

1 **NITIJELA OF THE MARSHALL ISLANDS**

2
3 **23rd CONSTITUTIONAL REGULAR SESSION, 2002**

BILL NO 101 ND2

4
5 P.L. 2002-65

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7
8 **An Act**

9
10 **For the prevention and combating of terrorism in the Republic of the**
11 **Marshall Islands, for international cooperation to combat threats to**
12 **international peace and security caused by terrorist acts, and for related**
13 **purposes.**

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15 **BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS**

16
17 **Part I - Preliminary**

18
19 **Section 1. Short Title.**

20 This Act may be cited as the Counter-Terrorism Act, 2002.

21 **Section 2. Commencement**

22 This Act shall come into effect on the date of certification in accordance with
23 Article IV, section 21 of the Constitution.

24 **Section 3. Purpose**

25 The purpose of this Act is to implement the United Nations Security Council
26 Resolution 1373 and other international obligations of the Republic of the Marshall
27 Islands for the prevention, repression and elimination of terrorism, and for related
28 matters.

29 **Section 4. Application, jurisdiction and enforcement.**

30 (1) The Attorney General shall have primary enforcement authority for this
31 Act.

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(2) This Act shall apply in respect of any crime established by this Act when the offense is committed:

(a) in the Marshall Islands;

(b) by a citizen of the Marshall Islands;

(c) on board an aircraft or ship:

(i) registered under the laws of the Marshall Islands at the time the offense was committed;

(ii) operating under or flying the Marshall Islands flag;

(iii) which lands in the territory of the Marshall Islands with the alleged offender on board;

(iv) leased or chartered without crew to a lessee who has his principal place of business in the Marshall Islands, or who is a habitual resident of the Marshall Islands;

(d) against or on board a fixed platform while it is located on the Marshall Islands' continental shelf;

(3) This Act shall apply in respect of any crime established by this Act when the offense:

(a) was directed towards or resulted in the carrying out of a crime against a citizen of the Marshall Islands, or during the commission of which a citizen of the Marshall Islands was threatened, injured or killed;

(b) was directed towards or resulted in the carrying out of a crime against the government of the Marshall Islands or a facility, diplomatic or consular premises of the government of the Marshall Islands abroad;

(c) was directed towards or resulted in a crime committed in an attempt to compel the Marshall Islands to do or abstain from doing any act;

(d) was committed by a stateless person who has his or her habitual residence in the Marshall Islands.

(4) Where a person is suspected to have engaged in terrorism and the alleged offender is present in the Marshall Islands, in a case where the Marshall Islands has jurisdiction, and the alleged offender is not extradited to a foreign country that has established jurisdiction over the offense or the alleged offender, the Attorney General shall whether or not the offense was committed in the Marshall Islands, have authority to prosecute the person in accordance with any law that is for the time being in force in the Marshall Islands.

(5) Application of any provisions of this Act, relating to or implementing the provisions of any international terrorism convention or protocol, shall conform to and meet the requirements of the particular convention or protocol, and shall be subject to the exclusions and jurisdictional requirements contained therein.

Section 5. **Interpretations**

In this Act, unless the contrary intention appears:

(1) "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that such person has engaged in terrorism;

(2) "Attorney General" means the Attorney General of the Marshall Islands,

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1 and includes the Deputy Attorney General or any Assistant Attorney General to whom
2 the Attorney General delegates authority to carry out the duties and responsibilities of the
3 Attorney General established under this Act;

4 (3) "biological agent" means any micro-organism, virus, infectious substance,
5 or biological product that may be engineered as a result of biotechnology, or any
6 naturally occurring or bio-engineered component of any such microorganism, virus,
7 infectious substance, or biological product, capable of causing:

8 (a) death, disease, or other biological malfunction in a human, an
9 animal, a plant, or another living organism; or

10 (b) deterioration of food, water, equipment, supplies, or material of
11 any kind; or

12 (c) deleterious alteration of the environment;

13 (4) "biological weapon" means the following, together or separately, a:

14 (a) biological agent; and/or

15 (b) toxin; and/or

16 (c) delivery system;

17 that has been developed, produced, transferred, acquired, retained, or possessed
18 for use as a weapon; provided, however, for purposes of this section, the term "for
19 use as a weapon" does not include the development, production, transfer,
20 acquisition, retention, or possession of any biological agent, toxin or delivery
21 system for prophylactic, protective, or other peaceful purposes;

22 (5) "chemical weapon" means, together or separately:

23 (a) A toxic chemical and its precursors, except where intended for a

purpose not prohibited by law as long as the type and quantity is consistent with such a purpose;

(b) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subsection (a), which would be released as a result of the employment of such munition or device;

(c) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subsection (b);

(6) "crime(s) established by this Act" means and includes:

(a) any crime punishable under Part IV of this Act; or

(b) any act or activity punishable under subsection 7 (3) of this Act;

(7) "delivery system" means, with respect to biological weapons:

(a) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(b) any vector;

(8) "destructive device" means any explosive, incendiary, poison gas, or projectile-expelling weapon, capable of causing serious bodily injury or death, that has been developed, produced, transferred, acquired, retained, or possessed for use as a weapon, or any combination of parts or pieces thereof which could be used or converted for such purposes;

1 (9) "engage(s) in" with respect to terrorist acts, terrorism offenses and
2 terrorism, means and includes, in an individual capacity or as a member of an
3 organization:

4 (a) to perpetrate, commit or carryout, or to incite to commit or
5 carryout; or

6 (b) to threaten, attempt, solicit, or conspire to carryout or commit; or

7 (c) to prepare or plan; or

8 (d) to gather information on potential targets for; or

9 (e) to solicit, collect or provide funds or other things of value, with
10 the knowledge or intention that the funds or other things of value will be used:

11 (i) for terrorism; or

12 (ii) by a terrorist organization;

13 (f) to solicit, recruit, or train any person:

14 (i) to engage in terrorism;

15 (ii) to engage in conduct otherwise described in this section; or

16 (iii) for membership in a terrorist organization;

17 (g) to commit or carryout an act that the actor knows, or reasonably
18 should know, affords material support, including a safe house, transportation,
19 communications, funds, transfer of funds or other material benefit, false
20 documentation or identification, weapons (including, without limitation,
21 chemical, biological, or radiological weapons), explosives, or training:

22 (i) for terrorism; or

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1 (ii) to any individual who the actor knows, or reasonably
2 should know, engages in terrorism; or

3 (iii) for a terrorist organization.

4 (10) "fixed platform" means an artificial island, installation or structure
5 permanently attached to the sea-bed for the purpose of exploration or exploitation
6 of resources or for other economic purposes;

7 (11) "foreign country" means

8 a. any country other than the Marshall Islands;

9 b. every constituent part of such country, including a territory,

10 dependency, or protectorate which administers its own laws;

11 (12) "foreign national" means a natural person who is a citizen of a country other
12 than the Marshall Islands;

13 (13) "funds" means property and assets of every kind, whether tangible or
14 intangible, movable or immovable, however acquired, and legal documents or
15 instruments in any form, including electronic or digital, evidencing title to, or interest in,
16 such property or assets, including, but not limited to, bank credits, travelers checks, bank
17 checks, money orders, shares, securities, bonds, debt instruments, drafts, letters of credit,
18 and currency;

19 (14) "in flight" means, with respect to aircraft, at any time from the moment
20 when all the external doors are closed following embarkation until the moment when any
21 such door is opened for disembarkation; provided, however, in the case of a forced
22 landing, the flight shall be deemed to continue until the competent authorities take over
23 the responsibility for the aircraft and for persons and property on board;

(15) "in service" means and includes, with respect to aircraft, from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; and, the period of service shall, in any event, extend for the entire period during which the aircraft is in flight;

(16) "international terrorism conventions" includes the conventions that are referred to in the Schedule to this Act, or any other convention that the Minister may, after consultation with the Minister of Foreign Affairs, by public notice in writing declare a convention for the purposes of this Act;

(17) "internationally protected person" means and includes:

(a) a Head of State, or any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister of Foreign Affairs, whenever any such person is in a foreign State, as well as members of such person's family who accompany him or her;

(b) any representative or official of the Marshall Islands or of a foreign country, or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against such person, the person's official premises, private accommodation or means of transport is committed, is entitled pursuant to international law to special protection from any attack on his or her person, freedom or dignity, as well as members of such person's family forming part of the person's household;

1 (18) "infrastructure facility" means any publicly or privately owned facility
2 providing or distributing services for the benefit of the public, such as water, sewage,
3 energy, fuel or communications;

4 (19) "key component of a binary or multi-component chemical system" means,
5 with respect to precursors and chemical weapons, the precursor that plays the most
6 important role in determining the toxic properties of the final product and reacts rapidly
7 with other chemicals in the binary or multi-component system;

8 (20) "Marshall Islands" means the Republic of the Marshall Islands, and the
9 marine areas, the air space above the territory of the Marshall Islands and includes the
10 government of the Marshall Islands;

11 (21) "Minister" means the Minister of Justice of the Marshall Islands;

12 (22) "Nuclear material" has the same meaning as defined in the Convention on
13 Physical Protection of Nuclear Material

14 (23) "person" means and includes both natural and legal persons and any foreign
15 government or nation or any agency, instrumentality or political subdivision of any such
16 government or nation, whether or not it is engaging in legal activities or is operating
17 legally and in a lawful manner;

18 (24) "place of public use" means those parts of any building, land, street,
19 waterway or other location that are accessible or open to members of the public, whether
20 continuously, periodically or occasionally, and encompasses any commercial, business,
21 cultural, historical, educational, religious, governmental, entertainment, recreational or
22 similar place that is so accessible or open to the public;

1 (25) "plastic explosive" means an explosive material in flexible or elastic sheet
2 form formulated with one or more high explosives which in their pure form has a vapor
3 pressure less than 10^{-4} Pa at a temperature of 25°C ., is formulated with a binder material,
4 and is as a mixture malleable or flexible at normal room temperature;

5 (26) "precursor" means, with respect to chemical weapons, any chemical
6 reactant that takes part at any stage in the production by whatever method of a toxic
7 chemical, and includes any key component of a binary or multi-component chemical
8 system;

9 (27) "proceeds" means any funds derived from or obtained, directly or
10 indirectly, through or from terrorism;

11 (28) "public transportation system" means all facilities, conveyances and
12 instrumentalities, whether publicly or privately owned, that are used in or for publicly
13 available services for the transportation of persons or cargo;

14 (29) "purpose not prohibited by law" means, with respect to chemical weapons:

15 (a) any peaceful purpose related to an industrial, agricultural,
16 research, medical, or pharmaceutical activity or other activity;

17 (b) any purpose directly related to protection against toxic chemicals
18 and to protection against chemical weapons;

19 (c) any military purpose of the Marshall Islands that is not connected
20 with the use of a chemical weapon or that is not dependent on the use of the toxic
21 or poisonous properties of the chemical weapon to cause death or other harm;

22 (d) any law enforcement purpose, including any domestic riot control
23 purpose;

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1 (30) "ship" means a vessel of any type whatsoever not permanently attached to
2 the sea-bed, including dynamically supported craft, submersibles, or any other floating
3 craft;

4 (31) "serious bodily injury" means physical pain, illness or any impairment of
5 physical condition that creates a substantial risk of death or which causes serious,
6 permanent disfigurement, or protracted loss or impairment of the function of any bodily
7 member or organ;

8 (32) "serious offense" means any offense, for which the maximum penalty is
9 imprisonment for a period of not less than one year;

10 (33) "state or government facility" means any permanent or temporary facility
11 or conveyance that is used or occupied by representatives of a country, members of
12 government, the legislature or the judiciary or by officials or employees of a country or
13 any other public authority or entity or by employees or officials of an intergovernmental
14 organization in connection with their official duties;

15 (34) "substantial property damage" means damage in an amount exceeding
16 \$10,000;

17 (35) "terrorism" means and includes terrorism offenses and terrorist acts;

18 (36) "terrorism offense" means:

19 (a) any crime established by this Act;

20 (b) any crime established by the laws of the Marshall Islands and
21 declared to be a terrorism offense by the Nitijela;

22 (c) any crime established by an international terrorism convention;

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(d) any crime recognized under international humanitarian law as a terrorism offense; and

(e) any crime established under the law of a foreign State, where such crime, if committed in the Marshall Islands, would constitute a terrorism offense under the laws of the Marshall Islands ;

(37) "terrorist" means a person who engages in terrorism;

(38) "terrorist act" means and includes any act that is intended, or by its nature or context can be reasonably regarded as intended, to intimidate the public or any portion of the public, or to compel a government or an international or regional organization to do or refrain from doing any act, and:

(a) involves the seizing or detaining, and threatening to kill, injure, harm, or continue to detain, another person;

(b) endangers the life of any person;

(c) creates a risk to the health or the safety of the public, or to any portion of the public;

(d) endangers the national security or national defense of any country;

(e) involves substantial damage to property;

(f) involves the highjacking, seizure or sabotage of any conveyance (including an aircraft, vessel, ship, or vehicle), or of any fixed platform attached to the continental shelf;

(g) involves any act that is designed to disrupt or destroy an electronic system, including, without limitation:

(i) an information system;

1 (ii) a telecommunications system;

2 (iii) a financial system;

3 (iv) a system used for the delivery of essential government
4 services;

5 (v) a system used for, or by, an essential public utility;

6 (vi) a system used for, or by, a transport system;

7 (h) involves any act that is designed to disrupt the provision of
8 essential emergency services such as the police, civil defense and medical
9 services;

10 (39) "terrorist organization" means a group composed of two or more persons,
11 whether organized or not, that engages in terrorism;

12 (40) "toxic chemical" means any chemical which through its chemical action on
13 life processes can cause death, temporary incapacitation or permanent harm to humans or
14 animals, and includes all such chemicals, regardless of their origin or of their method of
15 production, and regardless of whether they are produced in facilities, in munitions or
16 elsewhere;

17 (41) "toxin" means the toxic material of plants, animals, microorganisms,
18 viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or
19 method of production, including:

20 (a) any poisonous substance or biological product that may be
21 engineered as a result of biotechnology produced by a living organism; or

22 (b) any poisonous isomer or biological product, homolog, or derivative
23 of such a substance;

(42) "vector" means, with respect to delivery systems and biological weapons, a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host;

(43) "weapon of mass destruction" means, any:

(a) destructive device;

(b) chemical weapon or any other weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(c) biological weapon, or any other weapon involving a disease organism;

(d) nuclear material, weapon or device, and any other weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Part II Prohibition, punishment of terrorist activities

Section 6. Prohibition of terrorist acts.

Any person who knowingly, directly or indirectly, engages in terrorist act is guilty of an offence against this Act, and shall unless otherwise punishable under any other section be punishable, under section 7 of this Act.

Section 7. Criminal penalties; criminal complicity and inchoate offenses; **no time limitation on prosecution; detention of suspected terrorists.**

(1) Unless otherwise provided, any person convicted of an offence against this Act ;

(a). shall, where no other punishment is prescribed in respect of

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that offense, be punishable by a term of not less than 30 years and not more than life imprisonment, or a fine of not more than \$100,000,000.00; or both.

(b). shall not be entitled to probation for an offense committed or have the term of imprisonment imposed on him run concurrently with any other term of imprisonment; and

(c). shall not be entitled to bail pending his trial or his appeal against conviction for the offense.

(2) In lieu of the amount of the fine otherwise authorized by this Act, and in addition to any term of imprisonment, a defendant who derived profits or other proceeds from a crime established by this Act may be liable to a fine of not more than twice the gross profits or other proceeds, where the profits or proceeds from the offense exceed the maximum assessable fine.

(3) A person commits a crime, punishable under subsection (1), if that person knowingly:

- (a) attempts, conspires, or threatens to commit;
 - (b) participates as an accomplice in;
 - (c) organizes or directs others to commit;
 - (d) contributes to the commission of;
- any crime established by this Act.

(4) Notwithstanding any provision of any other law, statute of limitation shall not apply in respect of a crime established under this Act.

(5) Where there is reasonable ground to believe that detention of any person is necessary for the purpose of preventing such person from engaging in acts of terrorism;

1 or to prevent any person from interfering with an investigation relating to suspected
2 terrorism, any law enforcement officer, immigration officer, or customs official in the
3 Marshall Islands shall have the powers to detain such person for a period of 48 hours for
4 purposes of investigation; provided, however, such period of detention may be extended
5 by court order for an additional 7 days, without the filing of criminal charges against such
6 person.

7 (6) The court, in imposing sentence on any person convicted of a terrorism
8 offense, shall order, in addition to any other sentence imposed, that the person forfeit to
9 the Marshall Islands all property described in section 8.

10 Section 8. **Criminal forfeiture.**

11 (1) Any person convicted of a terrorism offense shall be liable to forfeit to
12 the Marshall Islands, irrespective of any other provision of law:

13 (a) any property, real or personal, owned, possessed, or used by a
14 person involved in the offense;

15 (b) any property constituting, or derived from, and proceeds the person
16 obtained, directly or indirectly, as the result of such offense; and

17 (c) any of the property used in any manner or part, to commit, or to
18 facilitate the commission of, such offense;

19 (2) Weapons of mass destruction, plastic explosives, and nuclear material
20 shall be seized, confiscated and forfeited to the Marshall Islands; and the Attorney
21 General shall provide for their destruction or other appropriate disposition.

22 (3) For the purposes of forfeiture proceedings under this section, a
23 temporary restraining order and seizure warrant may be entered upon application of the

1 Attorney General without notice or opportunity for a hearing when an information or
2 complaint has not yet been filed with respect to the property, where there is probable
3 cause to believe that the property with respect to which the order is sought would, in the
4 event of conviction, be subject to forfeiture under this section and exigent circumstances
5 exist that place the life or health of any person in danger.

6 (4) The provisions of this section shall be implemented without prejudice
7 to the rights of third parties acting in good faith.

8 (5) The owner or possessor of any property seized under this section shall be
9 liable to the Marshall Islands for any expenses incurred incident to the seizure, including
10 any expenses relating to the handling, storage, transportation, and destruction or other
11 disposition of the seized property.

12 Section 9. **Liability of corporations and other legal persons.**

13 (1) Legal persons, including any foreign government or nation or any agency,
14 instrumentality or political subdivision of any such government or nation, shall be liable
15 in the same manner and to the same extent as any natural person for any terrorism
16 offense.

17 (2) The maximum assessable fine for legal persons shall be increased by ten
18 times the amount assessable in the case of a natural person.

19 (3) Where in proceedings for a violation of this Act it is necessary to
20 establish the state of mind of a corporation or other legal person, it is sufficient to show
21 that a director, officer or agent who engaged in the conduct within the scope of his or her
22 actual or apparent authority had that state of mind.

23 (4) Any conduct engaged in by:

(a) a director, officer or agent of a corporation or other legal person within the scope of his or her actual or apparent authority; or

(b) any other person at the direction or with the consent or agreement (whether express or implied) of a director, officer or agent of the corporation or legal person, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, officer or agent; shall be deemed, for the purposes of this Act, to have also been engaged in by the corporation or legal person.

Section 10. Civil penalties; reimbursement.

(1) The Attorney General may bring a civil action in the Marshall Islands against any person who commits a crime established by this Act, and upon proof by a preponderance of the evidence that such person committed the offense, the person shall be subject to pay a civil penalty in an amount not exceeding \$25,000,000 for each such offense.

(2) The imposition of a civil penalty under subsection (1) shall not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the Marshall Islands or any other person.

(3) The court shall order any person convicted of a crime established by this Act to reimburse the Marshall Islands for any expenses incurred by the Marshall Islands incident to investigation and prosecution for the offense, including, without limitation, the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person.

(4) A person ordered to reimburse the Marshall Islands pursuant to subsection (3) shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under subsection (3) to reimburse the Marshall Islands for the same expenses.

Section 11. Private causes of action for terrorism.

(1) Any citizen of the Marshall Islands injured in his or her person, property, or business by reason of terrorism, or his or her estate, survivors, or heirs, may sue therefor in the High Court of the Marshall Islands and shall be entitled to recover threefold the damages he or she has sustained, and the cost of the suit, including attorney's fees.

(2) A final judgment or decree rendered in favor of the Marshall Islands in any criminal proceeding relating to a terrorism offense shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(3) A final judgment or decree rendered in favor of any foreign country in any criminal proceeding relating to a terrorism offense shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the Marshall Islands, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(4) No action shall be maintained under subsection (1) for injury or loss by reason of an act of war.

(5) No action shall be maintained under subsection (1) against the Marshall Islands, an agency of the Marshall Islands, or an officer

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or employee of the Marshall Islands or any agency thereof, acting
within his or her official capacity or under color of legal authority.

Section 12. Injunctions.

The Marshall Islands may obtain in a civil action an injunction against:

- (1) any conduct prohibited by this Act;
- (2) the development, production, stockpiling, transferring, acquisition, retention, or possession of any:

- (a) biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes;

- (b) toxic chemical, or precursor, of a type or in a quantity that under the circumstances has no apparent justification for a purpose not prohibited by law or the United Nations Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

Part III - Measures to combat terrorism

Section 13. Duty to take measures.

The Attorney General shall take appropriate measures, in accordance with the Constitution and the laws of the Marshall Islands:

- (1) as may be necessary to establish jurisdiction over and prosecute in the Marshall Islands any crime established by this Act;

1 (2) to investigate terrorism, and upon receiving information that an alleged
2 offender may be present in the Marshall Islands, take the person into custody and take
3 other appropriate measures so as to ensure the alleged offender's presence for the purpose
4 of prosecution;

5 (3). to take into custody and extradite any alleged offender who is present
6 in the Marshall Islands, and who is subject to arrest and detention for purposes of
7 extradition pursuant to any law in force in the Marshall Islands;

8 (4) to provide early warning and furnish any relevant information in the
9 possession of Marshall Islands to those countries which the Attorney General believes
10 would have jurisdiction, where there is reason to believe that a terrorism offense has been
11 or will be committed;

12 (5) to identify, detect, freeze, seize, and obtain forfeiture of any funds used
13 or allocated for the purpose of committing any terrorism offense as well as the proceeds
14 derived from such offenses;

15 (6) to implement, conform to, and abide by the express requirements of
16 any international terrorism convention to which this Act relates, and to ensure that any
17 person regarding whom the measures referred to in this section are being taken shall be
18 afforded the protections to which such person is expressly entitled under the relevant
19 international terrorism convention;

20 (7) to prevent the cross border movement of terrorists, and to track the
21 movement of such persons, and of persons who are members of terrorist organizations;

1 (8) to prevent the admission terrorists into the Marshall Islands, except as
2 may be necessary to secure that person's presence for the purpose of extradition or
3 prosecution for a terrorism offense;

4 (9) to prevent attacks on the person, freedom, or dignity of internationally
5 protected persons;

6 (10) to prevent the movement into or out of the territory of the Marshall
7 Islands, of unauthorized plastic explosives (especially, unmarked plastic explosives), and
8 to prevent their manufacture;

9 (11) to provide timely notification, directly or through the depositary of the
10 relevant international terrorism convention, when the Marshall Islands has taken a person
11 into custody or has taken other measures with respect to any person pursuant to this
12 section:

13 (a) to the appropriate authorities of the country of which the detained
14 person is a citizen or national, if the person is not a citizen or national of the Marshall
15 Islands;

16 (b) to the States Party to the relevant international terrorism
17 convention that have established jurisdiction over the person or the offense in
18 question in accordance with the convention, and to the depositary of the
19 convention;

20 (c) to the country of registration of the aircraft, in cases involving
21 aircraft;

22 (d) to the country whose flag the ship was flying, in cases involving
23 ships;

1 (e) to any other foreign country or interested person, if the Minister
2 considers it advisable;
3 of the fact that such person is in custody and of the circumstances which warrant that
4 person's detention.

5
6 Section 14. **Extradition.**

7 (1) Terrorism offenses are hereby declared to be extraditable offenses.

8 (2) Extradition for terrorism offenses shall be carried-out pursuant to and in
9 accordance with any law for the time being in force in the Marshall Islands.

10 (3) For the purpose of extradition, a terrorism offense shall be treated, as if it
11 had been committed not only in the place in which it occurred but also in the territory of
12 any country Party to an international terrorism convention that is required to establish
13 jurisdiction over the offense in accordance with that convention.

14 Section 15. **Mutual legal assistance.**

15 (1) The Attorney General may make a request on behalf of the Marshall
16 Islands to the appropriate authority of a foreign country, or grant requests of a foreign
17 country, for legal assistance in any investigation or proceeding relating to terrorism, or a
18 terrorist organization.

19 (2) Mutual legal assistance provided under this Act shall be carried-out
20 pursuant to and in accordance with the Mutual Assistance in Criminal Matters Act, 2002.

21 Section 16. **Intelligence sharing.**

22 The Attorney General, and other law enforcement authorities and officers of the
23 Marshall Islands designated by the Attorney General shall have the authority to share and

1 disclose intelligence information relating to terrorism, terrorist organizations,
2 transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking,
3 and illegal movement of nuclear, chemical, biological and other potentially deadly
4 materials, and to provide early warning of such matters to the competent law enforcement
5 authorities of:

6 (1) any foreign country, that is a Party to an international terrorism
7 convention in respect of which the Marshall Islands is also a Party;

8 (2) any foreign country that is a member of the Pacific Islands Forum;

9 (3) the United States, in accordance with the duties and responsibilities of the
10 Marshall Islands under the Compact of Free Association with the United States;

11 (4). any other foreign country that is a member of the United Nations.

12 Section 17. **No asylum.**

13 The Republic of the Marshall Islands shall not grant refugee status or provide
14 asylum or safe haven to any terrorist, or to any alleged offender.

15 Section 18. **Prevention.**

16 (1) The Marshall Islands shall cooperate with the competent authorities of the
17 United States and other members of the United Nations and the Pacific Islands Forum in
18 the prevention of terrorism by taking all practicable measures to prevent and counter
19 preparations in the Marshall Islands for the perpetration of terrorism within or outside the
20 territory of the Marshall Islands, including measures to prohibit illegal activities of
21 persons and organizations that knowingly encourage, instigate, organize, finance, or
22 engage in terrorism.

1 (2) The Marshall Islands shall cooperate in the prevention of terrorism by
2 exchanging information to provide early warning of possible terrorism, in particular by:

3 (a) establishing and maintaining channels of communication to
4 facilitate the secure and rapid exchange of information concerning all aspects of
5 terrorism and terrorist organizations;

6 (b) exchanging entry and exit data and information for ports of entry
7 into the Marshall Islands, including airports and seaports, and coordinating
8 administrative and other measures taken, as appropriate, to prevent the cross
9 border movement of terrorists, and to track their movement and the movement of
10 members of terrorist organizations;

11 (c) conducting inquiries, with respect to terrorists and members of
12 terrorist organizations, concerning:

13 (i) the identity, whereabouts and activities of persons in
14 respect of whom reasonable suspicion exists that they engage in terrorism
15 or are members of a terrorist organization;

16 (ii) the movement of funds linked to persons who engage in
17 terrorism or are members of a terrorist organization; and

18 (d) participation in research and development and exchange of
19 information regarding methods of detection of cross border movement of
20 terrorists and members of terrorist organizations, including detection of forged or
21 falsified travel documents, traffic in arms, explosives, illicit drugs, contraband, or
22 sensitive materials, and cross-border movement of nuclear, chemical, biological

and other potentially deadly materials, or use of communications technologies by terrorist groups.

Section 19. Transfer of persons.

(1) Transfer of any person who is being detained or is serving a sentence in the territory of the Marshall Islands or a foreign country, whose presence is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of a terrorism offense, shall be authorized and allowed, where the person consents to the transfer, and the countries agree on the conditions.

(2) Transfer of persons referred to in subsection (1) shall be carried-out pursuant to and in accordance with requirements of any law that is for the time being in force in the Marshall Islands for convicted persons, whether or not the person to be transferred has already been convicted of an offense.

Part IV - Offences against international terrorism conventions.

Division 1. Suppression of Financing of Terrorism

Section 20. Financing of terrorism prohibited.

(1) Any person who knowingly, by any means, directly or indirectly, solicits, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part:

(a) for terrorism;

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1 (b) for the benefit of persons who engage in terrorism, or for the
2 benefit of entities owned or controlled, directly or indirectly, by persons who
3 engage in terrorism; or

4 (c) for the benefit of persons and entities acting on behalf of or at the
5 direction of any person referred to in subsection 1(b);

6 commits a crime punishable by the penalties established by section 7 (1) (a) of this Act.

7 (2) For an act to constitute an offense under this section it shall not be
8 necessary that the funds were actually used to commit or carry out a terrorism offense, or
9 terrorist act.

10 (3) Citizens and nationals of the Marshall Islands and any persons and entities
11 within the Marshall Islands are prohibited from making any funds, financial assets or
12 economic resources or financial or other related services available, directly or indirectly,
13 to any person referred to in subsection 1(b) or 1(c).

14 Section 21. **Measures to suppress financing of terrorism.**

15 (1) Any person, that provides a service for the transmission of money or
16 value, including transmission through an alternative remittance system or informal
17 money or value transfer system or network, or the agent of such person, shall be required
18 to be licensed by the competent authorities of the Marshall Islands, and shall be subject to
19 the disclosure requirements prescribed by the relevant authorities in relation to that type
20 of business.

21 (2) All credit and financial institutions and all persons, and their agents, that
22 provide a service for the transmission of money or value by wire transfer, shall include
23 accurate and meaningful originator information (including name, address and account

number) on funds transfers and related messages that are sent, such information to remain with the transfer or related message through the payment chain.

(3) No corporation, business, enterprise, partnership, association, or entity, shall be granted charitable or non-profit status in the Marshall Islands where there are reasonable grounds to believe that any funds solicited, collected, held, used, or owned by such corporation, business, enterprise, partnership, association, or entity, may be diverted to a terrorist or a terrorist organization.

Section 22. Seizure and detention of suspicious funds.

(1) Any law enforcement officer or customs official of the Marshall Islands may seize and, in accordance with this section detain, any funds, that the officer or official has probable cause to believe were derived from or intended for terrorism, including, without limitation, funds being imported into or exported from the Marshall Islands.

(2) Funds of, or intended for, terrorist organizations shall be frozen, seized, and in accordance with this section detained, where the organization has been designated as a terrorist organization by the United Nations Security Council, or by the Minister pursuant to regulations promulgated pursuant to this Act, or where there is probable cause to believe that the entity involved is a terrorist organization.

(3) Funds detained under subsection (1) or (2) shall not be detained for more than 48 hours after seizure, unless a judge of the High Court grants an order of continued detention for a period not exceeding 3 months from the date of seizure, upon being satisfied that:

(a) there is probable cause to believe that the funds were derived from terrorism, or are intended by any person for use in the commission of a terrorism offense or for a terrorist act; and

(b). the continued detention is justified while:

(i) its origin or derivation is further investigated; or

(ii) consideration is given to the institution in the Marshall Islands or elsewhere of criminal proceedings against any person for an offense with which the funds are connected;

provided, however, upon request by the person from whom the funds were seized and detained, the court shall grant a hearing before entering an order of continued detention.

(4) A judge of the High Court may subsequently order after hearing, with notice to all parties concerned, the continued detention of the funds if satisfied of the matters mentioned in subsection (3), but the total period of detention shall not exceed 2 years from the date of the order.

(9) Subject to subsection (6), funds detained under this section may be released in whole or in part to the person on whose behalf the funds were imported or exported:

(a) by order of a judge of the High Court that continued detention is no longer justified, upon application by or on behalf of that person and after considering any views of the Attorney General to the contrary; or

(b) by an authorized officer or customs official, if satisfied that their continued detention is no longer justified.

(6) No funds detained under this section shall be released where:

(a) an application is made under this Act or other laws of the Marshall Islands for the purpose of:

(i) the confiscation and forfeiture of the whole or any part of the funds; or

(ii) their restraint pending determination of liability to confiscation and forfeiture; or

(b) proceedings are instituted in the Marshall Islands or elsewhere against any person for a terrorism offense with which the funds are connected; unless and until the proceedings relating to the relevant application or the proceedings for the offense, as the case may be, have been concluded.

(7) Funds seized pursuant to this section shall be subject to confiscation and forfeiture pursuant to section 8 of this Act.

Division 2. Cross-Border Movement of Terrorists

Section 23. Terrorists inadmissible.

(1) The following persons shall be considered inadmissible to the Marshall Islands for purposes of immigration, or under a temporary visa of any kind, or otherwise, except for the purpose of prosecution or extradition for a terrorist offense:

(a) A foreign national:

(i) convicted of a terrorism offense; or

(ii) who admits to having engaged in terrorism; or

(iii) as to whom there is probable cause to believe such person has engaged in terrorism;

1 (iv) who the Attorney General knows, or has reasonable ground
2 to believe, is engaged in or is likely after entry, to engage in terrorism; or

3 (v) who has used his or her position of prominence within any
4 country to endorse or espouse terrorism, or to persuade others to support
5 terrorism or a terrorist organization, in a way that the Attorney General
6 has determined undermines the efforts of the Marshall Islands to reduce or
7 eliminate terrorism;

8 (vi) who is a representative of a terrorist organization, specified
9 as such in regulations promulgated by the Minister or designated as a
10 terrorist organization by the United Nations Security Council; or

11 (vii) who is a representative of a political, social or other similar
12 group whose public endorsement of terrorism, or terrorist organizations,
13 the Attorney General has determined undermines the efforts of the
14 Marshall Islands to reduce or eliminate terrorism;

15 (b) A foreign national who the Minister, after consultation with the
16 Attorney General, determines has been associated with a terrorist organization or
17 terrorism and intends while in the Marshall Islands to engage solely, principally,
18 or incidentally in activities that could endanger the welfare, safety, or security of
19 the Marshall Islands.

20 (2) A person who is the spouse or the child of an foreign national who is
21 inadmissible under subsection (1), shall also be inadmissible, if the activity causing the
22 foreign national to be found inadmissible occurred within the last 5 years.

(3) Except as otherwise provided in this section, foreign nationals who are inadmissible under this section, shall be ineligible to be admitted to the Marshall Islands for any purpose, except, when necessary for the purposes of prosecution or extradition for a terrorism offense.

Section 24. Reports of cross-border movement of terrorists.

All airlines, ships, and other entities that provide transportation, conveyance or freight services to and from the Marshall Islands shall be authorized and required to immediately report to the Attorney General through disclosure of passenger manifests and any other available means, the intended movement of suspected terrorists into or out of the Marshall Islands, and information regarding possible forged or falsified travel documents, traffic in arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical, biological and other potentially deadly materials.

Division 3. Weapons of Mass Destruction

Section 25. Weapons of mass destruction offenses.

(1) Except as authorized by the Cabinet, any person who;

(a) knowingly, directly or indirectly, develops, produces, ships, transports, transfers, receives, acquires, retains, possesses, imports, exports, or manufactures a weapon of mass destruction, commits a crime punishable by the penalties established by section 7(1) (a) of this Act;

(b) undertakes the Act referred to in subsection (1) with the intention of engaging in terrorism or with knowledge that the weapon of mass destruction is intended to be used for terrorism, commits an offense punishable by a term of not

less than 30 years and not more than life imprisonment, or fine of not more than \$100,000,000.00; or both;

(c) uses or deploys a weapon of mass destruction, commits an offense punishable by a term of not less than 30 years and not more than life imprisonment, or fine of not more than \$100,000,000.00; or both;

Division 4. Internationally Protected Persons

Section 26. Internationally protected persons offenses.

(1) Any person who knowingly, by any means, directly or indirectly, perpetrates:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person, likely to endanger the person or his or her liberty;

commits a crime punishable by the penalties established by section 7 of this Act:

Division 5. Hostage-Taking

Section 27. Hostage-taking offenses.

Any person who knowingly, directly or indirectly, seizes or detains or threatens to kill, or injure another person (the "hostage") in order to compel a third party, namely, the Marshall Islands, a foreign country, an international intergovernmental organization, a natural or legal person, or a group of persons, to do or abstain from doing any act as an

1 explicit or implicit condition for the release of the hostage, commits a crime punishable
2 under section 7 of this Act.

3 **Division 6. Terrorist Bombing**

4 **Section 28. Terrorist bombing offenses.**

5 Any person who knowingly, directly or indirectly, delivers, places, discharges,
6 deploys, or detonates any explosive or incendiary weapon or lethal device that is
7 designed, or has the capability, to cause death, serious bodily injury, or substantial
8 property damage in, into or against a place of public use, a State or government facility, a
9 public transportation system or an infrastructure facility:

- 10 (1) with the intent to cause death or serious bodily injury; or
11 (2) with the intent to cause extensive destruction of such a place, facility or
12 system, where such destruction results in or is likely to result in major economic loss;
13 commits a crime punishable by a term of a term of not less than 30 years and not more
14 than life imprisonment, or fine of not more than \$100,000,000.00; or both;

16 **Division 7. Plastic Explosives**

17 **Section 29. Prohibition on plastic explosives; offenses.**

18 (1) Unless expressly authorized by the Cabinet, plastic explosives shall be
19 prohibited in the Marshall Islands; provided, however, where authorized by the Cabinet
20 for legitimate needs, plastic explosives must contain a detection agent, as defined by the
21 Convention on the Marking of Plastic Explosives for the Purpose of Detection, and as
22 described in the "Technical Annex" to that convention.

(2) Any person who knowingly, by any means, directly or indirectly, develops, produces, ships, transports, transfers, receives, acquires, retains, possesses, manufactures, imports, or exports an unauthorized plastic explosive commits a crime punishable by a minimum of 10 years imprisonment and a maximum fine of US \$50,000,000.00.

(3) Where a person engages in the act referred to in subsection (2) with the intent to engage in terrorism, the person commits an offense and shall upon conviction be punishable under section 7 (1) (a).

(4) Where a person referred to in subsection (2) uses or deploys the plastic explosives, the person shall be guilty of an offense and shall upon conviction be punishable by a term of not less than 30 years and not more than life imprisonment, or a fine of not more than \$1,000,000,000.00 or both.

Division 8. Safety of Civil Aviation

Section 30. Civil aviation offenses.

In any airspace or territory where any international civil aviation convention or protocol referred to in paragraphs 1, 2, 3, and 7 of the Schedule would apply, any person who knowingly, directly or indirectly:

(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(2) by force or threat thereof, or by any other form of intimidation, seizes or exercises control of an aircraft in flight;

(3) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

1 (4) places or causes to be placed on an aircraft in service, by any means
2 whatsoever, a device or substance which is likely to destroy that aircraft, or to cause
3 damage to it which renders it incapable of flight, or to cause damage to it which is likely
4 to endanger its safety in flight; or

5 (5) destroys or damages air navigation facilities used in international air
6 navigation, or interferes with their operation, if any such act is likely to endanger the
7 safety of aircraft in flight; or

8 (6) communicates information which the person knows to be false, thereby
9 endangering the safety of an aircraft in flight;

10 (7) using any device, substance or weapon:

11 (a) performs an act of violence against a person at an airport serving
12 international civil aviation, which causes or is likely to cause serious injury or
13 death; or

14 (b) destroys or seriously damages the facilities of an airport serving
15 international civil aviation or aircraft not in service located thereon or disrupts the
16 services of the airport;

17 commits an offense punishable under section 7 (1) (a) ; provide however that where in
18 committing the offense, the person uses or deploys a weapon of mass destruction, the
19 person shall be liable to a fine of up to \$1,000,000,000.00

20 Section 31. **Power to take reasonable measures.**

21 (1) The aircraft commander may, when he or she has reasonable grounds to
22 believe that a person has committed, or is about to commit, on board the aircraft:

23 (a) a criminal offense; or

(b) an act which, whether or not it is a criminal offense, may or does jeopardize the safety of an aircraft or of persons or property therein, or which jeopardizes good order and discipline on board an aircraft;

impose upon such person reasonable measures, including restraint, which are necessary:

(c) to protect the safety of the aircraft, or of persons or property therein; or

(d) to maintain good order and discipline on board; or

(e) to enable the aircraft commander to deliver such person to competent authorities or to disembark the person in accordance with the provisions of this subchapter.

(2) The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom the aircraft commander is entitled to restrain.

(3) Any crew member or passenger may also take reasonable preventive measures without such authorization when the crew member or passenger has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

(4) Measures of restraint imposed upon a person in accordance with this section shall be imposed in accordance with and conform to the requirements of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft.

Section 32. Power to disembark certain passengers.

The aircraft commander may, in so far as it is necessary to protect the safety of the aircraft, or of persons or property therein or to maintain good order and discipline on

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1 board, disembark, in accordance with the Convention on Offenses and Certain Other Acts
2 Committed on Board Aircraft, any person who the aircraft commander has reasonable
3 grounds to believe has committed, or is about to commit, on board the aircraft an act
4 contemplated by section 31(1)(b).

5 **Section 33. Power to deliver alleged offenders to competent authorities.**

6 The aircraft commander may deliver to competent law enforcement authorities, in
7 accordance with the Convention on Offenses and Certain Other Acts Committed on
8 Board Aircraft, any person who the aircraft commander has reasonable grounds to
9 believe has committed on board the aircraft an act which, in the commander's opinion, is
10 a serious offense according to the criminal laws of the country of registration of the
11 aircraft.

12 **Section 34. No liability for actions taken.**

13 For actions taken in accordance with section 31, 32 or 33, neither the aircraft
14 commander, any other member of the crew, any passenger, the owner or operator of the
15 aircraft, nor the person on whose behalf the flight was performed shall be held
16 responsible in any proceeding on account of the treatment undergone by the person in
17 respect of whom the actions were taken.

18 **Division 9. Safety of Maritime Navigation and Fixed Platforms**

19 **Section 35. Maritime offenses.**

20 In any waters where the convention and protocol referenced in paragraphs 8 and 9
21 of the Schedule to this Act would apply, any person who knowingly, directly or
22 indirectly:

(1) seizes or exercises unauthorized control over a ship or fixed platform by force or threat thereof or by any other form of intimidation; or,

(2) injures or kills any person, or endangers the safe navigation of a ship or the safety of a fixed platform, by:

(a) committing an act of violence against a person on board the ship or fixed platform; or

(b) destroying or damaging the ship, its cargo, or the fixed platform; or

(c) placing or causing to be placed any device or substance on the ship or fixed platform; or

(d) destroying or damaging maritime navigational facilities or interfering with their operation; or

(e) communicating information which the person knows to be false; commits a crime punishable under section 7(1) (a) of this Act; provided, however, where, in committing such crime, the person uses or deploys a weapon of mass destruction the person shall be liable to fine of up to \$1,000,000,000.00.

Division 10. Nuclear Material.

Section 36. Nuclear material offenses.

(1) Any person who intentionally, by any means, directly or indirectly:

(a) without lawful authority, receives, possesses, uses, transfers, alters, disposes of, or disperses nuclear material, under circumstances which cause or are likely to cause death or serious bodily injury to any person or substantial damage to property;

(b) commits a theft or robbery of nuclear material;

(c) embezzles or fraudulently obtains nuclear material;

(d) makes a demand for nuclear material by threat or use of force or
by any other form of intimidation;

(e) threatens:

(i) to use nuclear material to cause death or serious bodily
injury to any person or substantial property damage; or

(ii) to commit a theft or robbery of nuclear material in order to
compel a natural or legal person, or an international organization, or
country to do or to refrain from doing any act;

commits a crime punishable by a term of not less than 30 years and not more than
life imprisonment, or a fine of not more than \$1,000,000,000.00; or both.

**Section 37. Other rights, obligations and responsibilities not affected; no liability
for actions taken in good faith.**

(1) Nothing in this Act shall affect other rights, obligations and
responsibilities of the Marshall Islands and individuals under international law, in
particular the purposes of the Charter of the United Nations, the Compact of Free
Association with the United States, international humanitarian law and other relevant
conventions.

(2) Nothing in this Act entitles the Marshall Islands or any other country to
undertake in the territory of the other the exercise of jurisdiction or performance of
functions that are exclusively reserved for the authorities of that country by its domestic
law.

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(3) Persons shall be immune from suit and civil liability for actions taken in good faith pursuant to and in accordance with this Act.

Section 38. Resolution of disputes.

Any dispute between the Marshall Islands and any other Party to an international terrorism convention concerning the interpretation or application of this Act relating to application of the convention shall be resolved in accordance with the provisions of the relevant international terrorism convention.

Section 39. Implementing regulations.

The Minister may prescribe such rules and regulations, as the Minister deems reasonably necessary to implement the provisions of this Act.

CERTIFICATE

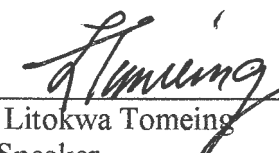
I hereby certify;

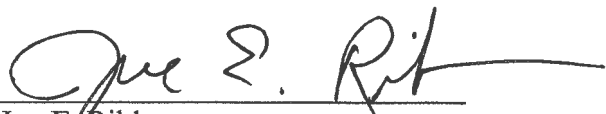
(1) that the above Nitijela Bill No. 101 ND2 was passed by the Nitijela of the Marshall Islands on the 9th day of October 2002; and

(2) that I am satisfied that Nitijela Bill No. 101 ND2 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 on this 11th day of November 2002.

Attest:


Litokwa Tomeing
Speaker
Nitijela of the Marshall Islands


Joe E. Riklon
Clerk,
Nitijela of the Marshall Islands