NITIJELA OF THE 1MARSHALL ISLANDS

23rd CONSTITUTIONAL REGULAR SESSION, 2002 **BILL NO. 94**

P.L 2002-55

An Act

to amend certain provisions of the National Environmental Protection Act 1984, Chapter 1, (the principle Act) to reflect the transfer of ministerial oversight and responsibility for the National Environmental Protection Authority (Authority), to office of the President.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS

Section 1. **Short Title**

(1).This Act shall be cited as the National Environmental Protection (Ministerial Oversight and Responsibility, Amendment) Act, 2002.

Section 2. **Ministerial Oversight and Responsibility for the Authority**.

(1). The Ministerial oversight and responsibility for the National Environmental Protection Authority shall vest in the office of the President.

Section 3. **Amendments**

(1). Pursuant to section 2 above, the National Environmental Protection Act, 1984 Chapter 1, section 3(i), section 6(2), section 8 (5) and (6), section 14 (1) and (3), section 20 (2), (3) and (5), section 21 (g), section 26 (b) and (l), section 27, section 29, section 30, section 37 (4) and (5)(d)(e), section38, section 40 (2) and section 63, are hereby amended to read as follows;

(a). Section 3 paragraph (i) is hereby amended to read as follows;

(i). President, means the President of the Republic of the Marshall Islands

(b). Section 6 subsection (2) is amended to read as follows;

"(2). The President shall appoint the Chairman and other members of the

Authority .

(c). Section 8 subsection (5) is amended to read as follows;

" (5). In the event of the vacation of office by the Chairman or any other member of the Authority the President may appoint another person in his place. Any person so appointed shall hold office during the period of the unexpired term of the member whom he succeeds.

(.d). Section 8 subsection (6) is hereby amended to read as follows;

"(6). If the Chairman or any other members of the Authority is unable to discharge the duties on account of ill health or absence from the Republic or any other cause, the President may appoint another person to act temporarily in his place."

(e). Section 14 subsection (1) is hereby amended to read as follows;

"(1). Subject to the directions of the President , the Authority:

(f). Section 14 subsection (3) is hereby amended to read as follows;

"(3). At the request of the President, the Public Services Commission may make available to the Authority services of any members of the Public Service on such terms and conditions as the Commission may determine.

(g). Section 20 subsection (2) is hereby amended to read as follows;

"(2). The Authority shall keep the President informed of the policies of the Authority, and of any major plans, programs or measures for the

protection, improvement, and management of the environment or any aspects thereof in which the Authority proposes to engage.

(h). Section 20 subsection (3) is hereby amended to read as follows;

"(3). The President may at any time give to the Authority directions as to policy, and in particular as to its priorities.

(i). Section 20 subsection (5) is hereby amended to read as follows;

"(5). A copy of any direction given under subsection (3) of this section and of any advice or direction under subsection (4) of this Section, shall be presented, as soon as practicable, by the President to the Nitijela."

(j). Section 21 subsection (3) paragraph (g) is hereby amended to read as follows;

(g). Borrow money with the approval of the President (or in accordance with the terms of any general authority given by him) from the Government of the Marshall Islands, any person, bank or other lending institution, in such sum as the Authority may require for its purposes generally or for any particular purpose;

(k). Section 26 paragraph (b) is hereby amended to read as follows;

"(b). to recommend to the President national environmental policy and criteria for the protection of any aspect of the environment with respect to the uses and values, whether tangible or intangible, to be protected, the quality to be maintained, the extent to t which the discharge of waste may

be permitted without detriment to the quality of the environment, and long range development uses and planning and any other factors relating to the protection and management of the environment;"

(l). Section 26 paragraph (l) is amended to read as follows;

"(l). to report to the President, matters concerning the protection and management of the environment, and to advise the President as to the need for any new legislation or amendment to existing legislation concerning any aspect of the environment, and on any matters referred to the Authority by the President.

(m). Section 27 is hereby amended to read as follows;

"(1). The Authority shall, in consultation with the Council and with the assistance of the Ministry of Internal Affairs, formulate and recommend to the President a land use scheme consistent with the following objectives:"

(n). Section 29 is hereby amended to read as follows;

" (1). The Authority shall, in consultation with the Council and with the assistance of the Ministry of Resources and Development, recommend to the President the basic policy on the management and conservation of the country's resources in order to obtain optimum benefits therefrom and to preserve the same for future generations and the general measure through which such policy may be carried out effectively."

(o). Section 30 subsection (1) is hereby amended to read as follows;

"(1). The Authority shall, in consultation with the Council and with the assistance of the Ministry in charge of the subject of fisheries, recommend to the President a system of rational exploitation of fisheries and of the aquatic resources within the territorial waters of the Republic including its exclusive economic zone and shall encourage citizen participation therein to maintain and enhance the optimum and continuous productivity of such waters.

(p). Section 37 subsection (4) is hereby amended to read as follows;

"(4). Before the end of the month of June each year, the Authority shall submit to the President, a report of the work of the Authority including its property and financial transactions during the previous financial year.

(q). Section 37 subsection (5) is hereby amended to read as follows;

"(5). Before submitting the report (referred to in Subsection (4) of this Section) to the President, the Authority shall submit it to the Auditor-General who shall report to the President:

(r). Section 37 subsection (5) paragraph (d) is hereby amended to read as follows;

"(d). as to such other matters arising out of the report as the Auditor-General considers should be reported to the President; and

(s). Section 37 subsection (5) paragraph (e) is hereby amended to read as follows;

"(e). The President shall cause the report and the financial statements of the Authority together with the report of the Auditor-General and his own comments to be laid before the Nitijela within fifteen (15) days after their receipt by him, or if the Nitijela is not in session, within fifteen days after the commencement of the next session of the Nitijela.

(t). Section 38 is hereby amended to read as follows;

"Section 38. President may require report.

(1). Notwithstanding the provisions of Section 37 of this Act the President may at any time require the Authority to submit to him a report in such a form and as to such matters as he thinks necessary.

(u). Section 40 subsection (2) is hereby amended to read as follows;

"(2). The President shall appoint the members of the Council and shall appoint one of the members to be the Chairman of the Council.

(v). Section 63 is hereby amended to read as follows;

(1). No regulations or by-laws made by the Authority shall be valid until it has been approved by the President.

Section 4. **Effective Date**

(1). This Act shall take effect on the date of certification in accordance with the provisions of Article IV section 21 of the Constitution.

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CERTIFICATE

I hereby certify;

(1). that Nitijela Bill No. 94 was passed by the Nitijela of the Marshall Islands on the 11th day of March 2002; and

(2). that Nitijela Bill No. 94 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 this 27th day of May 2002.

Attest:

Litokwa Tomeing
Speaker
Nitijela of the Marshall Islands

Joe Riklon
Clerk
Nitijela of the Marshall Islands