NITIJELA OF THE MARSHALL ISLANDS

23RD CONSTITUTIONAL REGULAR SESSION, 2002 **BILL NO. 85 N.D.1**

P.L. 2002-53

An Act

To provide for the organization of the Office of the Attorney-General and for related matters.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

Section 1. Short Title.

This Act may be cited as the Office of the Attorney-General Act of 2002.

Section 2. Repeal.

The Office of the Attorney-General Act 1995 is hereby repealed.

Section 3. Composition of Office.

(1) The Office of the Attorney-General shall consist of the Attorney-General, Deputy Attorney-General, and such Assistant Attorneys-General, trial assistants, and support staff as the Attorney-General shall, in consultation with the Public Service Commission, require.

(2) In the absence or incapacity of the Attorney-General, the Deputy Attorney-General shall act as the Attorney-General without the need for formal appointment.

Section 4. Functions.

The functions of the Office of the Attorney-General shall include those set out in Article VII, Section 3 of the Constitution, under this Chapter and any other laws of the Republic.

Section 5. Establishment of Divisions.

The Attorney-General may establish such divisions, including criminal and civil divisions, and such positions within those divisions as may be necessary to efficiently operate the Office.

Section 6. Authorization for Trial Assistants to Prosecute.

Subject to the provisions of Section 504 of the Legal Profession Act 1991, the Court Rules on Admission and any other law, a trial assistant in the Office may conduct preliminary hearings in any felony case and prosecute any misdemeanor case, provided the Attorney-General has certified to the High Court or District Court that such trial assistant is competent and authorized to conduct preliminary hearings in felony cases and/or prosecute misdemeanor cases.

Section 7. Special Assistant Attorney General.

(1) The Attorney-General may appoint an attorney to act as a Special Assistant Attorney General in any case where the Attorney General determines that such an appointment is in the public interest.

(2) The Attorney General shall appoint an attorney to act as Special Assistant Attorney General in any case if the Attorney General determines that there is a conflict of interest, or the appearance of a conflict of interest, if the office where to handle the case. In such cases the Special Attorney General, although invested with the authority of the office of the Attorney General, shall not receive instructions from the office of the Attorney-General after the appointment.

Section 8. Representation of Statutory Authorities and Corporations, Ministries and Departments.

Any corporation in which the government of the Marshall Islands is the sole owner of of the issued voting stock, or any statutory authority or corporation may, provided no conflict situation arises, request the legal services of the Office of the Attorney-General, or may, at its own expense and with the prior consent of the Attorney-General, employ the legal services of private counsel. Any other Ministry or department of the government shall utilize the legal services of the Office of the Attorney-General unless such office authorizes the use of private counsel in particular matters.

Section 9. Power to Summons.

(1) In the exercise of the powers and duties conferred under Article VII, Section 3 of the Constitution and this Chapter, and when the Attorney-General deems it advisable or necessary in the public interest to conduct an investigation of alleged violations of law, the Attorney-General or other officer designated by the Attorney-General is authorized and empowered to issue summons to individuals and entities to appear, testify and/or produce for examination any books, papers, documents, records, data or objects which the Attorney-General deems relevant or material to the inquiry.

(2) The Attorney-General may apply to the High Court for an Order to compel compliance with the summons issued under this section. Failure to comply with such order shall be punishable as a contempt of court under the Judiciary Act 1983, as amended.

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Section 10. Effective Date.

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

CERTIFICATE

I hereby certify:

(1) that the above Nitijela Bill No. 85 N.D.1 was passed by the Nitijela of the Marshall Islands on the 11th day of March 2002; and

(2). that I am satisfied that Nitijela Bill No. 85 N.D.1 was passed in accordance with the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela..

I hereby place my signature before the Clerk of the Nitijela on this 27th day May 2002.

Attest:

Litokwa Tomeing
Speaker,
Nitijela of the Marshall Islands

Joe Riklon
Clerk,
Nitijela of the Marshall Islands