

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
38TH CONSTITUTION REGULAR SESSION, 2017**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

APPROPRIATIONS (FINANCIAL YEAR 2018) ACT 2017

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APPROPRIATIONS (FINANCIAL YEAR 2018) ACT 2017

AN ACT to provide:

- (a) in accordance with Article VIII of the Constitution, for the issuance from the Marshall Islands General Fund, including funds provided under the Compact of Free Association, as Amended, and other funds, a total sum of \$206,919,609 to meet the expenditures of the Government for the Financial Year 2018, and to appropriate sums to program areas; and
- (b) for a Contingencies Fund in accordance with Section 9 of Article VIII of the Constitution; and
- (c) for contingent appropriation of amounts that may be received in the future; and
- (d) for delegation of expenditures approval under Section 5 of Article VIII of the Constitution; and
- (e) for controls on reprogramming and transfer of funds within appropriation areas; and
- (f) for control on specific expenditures.

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

§101. Short title.

This Act may be cited as the Appropriations (Financial Year 2018) Act 2017.

§102. Statement of National Objective.

- (1) It is the intention of the Government of the Republic of the Marshall Islands to enact and implement a national budget for the whole of the Financial Year 2018 as provided in the FY 2018 Budget Schedule which includes the Economic Policy Statement attached as Appendix A and B respectively.
- (2) In this Act, a Medium Term Budget Investment Framework (MTBIF), which is strategic in nature, is provided as policy guidance for the Government of the Republic of the Marshall Islands spending and as direction for budgeting process in the medium term, attached herewith as Appendix C to this Act.

§103. Interpretation

In this Act:

“**program area**” means program areas set out in Schedules 1 to Schedule 5 as indicated by the headings in those schedules.

- (2) “unanticipated income” means any money, not being loan money, that:
 - (a) becomes available for expenditures from a source at a time when the Nitijela is not meeting pursuant to Article VIII, Section 7 of the Constitution; and
 - (b) has not been specifically included in the budget estimates for the Financial Year, which the Cabinet is satisfied should, in the interests of the Republic of the Marshall Islands, be expended, pursuant to Article VIII, Section 7 of the Constitution, before the expenditures could reasonably be authorized by an Appropriation Act or a Supplementary Appropriation Act.

§104. Appropriations and re-appropriations from the General Fund.

Total Appropriation (and re-appropriation) from the General Fund.

- (1) The sum of \$77,503,920 is hereby appropriated and re-appropriated, and may be withdrawn from the Marshall Islands General Fund and expended pursuant to Article VIII of the Constitution for program areas as set out in Schedule 1 – inclusive of the amount that may be spent or payable under the continuing appropriation:

- (2) The sum of \$77,503,920 referenced in Subsection (1) above inclusive of:
 - (a) the sum of \$73,849,077, as revenue granted through General Fund, a total sum of \$73,849,077; and
 - (b) the sum of \$3,654,843 appropriated under P.L 2016-15 for the program areas pursuant to Schedule 9 of this Act, and set to lapse at this end of this fiscal year, and hereby re-appropriated in the next fiscal year.

§105. Appropriations from the Special Revenue Fund.

Special Revenue Funds.

The sum of \$9,384,295 is hereby appropriated, and may be withdrawn from the Special Revenue Funds as set out in Schedule 3 subject to Section 16 of this Act.

§106. Compact Fund.

- (1) Total Appropriations.

All Funds provided under the Compact of Free Association, as Amended, in the amount \$81,432,546 shall be credited to the General Fund and shall be appropriated in accordance with the relevant provisions and Schedule 2 of Appendix A of this Act.

- (2) Restrictions on Reprogramming of Compact Funds.

Fund received under the Compact of Free Association, as Amended shall not be transferred to any other activity, or reprogrammed or expended for any purpose during the Financial Year other than the permissible uses of those funds as provided for in the Compact of Free Association as Amended and its Subsidiary Agreements.

- (3) Lapse of Compact Funds.

All moneys received under the Compact of Free Association, as Amended and appropriated herein shall not lapse at the end of the Financial Year. However any unspent funds thereof shall be returned to US Department of Interior and shall be re-granted in the subsequent year.

- (4) Unaudited entities and organizations.

Notwithstanding the provisions of any other law or agreement, any entity or organization receiving funds under the Compact of Free Association as Amended, shall not receive such funding if the Auditor General or its contractors have determined that the books, accounts and financial records of any such entity or organization have not been auditable for the past three preceding fiscal years until such time as the Auditor General or its contractor determine that such entity or organization has taken necessary corrective action to render such books, accounts and financial records in an auditable condition to permit a financial audit to proceed.

§107. Appropriation of U.S. Federal Grants and other Foreign Grants.

- (1) The sum of \$38,598,848 being the total amount of special U.S. Federal Grants including capital grants from the Republic of China (Taiwan), Asian Development Bank, Global Fund, World Bank, World Health Organization, UH Grants, and UNFPA Fund is appropriated and may be withdrawn from the Marshall Islands General Fund pursuant to Article VIII of the Constitution, for program areas in accordance with Schedules 4 and 5, during the Financial Year.
- (2) The amounts set out in Schedules 4 and 5 are not available for expenditure as reprogrammed expenditure under Article VIII Section 7 of the Constitution, except as authorized by or under the agreements with the donor nation and/or institution.
- (3) The appropriation made by Subsection (1) shall not lapse at the end of the Financial Year, but shall continue until either the grant expires or the funds are expended, whichever occurs first.

§108. Funding of the Office of the Auditor General.

- (1) The Secretary of Finance shall withhold and deposit in the special account in the Marshalls Islands General Fund, zero point eight percent (0.8%) of all amounts appropriated in Schedules 1, 3 and 5, and the sum so withheld and deposited may be withdrawn and expended by the Auditor-General in accordance with the budget approved for his/her office by the Cabinet, for the operations and activities of his/her office.
- (2) The zero point eight percent (0.8%) of funds to be withheld and deposited under Subsection 1 shall apply only to the General Fund in

Schedule 1, Schedule 3 and Republic of China (ROC) capital grants as appropriated in Schedule 5. Provided however, any funds under Schedule 1, Schedule 3 and Schedule 5 which are not subject to the zero point eight percent (0.8%) shall be identified by the Secretary of Finance with the concurrence of the Minister of Finance pursuant to the Financial Management Act.

§109. Contingencies Fund.

- (1) In accordance with Article VIII, Section 9(1) of the Constitution, up to \$200,000 is authorized to be advanced against the General Fund for purposes of the Contingencies Fund.
- (2) Where, during the Financial Year, an amount of unanticipated income is received by the Government for the purpose of an urgent and unforeseen need, the amount prescribed in Subsection (1) for the Contingencies Fund is increased by the amount of that unanticipated income, to meet such need.

§110. Unanticipated Income.

- (1) In accordance with Article VIII, Section 9(1) of the Constitution, up to \$200,000 is authorized to be advanced against the General Fund for purposes of the Contingencies Fund.
- (2) Where, during the Financial Year, an amount of unanticipated income is received by the Government for the purpose of an urgent and unforeseen need, the amount prescribed in Subsection (1) for the Contingencies Fund is increased by the amount of that unanticipated income, to meet such need.

§111. Notification to the Cabinet by the Minister.

When any money is received under Section 110 herein above, the Minister of Finance shall notify the Cabinet of the receipt of such money, and such money shall not be expended without the approval of the Cabinet.

§112. Lapsing of Certain Appropriations.

Any increase in the amount prescribed for the Contingencies Fund provided for by Section 109 (2) ceases, and any increase in the amount of an appropriation affected by Section 10 lapses:

- (a) on the effective date of the next Appropriation Act or Supplementary Appropriation Act enacted after the date referred to in Section (1) of this Act; or
- (b) on the adoption of a Resolution to that effect by the Nitijela, whichever occurs first.

§113. Delegation of Authority to Approve.

- (1) For the purposes of Article VIII, Section 5 (1) of the Constitution, the authority to approve expenditure in a program area in accordance with Schedules 1 to 5 is hereby delegated to:
 - (a) The member of the Cabinet primarily responsible for that program area and;
 - (b) If the responsible member of the Cabinet so directs by instrument in-writing, and subject to any limitations imposed by the instrument and to general control by the member, an appropriate person, authority, or agency;
 - (c) The Chief Justice of the High Court pursuant to the Judiciary Fund in accordance with the provisions of 27 MIRC Chapter 1; or
 - (d) The Minister of Finance in particular to appropriations made under special appropriations in schedule 1 and the Republic of China (Taiwan) in Schedule 5 of this Act.
- (2) Any expenditure other than in accordance with Schedule 1, 2, 3, 4 and 5 shall require the approval of the Cabinet in accordance with Article VIII, Section 5(1) of the Constitution.

§114. Reprogramming of Funds.

Before any reprogramming of expenditure between program areas is approved under Article VIII, Section 7 (1) of the Constitution, the Cabinet shall approve such reprogramming.

§115. General.

- (1) In the event the actual receipts into the Marshall Islands General Fund fall short of the total amount appropriated in Schedules 6, 7 and 8, the Cabinet pursuant to Article VIII, Section 7 of the Constitution,

may make the necessary adjustments to Schedules 1, 2, 3, 4 and 5 to accommodate the shortfall.

- (2) All contracts awarded by the Government and associated agencies must comply with the provisions of the Republic of the Marshall Islands Procurement Code. Funds will only be released by the Ministry of Finance upon proof of compliance with the code.
- (3) Gross Revenue Tax of 3% on all Government contracts will be withheld by the Ministry of Finance at the time of payment, and credited against the contractor's liability to pay gross revenue tax for the period of the payment. The contractor is still required to file a tax for return for the period.
- (4) All Government Ministries, statutory corporations and agencies must have been audited and have complied with all the audit recommendations prior to receiving any quarterly allocation. Any Government Ministries, statutory corporations and agencies unable to comply with all the audit requirements must provide an expense report before release of any funds.
- (5) No funds appropriated under this Act shall be released to any Local Government, statutory corporation or agency whose financial records have not been audited for the past two preceding fiscal years, until such Local Government, statutory corporation or agency has taken the necessary steps to render such records auditable, or provides a full and complete report of its expenses to Cabinet.
- (6) Any Government Ministry, statutory corporation and or agency that receive funds appropriated under this Act or any other Act, or subsidies or any other government funds shall enter into a Memorandum of Agreement with the Government in accordance with Regulations and guidelines established by the Secretary of Finance pursuant to the Financial Management Act.
- (7) Ministry of Finance shall acted as a receivership in an event that Government Ministry, statutory corporation and or agency that receive funds appropriated under this Act, or any other Act, or subsidies or any other government funds, unable to comply with all the audit requirements.

§116. Special Revenue Fund.

Any money in excess of an appropriation made in Schedule 3 (Special Revenue Funds) may be expended during the Financial Year only in accordance with terms of the Act establishing such Special Revenue Fund.

§117. Effective Date.


This act shall take effect on the date of certification in accordance with Article IV.

CERTIFICATE


I hereby certify:

1. That Nitijela Bill No: 89ND2 was passed by the Nitijela of the Republic of the Marshall Islands on the 27th day of September 2017; and
2. That I am satisfied that Nitijela Bill No: 89ND2 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 28th day of September 2017.



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

Attest: 

Morean Watak
 Clerk
 Nitijela of the Marshall Islands