NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
43RD CONSTITUTIONAL REGULAR SESSION, 2022

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

LABOR (COLLECTIVE BARGAINING) RELATIONS ACT 2022

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LABOR (COLLECTIVE BARGAINING) RELATIONS ACT 2022

AN ACT to provide a legal framework for employees in the Republic of the Marshall Islands to engage in collective bargaining and to enter into collective bargaining agreements with their employers; to govern the employer-employee relationship; and for related purposes.

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

§1. Short title.

This Act may be cited as the Labor (Collective Bargaining) Relations Act 2022.

§2. Definitions of this Act:

(1) "**Person**" includes individuals, partnerships, associations, and corporations;

(2) "**Employer**" includes all persons employing others and all persons acting in the interest of an employer, including the national or local government, or any political or governmental subdivision thereof, nor any statutory authority or state-owned enterprise or any private corporations or entities;

(3) "**Employee**" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section on the part of the employer or because of any current labor dispute and who has not obtained other

regular and substantially equivalent employment, but does not include any individuals employed by a parent or spouse or in domestic service of any person at the person's own home;

(4) "**Representative of employees**" means any organization or one or more individuals selected by a group of employees for the purpose of collective bargaining;

(5) "**Labor organization**" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment;

(6) "**Labor dispute**" includes any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms, tenure, or other conditions of employment, regardless or whether or not the relationship of employer and employee exists as to the disputants;

(7) "**Strike**" means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute;

(8) "**Lockout**" is the refusal of the employer to furnish work to employees as a result of a labor dispute;

(9) "**Commission**" means the commission established under section 3 of this Chapter;

(10) "**Unfair labor practice**" means an unfair labor practice defined in section 12 and 13;

(11) "**Competent evidence**" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable persons as worthy or belief;

(12) "**Professional strike-breaker**" means any person who makes an offer to an employer at whose place of business a labor dispute is presently in progress to work as a replacement for an employee or employees involved in such labor dispute;

§3. Establishment of Commission.

There is established a commissioner who shall be the Attorney General appoint pursuant to the Attorney General Act.

§4. Mediation Services.

(1) There is established a Mediation Services Commissioner under the supervision and control of a commissioner.

(2) The commissioner may, from time to time, appoint special mediators (Mediation Services Commission) to aid in the settlement of particular labor disputes or controversies who shall have the same power and authority as the commissioner with respect to such dispute and such appointment shall be for the duration only of the particular dispute. Such special mediators shall be paid a per diem allowance as determined by the commissioner, while so engaged and their necessary expenses.

§5. Powers of commission.

(1) The commissioner appointed pursuant to section 3 and 4 (2) shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chair administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place at any designated place of hearing, but whenever practical hearings shall be held in the island where the labor dispute has arisen or exists.

(2) In case of contumacy or refusal to obey a subpoena issued under paragraph (1), shall be punishable by the court as contempt thereof.

(3) Any party to or party affected by the dispute may appear before the commission in parson or by attorney or by their representative, and shall have the right to offer competent evidence and to be heard.

§6. Joint Labor Organization, Right to Collective Bargaining.

(1) Employees' right of self organization. Employees shall have the right to self-organization and the right to form, join, or assist labor organizations, to bargain collectively through representatives of their

own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employees shall have the right to refrain from any and all such activities.

(2) Employers association. Employers have the right to associate together for the purpose of collective bargaining.

§7. Collective Bargaining Agreement.

(1) Notice. When any employee or employees, or representative of employees, or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, which notice shall follow the employer if the place of employment is changed, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavour in good faith to reach an agreement respecting such demand. An employer shall give a like notice to employee, representative, or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten days after service of such notice, any employees, representative, labor organization, or employer may at any time thereafter petition the commissioner for mediation services to take jurisdiction of the dispute and it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer to institute a lockout, unless such petition has been served by the party taking such action upon the commissioner and the other parties to the labor dispute at least ten days before the strike or lockout become effective. Unless the strike or lockout is commenced within 90 days from the date of service of the petition upon the commissioner, it shall be unlawful for any of the parties of institute or aid in the conduct of a strike or lockout without serving a new petition in the manner prescribed for the service of the original petition, provided that the 90-day period may be extended by written agreement of the parties filed with the commissioner.

A petition by the employer shall be signed by the employer or a duly authorized officer or agent; and a petition by the employees shall be signed by their representative or its officers, or by the committee

selected to negotiate with the employer. In either case the petition shall be served by delivering it to the commissioner in person or by sending it by certified mail addressed to the commissioner at the commissioner's office. The petition shall state briefly the nature of the dispute and the demands of the party who serves it. Upon receipt of a petition, the commissioner shall fix a time and place foe a conference with the parties to the labor dispute upon the issues involved in the dispute, and shall then take whatever steps the commissioner deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the commissioner for joint or several conferences with the commissioner and to continue in such conference until excused by the commissioner, not beyond the ten-day period heretofore prescribed except by mutual consent of the parties.

(2) Commissioner, powers and duties. The commissioner may at the request of either party to a labor dispute render assistance in settling the dispute without the necessary of filing the formal petition.

§8. Representative for Collective Bargaining.

(1) To be exclusive. Representative designated or selected for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment, provided, that any individual employee or group of employees shall have the right at any time to present grievances to their employer in person through representatives of their own choosing.

(2) Certification of group representative by commissioner. When a question concerning the representative of employees is raised by an employee, group of employees, labor organization, or employer the commissioner of mediation services of any person designated by the commissioner shall, at the request of any of the parties, investigate such controversy and certify to the parties in writing, the name or names of the representatives that have been designed or selected. The commissioner shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to

collective bargaining and otherwise to effectuate the purpose of this chapter, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit; provided, that any larger unit may be decided upon with the consent of all employees involved, and provided that when a craft exists, composed of one or more employees then such craft shall constitute a unit appropriate for the purpose of collective bargaining for such employee or employees belonging to such craft and a majority of such employees of such craft may designate a representative for such unit. Two or more units may, by voluntary consent, bargain through the same agent or agents with an employer or employers, their agent or agents. Supervisory employees shall not be considered in the selection of a bargaining agent. In any such investigation, the commissioner may provide for an appropriate hearing, and may take a secret ballot of employees or utilize any other suitable method to ascertain such representatives, but the commissioner shall not certify any labor organization which is dominated, controlled, or maintained by an employer. If the commissioner has certified the representatives as herein provided, the commissioner shall not be required to again consider the matter for a period of one year unless it appears to the commissioner that sufficient reason exists.

(3) Witnesses; power of commissioner. In the investigation of any controversy concerning the representative of employees for collective bargaining, the commissioner of mediation services shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates directly to any matter involved in any such hearing, and the commissioner or representative may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place at any designated place of hearing, but hearings shall be held in the High Court.

(4) Contempt of court. In case of contumacy or refusal to obey a subpoena issued under this section, the court where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides shall have jurisdiction to issue to such person an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey

such order of the court may be punished by the court as a contempt thereof.

§9. Protection of Collective Bargaining Agreements.

(1) Agreement protected from intervention. No employer holding a valid collective bargaining agreement with any labor organization recognized or certified by the commissioner of mediation services as the accredited bargaining representative for the employees or any group of employees of such employer shall be required to enter into negotiations with any other labor organization respecting the employees covered by the existing union agreement, so long as the existing agreement remains in full force and effect in accordance with its terms except where a successor labor organization has been certified as the representative of the employees covered by such agreement by the commissioner of mediation services and recognized by the employer.

(2) Prohibited against violation. The violation of the provisions of this section by any officer, business agent, employee or other representative of any labor organization is prohibited.

§10. Arbitration.

When a labor dispute arises which is not settled by mediation such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including among other methods the arbitration procedure under the terms of the Marshall Islands Arbitration Act or other agreed to procedure. If such agreement so provides, the commissioner of mediation services may act as a member of any arbitration tribunal created by any such agreement and, if the agreement so provides, the commissioner may appoint one or more of such arbitrators. Either or both of the parties to any such agreement or any arbitration tribunal created under any such agreement may apply to the commissioner to have the tribunal designated as a temporary arbitration tribunal and, if so designated, the temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as subpoenas issued by the commission under section 5. Any such

temporary arbitration tribunal shall file with the commissioner a copy of its report, duly certified by its chair.

§11. Roster of arbitrators.

The commissioner shall maintain a roster of persons suited and qualified by training and experience to act as arbitrators of labor disputes and shall provide parties to a labor dispute with the names of persons on the roster upon written request. The commissioner shall adopt rules governing appointments to, removals from, and administration of this roster.

§12. Unfair Labor Practices: Employee.

It shall be an unfair labor practice:

(1) for any employee or labor organization to institute a strike if such strike is a violation of any valid collective agreement between any employer and its employees or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement;

(2) for any employee or labor organization to institute a strike if the calling of such strike is in violation of sections 7 or 17;

(3) for any person to seize or occupy property unlawfully during the existence of a labor dispute;

(4) for any person to picket or cause to be picketed a place of employment of which place the person is not an employee while a strike is in progress affecting the place of employment, unless the majority of persons engaged in picketing the place of employment at these times are employees of the place of employment;

(5) for more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time;

(6) for any person to interfere in any manner with the operation of a vehicle or the operator thereof when neither the owner nor operator of the vehicle is at the time a party to a strike;

(7) for any employee, labor organization, or officer, agent, or member thereof, to compel or attempt to compel any person to join or to

refrain from joining any labor organization or any strike against the person's will by any threatened or actual unlawful interference with the person, or immediate family member, or physical property, or to assault or unlawfully threaten any such person while in pursuit of lawful employment;

(8) unless the strike has been approved by a majority vote of the voting employees in a collective bargaining unit of the employees of an employer or association of employers against whom such strike is primarily directed, for any person or labor organization to cooperate in engaging in, promoting or inducing a strike. Such vote shall be taken by secret ballot at an election called by the collective bargaining agent for the unit, and reasonable notice shall be given to all employees in the collective bargaining unit of the time and place of election; or

(9) for any person or labor organization to hinder or prevent by intimidation, force, coercion or sabotage, or by threats thereof, or to combine or conspire to cause or threaten to cause injury to any processor, producer or marketing organization, by withholding labor. The violation of Subsections (2), (3), (4), (5), (6), (7), (8) and (9) are hereby declared to be unlawful acts.

§13. Unfair Labor Practices: Employer.

It is an unfair labor practice for an employer:

(1) to institute a lockout of its employees in violation of a valid collective bargaining agreement between the employer and its employees or labor organization if the employees at the time are in good faith complying with the provisions of the agreement, or to violate the terms and conditions of the bargaining agreement;

(2) to institute a lockout of its employees in violation of section 7 or 17;

(3) to encourage or discourage membership in a labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, that this Section does not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and its employees or a labor organization representing the employees as a bargaining agent, as provided by Section 8.

(4) to discharge or otherwise to discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given information or testimony under this chapter;

(5) to spy directly or through agents or any other persons upon activities of employees or their representatives in the exercise of their legal rights;

(6) to distribute or circulate a blacklist of individuals exercising a legal right or of members of a labor organization for the purpose of preventing individuals who are blacklisted from obtaining or retaining employment;

(7) to engage or contract for the services of a person who is an employee of another if the employee is paid a wage that is less than the wage to be paid by the engaging or contracting employer under an existing union contract for work of the same grade or classification;

(8) willfully and knowingly to utilize a professional strikebreaker to replace an employee or employees involved in a strike or lockout at a place of business located within the Republic; or The violation of Subsections (2), (4), (5), (6), (7), or (8) is an unlawful act.

§14. Labor-management committees.

The commissioner may provide technical support and assistance to voluntary joint labor-management committees established for the purpose of improving relationships between unions and employers at area, industry, or work-site levels.

§15. Receipt of gifts, money; appropriation.

(1) The commissioner may apply for, accept, and disburse gifts, bequests, grants, or payments for services from the Government, international organizations, other nations, private foundations, or any other source.

(2) Money received by the commissioner under this subdivision must be deposited in a separate account for workforce skills and the amount deposited, including investment earnings, shall also be appropriated to the commissioner to carry out duties of the commissioner.

(3) The commissioner must post and maintain list of the sources of funds 31 and amounts received under this subdivision.

§16. Political activities forbidden.

Any mediator, under the provisions of this Act who exerts personal influence, directly or indirectly, to induce any other person to adopt the mediator's political views, or to favor any particular candidate for office, or to contribute funds for political purposes shall forthwith be removed from office or position by the appointing authority; provided, that before removal the commissioner of mediation services shall be entitled to a hearing before the commissioner, and any other employee shall be entitled to a similar hearing before the commissioner of mediation services.

§17. Labor dispute affecting Public Interests; Procedure.

If the dispute is in any industry, business, or institution affected with a public interest, which includes, but is not restricted to, any industry, business, or institution engaged in supplying the necessities of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health, or well-being of a substantial number of people of any community, the provisions of section 7 shall apply. The commissioner may appoint a fact finding commission composed of three members to conduct a hearing and make a report on the issues involved and the merits of the respective contentions of the parties to the dispute. If the commissioner decides to appoint a commission, the commissioner shall immediately notify the parties to the labor dispute. The members of such commission shall on account of vocations, employment, or affiliations be representatives of employees, employers, and the public, respectively. If and when the commissioner notifies the parties of the decision to appoint a commission, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until 30 days after the commissioner's notification to the parties. If the commissioner fails to appoint a commission within five days after notification to the parties, this limitation on the parties shall be suspended and inoperative. If the commissioner thereafter appoints a commission, no strike or lockout having been instituted in the meantime, the limitation shall again become operative, but in no case for more than the original 30-day period. The 30-day period may be extended by stipulation of the parties to the labor dispute, which shall be filed with the commissioner. The commission shall meet within five days of its appointment by the commissioner and conduct the hearings which are necessary to render its report on the issues involved and merits of the contentions of the parties. The report of the commission shall be filed

with the commissioner not less than five days prior to the end of the 30-day period set forth above or any extension thereof. The commissioner shall 3 provide copies of the report to the parties to the dispute and may make the report public the issues before the report of the commission is made.

§18. Jurisdictional controversies.

Whenever two or more labor organizations adversely claim for themselves or their members jurisdiction over certain classifications of work to be done 8 for any employer or in any industry, or over the persons engaged in or performing such work and such jurisdictional interference or dispute is made the ground for picketing an employer or declaring a strike or boycott against the employer, the commissioner may appoint a labor referee to hear and determine the jurisdictional controversy. If the labor organizations involved in the controversy have an agreement between themselves defining their respective jurisdictions, or if they are affiliated with the same labor federation or organization which has by the charters granted to the contending organizations limited their jurisdiction, the labor referee shall determine the controversy in accordance with the proper construction of the agreement or of the provisions of the charters of the contending organizations. If there is no agreement or charter which governs the controversy, the labor referee shall make such decision as, in consideration of past history of the organization, harmonious operation of the industry, and most effective representation for collective bargaining, will best promote industrial peace. If the labor organizations involved in the controversy so desire, they may submit the controversy to a tribunal of the federation or labor organization which has granted their charters or to arbitration before a tribunal selected by themselves, provided the controversy is so submitted prior to the appointment of a labor referee to act in the controversy. After the appointment of the labor referee by the commissioner, or the submission of the controversy to another tribunal as herein provided, it shall be unlawful for any person or labor organization to call or conduct a strike or boycott against the employer or industry or to picket any place of business of the employer or in the industry on account of such jurisdictional controversy.

§19. Operation of Vehicle where Dispute is in Progress.

Any person who operates a motor vehicle which is entering or leaving a place of business or employment where there is a clear notice that a labor

dispute is in progress, and who fails to bring the vehicle to a full stop at the entrance to or exit from that place, or who fails to exercise caution in entering or leaving that place, is guilty of a misdemeanor.

§20. Interferences which are Unlawful.

(1) Unlawful acts. It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads or methods of transportation or conveyance or to wrongfully obstruct ingress to and egress from any place of business or employment.

(2) Unfair labor practice. It is an unfair labor practice for any employee or labor organization to commit an unlawful act as defined in this Act.

§21. Injunctions; Temporary Restraining Orders.

When any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the High Court. In any suit to enjoin any of the unfair labor practices set forth in sections 12 and 13, the provisions of section 2 shall not apply. No court shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of sections 12 and 13 as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross examination, in support of the allegations made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court to the effect that the acts set forth in sections 12 and 13 have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained. No temporary restraining order may be issued under the provisions of this Act except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony nor unless the temporary restraining order is returnable within seven days from the time it is granted which shall be noted on the order of the court. It shall be the duty of the court to give the trial or hearing of any suits or proceedings arising under this section precedence over all other civil suits which are ready for trial. Failure of the trial court to decide a motion for a temporary injunction within seven days from the date the hearing thereon is concluded shall dissolve any restraining order issued therein without further order of the court. Failure of the trial court to decide any suit brought under this section within 45 days from the

date the trial was ended shall dissolve any restraining order or temporary injunction issued therein without further order of the court.

§22. Violators Not Entitled to Benefits of Certain Sections.

Any employer, employee, or labor organization who has violated any of the provisions of this Act with respect to any labor dispute shall not be entitled to any of the benefits of this Act respecting such labor disputes and such employer, employee, or labor organization shall not be entitled to maintain in any court an action for injunctive relief with respect to any matters growing out of that labor dispute, until good faith use is made of all means available under the laws of the Republic for the peaceable settlement of the dispute.

§23. Effective Date.

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

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 59 was passed by the Nitijela of the Republic of the Marshall Islands on the 7th day of April 2022; and

2. That I am satisfied that Nitijela Bill No: 59 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 25th day of November 2022.

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

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands