

TITLE 40 – COMMUNICATIONS
CHAPTER 3 - RADIO COMMUNICATIONS



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

RADIO COMMUNICATION ACT 1993

Arrangement of Sections

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RADIO COMMUNICATION ACT 1993

AN ACT relating to communications; regulating radio and television communications; establishing the Communication Regulation Fund; repealing 40 MIRC, Chapter 2, Part I, as amended.

<i>Commencement:</i>	<i>March 16, 1993</i>
<i>Source:</i>	<i>P.L. 1993-42</i>
<i>Amended By:</i>	<i>P.L. 1994-99</i>

PART I -GENERAL PROVISIONS

§301. Short Title.

This Chapter may be cited as the Radio Communication Act 1993.
[P.L. 1993-42, §1.]

§302. Definitions.

As used in Sections 303 to 318 and in the Regulations, the following terms have the meanings given them:

- (a) **“amateur service”** means a service of self-training, intercommunication, and technical investigations carried on by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest;
- (b) **“amateur station”** means a station in the amateur service;

- (c) **“broadcasting service”** means a radio communication service of transmissions to be received directly by the general public, and may include transmissions by television, facsimile, or other means;
- (d) **“broadcasting station”** means a station in the broadcasting service;
- (e) **“citizens band radio”** means that range of radio-wave frequencies that is allocated for private radio communications;
- (f) **“coast station”** means a land station in the maritime mobile service carrying on a service with ship stations and which may secondarily communicate with other coast stations incident to communication with ship stations;
- (g) **“corporation”** includes any corporation, joint-stock company, or association;
- (h) **“fixed service”** means a service of radio communication between specified fixed points;
- (i) **“fixed station”** means a station in the fixed service and which may, as a secondary service, transmit to mobile stations on its normal frequencies;
- (j) **“foreign communication”** or **“foreign transmission”** includes radio communication or transmission of energy by radio from or to any place in the Republic to or from a foreign country, or between a station in the Republic and a mobile station located outside the Republic;
- (k) **“inter-island communication”** or **“inter-island transmission”** means radio communication or transmission of energy by radio between points not on the same island or ship within the Republic, or to or from any island or ship within the Republic;
- (l) **“intra-island communication”** or **“intra-island transmission”** means radio communication or transmission of energy by radio between points on the same island in the Republic;
- (m) **“licensee”** means the holder of a radio or television station license granted or continued in force by the Government of the Republic of the Marshall Islands;
- (n) **“maritime mobile service”** means a mobile service between ship stations and coast stations or between ship stations;

- (o) **“Minister”** is the Minister of Transportation and Communication;
- (p) **“Ministry”** is the Ministry of Transportation and Communication;
- (q) **“person”** includes an individual, partnership, trust, or corporation;
- (r) **“radio communication”** includes the transmission by radio or television of writing, signs, signals, pictures, and sounds of all kinds including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding and delivery of communications) incidental to such transmissions;
- (s) **“Regulations”** are the regulations provided for in Section 303, unless otherwise stated;
- (t) **“Secretary”** is the Secretary of the Ministry of Transportation and Communication;
- (u) **“ship station”** means a mobile station in the maritime mobile service located on board a vessel which is not permanently moored;
- (v) **“television communication”** includes cable television and all instrumentalities, facilities, apparatus, and services, including the receipt, forwarding, and delivery of communications, incidental to such transmissions;
- (w) **“transmission of energy by radio”** includes transmission and all instrumentalities, facilities, and services incidental to such transmission. [P.L. 1993-42, §2.]

§303. Regulations; Policy.

The Secretary shall issue Regulations, pursuant to the Administrative Procedure Act, which shall have the force and effect of law and be applicable to all persons seeking to provide or providing radio communications within the Republic. The purpose of the Regulations is to insure that the people of the Republic have radio communication services available for personal business use, to promote public safety, to provide public service, and to allow for efficient and economic use of the radio frequency spectrum. [P.L. 1993-42, §3.]

§304. Scope of Regulations.

- (1) *Application.* The Regulations apply to the following:
 - (a) foreign and domestic radio and television communications;
 - (b) radio and television communications which interfere or have the capacity to interfere with foreign and domestic radio communications; and
 - (c) radio and television communications relating to national defense and public safety.
- (2) *Uses and services regulated.* The following are subject to regulation:
 - (a) public safety and government uses;
 - (b) maritime, land, and aeronautical mobile radio services;
 - (c) fixed radio services;
 - (d) amateur services;
 - (e) citizens band radio;
 - (f) radio and television communications; and
 - (g) other uses or services which the Secretary deems necessary to carry out the purposes of Part I of this Chapter.
- (3) *Matters Regulated.* The following matters are subject to regulation:
 - (a) frequency authorization; (b) restrictions on use of radio or television frequencies and instrumentalities;
 - (c) licensing and examination of commercial and amateur radio operators;
 - (d) licensing and inspection of radio or television stations;
 - (e) assessment of reasonable fees for licensed users; and
 - (f) other matters concerning radio communication or transmission of energy by radio, including provisions designed to accommodate government uses, that may be necessary to carry out the purposes of Part I of this Chapter.
- (4) The Secretary shall designate and restrict three citizens band radio channels exclusively for emergency, disaster, and government use.
[P.L. 1993-42, §4.]

§305. Unauthorized Disclosure Prohibited.

- (1) *By persons transmitting or receiving.* No person receiving or transmitting any foreign or domestic radio communication, or assisting in same, shall disclose the contents or meaning of that communication except in the following manners:
 - (a) through authorized channels of transmission or reception;
 - (b) to the addressee;
 - (c) to the addressee's agent or attorney;
 - (d) to a person employed or authorized to forward such communication to its destination;
 - (e) to the proper accounting or distributing officers of the various communicating centers over which the communication may be passed;
 - (f) to the master of a ship under whom he is serving;
 - (g) to a person duly authorized by subpoena issued by a court of competent jurisdiction or by order of other lawful authority.
- (2) *By interception.* No person shall intercept any communication and disclose the existence, contents, substance, effect, or meaning of that communication to any person, unless authorized by the sender.
- (3) *For own benefit.* No person shall receive any foreign or domestic radio communication, or assist in same, and use any part of it for his or another's benefit, unless entitled to do so.
- (4) *By third party.* No person shall disclose any part of the contents of an intercepted communication if he knows it was obtained as described in subsections (1) to (3); nor shall he use any part of that communication for his or another's benefit, unless entitled to do so.
- (5) *Exceptions.* This Section shall not apply to receiving, disclosing, or utilizing the contents of any radio communication broadcast or transmitted by amateurs or others for the use of the general public or relating to a ship in distress. [P.L. 1993-42, §5.]

§306. War Emergency Provisions.

- (1) *Priority.* When the Republic is engaged in war the Cabinet is authorized, if it finds it necessary for national defense and security, to direct that communications which it judges are essential to the

national defense and security shall have priority over any licensee. The Cabinet determines when to issue a direction, and it may modify, change, or annul its direction.

- (2) *Orders of Priority.* The Cabinet is authorized to issue orders of priority, directly or through others, for purposes of this Section. Anyone complying with such an order is exempt from all civil and criminal penalties, obligations, or liabilities arising from their compliance.
- (3) *Suspension of Regulations.* When the President and or the Cabinet proclaims that war, threat of war, public peril, disaster, or other national peril exists, or in order to preserve the neutrality of the Republic, the Cabinet may suspend or amend any rules or regulations covering stations or devices capable of emitting electromagnetic radiation between 10 kilocycles and 100,000 megacycles which are suitable for use as a navigational aid beyond 5 miles. The Cabinet may authorize removal of such equipment, or use or control of a station or device or its equipment by any department of the Government under regulations as it may prescribe, provided just compensation is paid to the owner. [P.L. 1993-42, §6.]

§307. War Emergency Provisions; Penalty.

An individual who is convicted of willfully doing or causing another to do anything prohibited, or of willfully failing or causing another to fail to do anything required, by the Cabinet pursuant to Section 306 shall be liable to pay a fine not exceeding \$1,000, or to spend up to 1 year in jail, or both; if it a corporation that is convicted by a fine not exceeding \$5,000. A person who is convicted of committing such an offense with intent to injure the Republic or to secure advantage to any foreign nation shall be liable to pay a fine not exceeding \$20,000, or to spend up to 20 years in jail, or both. [P.L. 1993-42, §7.]

§308. General Penalty.

A person who is convicted of willfully doing or causing another to do anything prohibited, or of willfully or knowingly failing to do anything required, or willfully and knowingly causing the omission or failure of anything required by a Regulation or any rule, regulation, restriction, or condition made or imposed by an international radio or wire communications treaty or convention, or by regulations annexed thereto, to

which the Republic is a party, shall be liable to pay a fine not exceeding \$10,000, or to spend up to 1 year in jail, or both. [P.L. 1993-42, §8.]

§309. Impoundment of Unauthorized Equipment.

No person has a right to possess or use radio transmission equipment that does not comply with Sections 303 to 306 or with the Regulations. If the Ministry finds such equipment, it or a duly authorized law enforcement authority of the Republic may impound the equipment and safely hold it until the Ministry finds the equipment in compliance. Notification shall be sent by the impounding authority to the Ministry within five working days, specifying the custodian, location, identification, and basis for impoundment of the equipment, or the equipment must be returned to the person from whom it was seized. An impoundment made under this Section does not constitute forfeiture of the equipment. [P.L. 1993-42, §9.]

§310. Interim Regulations, Licenses, Orders.

All regulations, licenses, and orders concerning radio and television communications in effect on the effective date of Sections 301 to 310 shall continue in effect until new Regulations are issued under Section 303. Licenses and orders shall expire 6 months after the new Regulations come into effect, unless they are renewed. [P.L. 1993-42, §10.]

PART II- COMMUNICATION REGULATION FUND

§311. Established.

There is established a fund to be known as the Communication Regulation Fund ("Fund"). The Fund is a [special revenue] fund within the National Treasury and under the control and supervision of the Ministry of Finance, which shall provide for its administration in accordance with the Financial Management Act of 1990, as amended, 11 MIRC 1. [P.L. 1993-42, §15, amended by P.L. 1994-99, §3(24)(a).][section was previously numbered as §315, re-numbered as 311 as the previous §§311-314 were "Reserved"][Rev2003]

§312. Payments Into The Fund.

The following shall be paid into the Fund:

- (a) money appropriated by the Nitijela to the Fund;

- (b) money collected as fees or fines under this Chapter; and
- (c) money paid to the Fund as gifts or grants. [section re-numbered, see footnote at the end of §311 above][Rev.2003]

§313. Payments Out Of The Fund.

- (1) *Payments.* The following shall be paid out of the Fund:
 - (a) money appropriated out of the Fund by the Nitijela;
 - (b) money for operational expenses, equipment, training materials, attendance at training courses and international bodies, and related communication activities.
- (2) *Budget.* In advance of each fiscal year the Secretary shall prepare and present to the Minister for his approval a budget for the withdrawal and expenditure of money from the Fund for that fiscal year. The budget may be revised only with the Minister's approval.
- (3) No money shall be withdrawn from the Fund except in accordance with this Chapter and with the procedures prescribed by the Financial Management Act, 11 MIRC 1. [P.L. 1993-42, §17; amended by P.L. 1994-99, §3(24)(b).][section re-numbered, see footnote at the end of §311 above][Rev.2003]

§314. Account And Records.

- (1) The Secretary of Finance shall maintain, in accordance with the procedures prescribed by the Financial Management Act, 11 MIRC 1, proper accounts and records with respect to the Fund, any money paid into or out of the Fund, and any property purchased with money from the Fund.
- (2) *Audit.* The accounts and records referred to in subsection (1) are subject to audit under Article VIII, Section 15 of the Constitution. [P.L. 1993-42, §19; amended by P.L. 1994-99, §3(24)(d).][P.L. 1993-42, §16.][Section re-numbered, see footnote at the end of §311 above][Rev.2003]

§315. Taxation.

The Fund and related transactions are not subject to any tax, rate, or charge imposed under any law. [P.L. 1993-42, §20.][section re-numbered, see footnote at the end of §311 above][Rev.2003]

§316. Reports.

- (1) *Secretary.* The Secretary shall make a report to the Minister on the operation and transactions of the Fund at least annually and otherwise as the Minister may direct.
- (2) *Minister.* The Minister shall present to the Cabinet and Nitijela together with his comments, the annual report made by the Secretary. [P.L. 1993-42, §21.][section re-numbered, see footnote at the end of §311 above][Rev.2003]

§317. Regulations.

The Cabinet may make regulations prescribing all matters that are necessary or convenient for the operation of the Fund, pursuant to the Marshall Islands Administrative Procedure Act. [P.L. 1993-42,§22.][section re-numbered, see footnote at the end of §311 above][Rev.2003]

§318. Self-Sustaining.

Within 36 months of the effective date of Sections 301 to 324 [16 March 1993] the Secretary shall complete a study to determine the proper schedule of fees to be charged to make the Fund self sustaining. Those fees shall then be implemented by the Secretary. [P.L. 1993-42,§23.][section re-numbered, see footnote at the end of §311 above][Rev.2003]