NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
41ST CONSTITUTION REGULAR SESSION, 2020

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

MUTUAL ASSISTANCE IN CRIMINAL MATTER (AMENDMENT) ACT, 2020.

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MUTUAL ASSISTANCE IN CRIMINAL MATTER (AMENDMENT) ACT, 2020.

AN ACT to amend Title 32, Chapter 4 of the Marshall Islands Revised Code to clarify certain provisions of the Chapter in line with international standards for anti-money laundering and countering the financing of terrorism.

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

§101. Short title.

This Act may be cited as the Mutual Assistance in Criminal Matter (Amendment) Act, 2020. .

§102. Amendments.

(1) Section 404(1) of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended as follows:

§404. Interpretations.

. . .

(q) "serious offense" means an offense against a provision of:

(i) any law of the RMI, for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months or imposition of a fine of $5,000 or more; or

(ii) a law of a foreign country, in relation to acts or omissions, which, had they occurred in the RMI, would have constituted an offense for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months or imposition of a fine of $5,000 or more; and

(r) "tainted property" means:

(i) property used, or intended to be used, in the commission of a serious offense, or in connection with the commission of a serious offense;

(ii) proceeds of crime, as defined in paragraph (n) of this section; or

(iii) property of corresponding value.

. . .

(2) Section 406(3) and (4) of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 are hereby amended as follows:

§406. Mutual legal assistance requests by the RMI.

. . .

(3) locate or restrain any property suspected to be tainted property located in the foreign country;

(4) confiscate any property believed to be located in the foreign country, which is the subject of a confiscation order made under any law in place in the RMI for the purpose of preventing money laundering or realizing tainted property.;

. . .

(3) Section 409 of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended to add a new Subsection (2) as follows:

§409. Considerations for grant of request for mutual legal assistance.

. . .

(2) A request may be granted under subsection (1) notwithstanding the absence of dual criminality if the assistance does not involve coercive

actions. In the case of coercive actions, dual criminality is deemed satisfied regardless of whether both countries place the offense within the same category of offense, or denominate the offense by the same terminology, provided that both countries criminalize the conduct underlying the offense.

(4) Section 415(1) of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended as follows:

§415. Requests for enforcement of foreign confiscation or restraining orders.

(1) Where a foreign country requests the Attorney-General to make arrangements for the enforcement of a.:

(a) foreign restraining order; or

(b) foreign confiscation order, the Attorney-General may apply to the High Court of the RMI for entry and enforcement of the order under this Chapter or under any law in place in the RMI for the purpose of preventing money laundering or realizing tainted property.

. . .

(5) Section 416 of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended as follows:

§416. Foreign requests for the location of tainted property.

Where a foreign country requests the Attorney-General to assist in locating property suspected to be tainted property in respect of an offense within its jurisdiction, the Attorney-General may authorize the making of any application to the High Court, for the purpose of acquiring the information sought by the foreign country.

(6) Section 417 of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended as follows:

§417. Sharing confiscated property with foreign Countries.

The Attorney-General may enter into an arrangement with the competent authorities of a foreign country, in respect of money laundering and tainted property, for the reciprocal sharing with that country of such part of any property realized:

(a) in the foreign country, as a result of action taken by the Attorney-General pursuant to section 406(4); or

(b) in the RMI, as a result of action taken in the RMI pursuant to section 415(1), as the Attorney-General thinks fit.

§103. Effective Date.

This Bill, and all Acts contained herein, shall take effect in accordance with the Constitution and the Rules of Procedures of the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 03 was passed by the Nitijela of the Republic of the Marshall Islands on the 20th day of March 2020; and

2. That I am satisfied that Nitijela Bill No: 03 was passed in accordance with the relevant provisions of 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 this 09th day of April 2020.

Attest:

Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Morean S. Watak
Clerk
Nitijela of the Marshall Islands