposes.
- (2) Any lawful citizen of the Republic who requires a Temporary Identification Document for purposes of travel or for other identification purposes may submit an application in the manner prescribed above.

## **PART IX -PROHIBITIONS, OFFENSES AND PENALTIES**

### **§1142. Sale of Passports Prohibited.**

- (1) The sale of Passports to any person is hereby prohibited under this Act and the provisions of *Nitijela* **Public Law No. 2001-30**.
- (2) Any person who knowingly:

- (a) procures in an unlawful manner a Passport for the purposes of a sale;
- (b) sells to any person a Passport procured in an unlawful manner;
- (c) procures or solicits from the Director, the Panel, the Attorney General, or any individual the sale of any Passport;
- (d) receives as payment, any amount of funds,

shall be guilty of an offence and, upon conviction, shall be liable to a fine not to exceed ten thousand dollars (US\$10,000) or imprisonment for a term not to exceed ten (10) years, or both.

#### **§1143. Solicitation for Issuance of Passport.**

- (1) Solicitation by any person for the sale or issuance of a Passport to a person that is not for the time being a lawful citizen of the Republic is prohibited.
- (2) Any person who knowingly solicits from the Passport Officers, the Director, the Passport Review Panel, the Attorney General, members of the Cabinet and the Nitijela,
- (3) Any person who knowingly solicits from a traditional leader, or any person of influence, to use that influence to solicit a Passport for sale or issuance of a Passport to a person that is not for the time being a lawful citizen of the Republic,
- (4) Any person who knowingly uses influence to solicit the issuance of a Passport for private gain,

shall be guilty of an offense, and upon conviction shall be liable to a fine in the maximum amount of \$10,000 dollars, or to imprisonment to a maximum term of 10 years, or both;

#### **§1144. Forgery and Tampering with Passports.**

- (1) The use of forged Passports that have been tampered with is hereby prohibited. Any person who:
  - (a) uses a false or forged Passport as an official Passport for purposes of identification; or
  - (b) tampers with or defaces a lawfully issued Passport for purposes of achieving unlawful ends,

shall be guilty of an offense and, upon conviction, shall be liable to a fine not to exceed ten thousand dollars (\$10,000), or imprisonment for a term not to exceed ten (10) years or both.

**§1145. Submitting False Information and Application.**

- (1) The submission of false information and documentation in support of an application is hereby prohibited. Any person who:
  - (a) knowingly submits false information to the Director or Panel;
  - (b) knowingly submits an application while not a lawful citizen of the Republic;
  - (c) knowingly submitting an application on behalf of a person that is not a lawful citizen of the Republic;
  - (d) knowingly using false identification documents in support of an application,

shall be guilty of an offense and, upon conviction, shall be liable to a fine not to exceed five thousand dollars (\$5,000), or imprisonment for term not to exceed three (3) years, or both.

**§1146. Obstruction in the Performance of official Duties.**

- (1) The obstruction of the Passport Officers, the Director, members of the Passport Review Panel, the Attorney General or any other officer performing pertinent duties under this Act is hereby prohibited. Any person who knowingly and intentionally obstructs these officers in the execution of their duties by threatening, assaulting, or intentionally hindering these officers in the exercise of their functions is guilty of an offence and, upon conviction, is liable to a fine not exceeding five thousand dollars (\$5,000), or imprisonment for a term not exceeding three (3) years, or both.

**§1147. Offence to Offer a Bribe.**

- (1) The offering or payment of a bribe to an officer under this Act is hereby prohibited. Any person who offers, gives or agrees to give any bribe to any person executing a function under this Act with the intent to influence that person in respect of any act or omission by that person in his/her official capacity is guilty of an offence and, upon conviction, is liable to a fine not exceeding ten thousand dollars



(\$10,000), or imprisonment for a term not exceeding five (5) years, or both.

**§1148. Offence to Accept a Bribe.**

- (1) Accepting a bribe in the performance of one's duties under this Act is hereby prohibited. Any person who obtains, attempts to obtain, accepts or agrees to accept, any bribe for himself/herself or any other person in respect of any act done or omitted by him/her in his/her official capacity is guilty of an offence and, upon conviction, is liable to a fine not exceeding ten thousand dollars (\$10,000), or imprisonment for a term not exceeding five (5) years, or both.

**§1149. Failure to Surrender a Document of Provide Information.**

- (1) The failure of any person to surrender a Passport or to provide true information under the Act is hereby prohibited. Any person who without reasonable excuse, fails to surrender any document or supply information at the direction of the Director when required to do so is guilty of an offence and, upon conviction, shall be liable to a fine not exceeding one thousand dollars (\$1,000), or imprisonment for a term not exceeding one (1) year, or both.

**§1150. Aiding and Abetting.**

- (1) Knowingly aiding a person in the procurement of a Passport in violation of the provisions of this Act is hereby prohibited. Any person who aids, abets, incites or counsels, any officer who performs a function under this Act to procure a Passport fraudulently, and in violation of the provisions of this Act, is guilty of an offence and, upon conviction, is liable to a fine not exceeding five thousand dollars (\$5,000), or imprisonment for a term not exceeding two (2) years, or both.

**§1151. Attempts.**

- (1) Any person who attempts to commit any one of the offenses prescribed in this Part shall be guilty of an offense and, upon conviction, shall be liable to:

- (a) to a maximum fine in an amount equal to half of the maximum fine prescribed for the specific offense; or
- (b) a maximum term of imprisonment equal to half of the maximum term of imprisonment prescribed for the specific offense; or
- (c) both.

### **§1152. General Penalties.**

- (1) Any person who commits an offence for which no penalty is provided under this Part shall be guilty of an offense and, upon conviction, be liable to a fine not exceeding five thousand dollars (\$5,000), or imprisonment for a term not exceeding three (3) years, or both.

### **§1153. Initiation of Criminal Proceedings.**

- (1) A prosecution for an offence against this Act or Regulations shall be upon the filing of a Criminal Information by the Office of the Attorney General.
- (2) In any proceedings relating to any matter under this Act, a certificate signed by the Director containing a statement in relation to any person to the effect that:
  - (a) the person is a lawful citizen of the Republic;
  - (b) the person is not a lawful citizen of the Republic;
  - (c) a Passport is a forgery;
  - (d) a Passport was tampered with;
  - (e) that information provided was false;
  - (f) information provided was genuine;

shall, in the absence of proof to the contrary, be deemed to be proof of the truth of the content of the certificate.

## PART X -MISCELLANEOUS PROVISIONS

### §1154. Regulations.

- (1) The Cabinet shall promulgate Regulations as necessary to give effect to the provisions of this Act, for all or any of the following purposes:
  - (a) prescribing matters of procedure in relation to any application under this Act;
  - (b) prescribing certain requirements consistent with this Act in relation to applications under this Act;
  - (c) prescribing the necessary fees in respect of any matters under this Act;
  - (d) prescribing the forms for the purposes of this Act;
  - (e) prescribing regulatory offences and penalties;
  - (f) providing for such other matters as is contemplated by or necessary for giving full effect to the provisions of the Act and for its due administration.
- (2) The provisions of the *Marshall Islands Administrative Procedures Act 1979* shall not apply in respect to any Regulations promulgated under this Act.

### §1155. Exemption from Fees.

- (1) Notwithstanding the above and any other requirement for the payment of fees under this Act or Regulations promulgated hereunder, lawful citizens of the Republic that apply for the issuance of an Official or Diplomatic Passport shall be exempt from the requirement to pay any fees.
- (2) In addition to the above, lawful citizens of the Republic that are issued Temporary Identification Documents shall be exempt from the requirement to pay any fees under this Act or any Regulations promulgated hereunder.

### §1156. Transition.

- (1) Until such time that the Public Service Commission decides otherwise in regard to the appointment of the Director, Passport Officers and administrative staff, the current appointments shall

remain in place, and be deemed appointed pursuant to the provisions of this Act.

**§1157. Effective date.**

This Act 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*.