

P.L. 2006-62

AN ACT

generally to reform the law relating to immigration, and in particular to streamline the requirements for the issuance of visas and permits, to clarify procedures for the removal of persons who are in the Republic unlawfully, and to allow for more effective enforcement of immigration laws, and thereby secure the Republic's borders.

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

PART I – PRELIMINARY

§1. Short title

(1) This Act may be cited as the Immigration Act 2006.

§2. Interpretation

(1) In this Act, unless the context unless requires -

“**Administrative error**” for the purposes of section 45, a visa is granted as a result of administrative error if-

- (a) it is granted to a person who is exempt under this Act from the requirement to hold a visa; or
- (b) it is granted to a person to whom section 14 of this Act applies; or
- (c) the person granting it intended to grant a visa of some type other than the one that was actually granted; or
- (d) it is granted in contravention of any special direction, or any instruction of any kind referred to in section 10 of this Act; or
- (e) it is granted for a period exceeding the period prescribed for visas of that type made under this Act.

“**Approved airport**” for the purposes of section 12(2), means the Amata Kabua International Airport or USAKA airport:

“**Approved port of entry**” means an approved port of entry under the Ports of Entry Act:

“**Arrival hall**” means any building, place or vehicle at an approved port of entry, used for the processing of persons arriving in the Republic of the Marshall Islands:

“**Border security**” means the security of the borders of the Republic and may include security against physical, medical, biological, chemical or other threats:

“**Bribe**” means any money, valuable consideration, or any benefit, paid to or conferred on any person, whether directly or indirectly in order to influence that person in any matter relating to this Act or regulations made under it:

“**Cabinet**” means the Cabinet of the Republic of the Marshall Islands:

“**Certificate of Identity**” means a document (other than a passport) issued by the Government of any country to any person for the purposes of facilitating that person's entry into or exit from any country, being a document that purports to establish the identity but not necessarily the nationality of that person and which confers on that person the right to enter a country the Government of which has issued the document; and includes any other document in a form approved for the purpose by the Minister:

“**Craft**” means any form of aircraft, ship or other vehicle or vessel capable of being used to transport any person to or from the Republic from or to any country outside the Republic:

“**Date of enactment**” means the effective date of this Act:

1 **“Dependent child”** in relation to any person, means an unmarried child under 18 years of age who is
 2 dependent on that person, that person being a parent or legal guardian:

3 **“Deportation order”** means a deportation order made under section 56 of this Act, and for the purposes of
 4 serving or executing any such order, includes any electronically produced copy thereof:

5 **“Director”** means Director of the Immigration Division;

6 **“Designee”** means any person appointed or authorized by the Minister under section 9 to exercise functions
 7 or duties of the Minister or Director under this Act:

8 **“Entry permit”** means a permit issued under section 43(1)(a) this Act:

9 **“Execute”** –

10 (a) in relation to a removal order means take the person to whom the order applies into custody and
 11 place that person on board a craft for the purpose of effecting that person’s removal from the
 12 Republic:

13 (b) in relation to a deportation order, means take into custody the person to whom the order applies and
 14 place that person on board a craft for the purpose of effecting that person’s deportation from the
 15 Republic:

16 **“Exemption”** means an exemption under section 13 of this Act from the requirement to hold a visa or
 17 permit; and **“exempt”** has a corresponding meaning:

18 **“Government”** means the Government of the Republic of the Marshall Islands:

19 **“Government immigration policy”** means the policy of the Government in relation to visas and permits that
 20 has been reduced to writing and certified by the President and the Clerk of the Cabinet as Government
 21 immigration policy. Any such policy shall take effect from the date specified:

22 **“Holder”** in relation to a visa or permit issued or granted under this Act, means the person in respect of
 23 whom the visa or permit is issued or granted; in relation to a passport, means the person to whom the passport
 24 belongs:

25 **“Immigration officer”** in every part of this Act means the Director, Immigration officers, designated officers
 26 and any person exercising a power pursuant to a delegation of authority by the Minister or a warrant of
 27 designation:

28 **“Issuing officer”** means an officer who has been conferred with the authority to issue visas or permits, or to
 29 conduct immigration clearance procedures at approved airports and ports of entry:

30 **“Leave the Republic”** means, except in the circumstances specified in subsection 3 of this section, leave the
 31 Republic for a destination in another country:

32 **“Minister”** means the Minister of Justice or any person appointed by the President to be responsible for the
 33 Immigration Division:

34 **“Officers”** in relation to Part IV means the Captain, Fishing Master, Chief Engineer and First Officer of a
 35 vessel:

36 **“Passport”** means a document that is issued by or on behalf of the Government of any country, being a
 37 document that purports to establish the identity and nationality of the holder and that recognizes the right of
 38 the holder to enter and reside in the country the Government of which has issued the document:

39 **“Person”** means an individual, firm, partnership, company or corporation, whether incorporated or
 40 unincorporated, where applicable:

41 **“President”** means the President of the Republic of the Marshall Islands:

42 **“Search warrant”** means a warrant obtained in accordance with section 125 of the Criminal Procedures Act:

43 **“Shipping agent”** means the agent who represents the ship owner or vessel company in the Republic:

44 **“Valid medical certificate”** means the original or certified copy of a medical certificate issued by a
 45 registered medical practitioner within the last six-month period. The medical certificate must be in English
 46 or otherwise be translated into English:

47 **“Valid passport”** means that the passport must be valid for a future period of at least 6 months:

48 **“Visa”** means a visa issued under section 30 of this Act.

49 (2) For the purposes of this Act, every period of time prescribed by any of the provisions of this Act for the
 50 making of an application or the lodging of an appeal shall be reckoned exclusive of any day that is a public
 51 holiday or a Government holiday.

52 (3) For the purposes of this Act, a person shall not have left the Republic if that person departed for another
 53 country on any craft and, before arriving in another country-

54 (a) was forced to return to the Republic by reason of any emergency affecting the craft; or

55 (b) returned to the Republic because of any other emergency or circumstances beyond that person’s
 56 control.

1 **§3. Rights of citizens of the Republic protected**

- 2 (1) For the purposes of this Act, every citizen of the Republic has, by virtue of that
3 citizenship, the right to be in the Republic at any time.
- 4 (2) Notwithstanding subsection (1), all citizens of the Republic shall upon entry or departure
5 from the Republic, be subject to such procedures established by the Immigration Division
6 under this Act or by regulations, necessary for recording the movements of citizens and
7 maintaining border security.
- 8 (3) A citizen of the Republic shall not be liable to removal or deportation from the Republic
9 under any circumstances.

10
11 **PART II – ADMINISTRATIVE ARRANGEMENTS**

12
13 **§4. Establishment of the Immigration Division**

- 14 (1) There is hereby established within the Ministry of Justice, a Division to be known as the
15 Immigration Division.
- 16 (2) A Director, appointed under section 7(1) shall be the head of the Division.
- 17 (3) The Division will be comprised of –
- 18 (a) Immigration officers, including a Deputy Director, appointed under section 5(1);
19 (b) designated officers under section 5(2); and
20 (b) administrative staff as required from time to time.
- 21 (4) Officers of the Division shall be accountable to the Director. The Director shall be
22 accountable to the Attorney General.
- 23 (5) The Officers of the Division, the Director and the Attorney General shall be accountable
24 and report to the Minister on all immigration matters as may required by the Minister.

25
26 **§5. Appointment and designation of Immigration Officers**

- 27 (1) The Public Service Commission shall, in consultation with the Minister, appoint suitable
28 persons to be Immigration Officers under the Act.
- 29 (2) The Minister may also designate persons employed in the Public Service (including
30 members of the Police or Labor officers), to have some or all of the powers conferred on
31 Immigration officers.

- 1 (3) Any person appointed under subsection (1) or designated under subsection (2) as an
2 Immigration officer, shall be issued with a warrant signed by the Minister.
- 3 (4) The warrant shall state the powers conferred on that officer. Powers stated in the warrant
4 may be revoked by the Minister, in writing at will.
- 5 (5) A designation continues in force until it is revoked, notwithstanding that the Minister by
6 whom it was made may have ceased to hold office. The warrant shall continue to have
7 effect as if made by the successor in office of that Minister.
- 8

9 **§6. Functions of the Immigration Division**

- 10 (1) Without limiting the generality of powers vested in the Immigration Division by this Act,
11 functions of Immigration officers shall include, but are not limited to –
- 12 (a) carrying out immigration clearance procedures at approved airports and docks:
- 13 (b) subject to powers conferred by a warrant of designation under section 5(4) or by
14 delegated authority under section 9, issuing visas and permits in accordance with
15 the provisions of the Act:
- 16 (c) effectively implementing and enforcing shore pass procedures under Part IV:
- 17 (d) carrying out routine inspections of premises to ensure that -
- 18 (i) curfew hours under section 19(1) are being observed; and
- 19 (ii) persons are not in the Republic in contravention of their visas or permits:
- 20 (e) issuing citation notices pursuant to penalty provisions under the Act or
21 regulations:
- 22 (f) liaising with the Attorney General's office, members of the Police, Labor
23 Division and other appropriate Government agencies for the effective
24 implementation and enforcement of the Act and regulations:
- 25 (g) carrying out any other functions as necessary for the effective enforcement of the
26 Act and regulations:
- 27 (2) Officers of the Division shall, at all times, comply with instructions of the Minister,
28 Attorney General, Director or any other person to whom the Minister has delegated
29 authority under section 9.
- 30

31 **§7. Functions of the Director of Immigration**

- 1 (1) The Public Service Commission shall, in consultation the Minister, appoint a suitably
2 qualified person as the Director of the Immigration Division.
- 3 (2) The Director, under the supervision of the Attorney General, shall be responsible for:
- 4 (a) overseeing the administration and management of the Division and its officers
5 including the following:
- 6 (i) overseeing the recruitment, training and development of effective
7 officers and staff:
- 8 (ii) ensuring the timely processing and issuance of visas, permits and shore
9 passes in accordance with the Act:
- 10 (iii) ensuring that the Division keeps in safe storage, all passports,
11 identification certificates and documents received in the course of their
12 duties, and of their safe return to holders:
- 13 (iv) ensuring that officers of the Division carry out their functions in
14 accordance with the Government's immigration policy in Part V:
- 15 (v) establishing performance output criteria and assessment guidelines for
16 recommending the promotion of officers and staff to the Public Service
17 Commission:
- 18 (b) approving and issuing visas and permits in accordance with the provisions of the
19 Act:
- 20 (c) acting as the principal policy adviser to the Minister in formulating policy
21 recommendations for adoption by the Cabinet under Part V;
- 22 (d) recommending legislative or regulatory changes to the Minister as appropriate,
23 for the attainment of an effective and efficient Division:
- 24 (e) establishing and updating registers and files of the Division as required by the
25 Act and regulations:
- 26 (f) acting as the point of contact for the Division and ensuring that the Division
27 promptly responds to all official correspondences received:
- 28 (g) performing any other functions as directed by the Attorney General, Minister or
29 the Public Service Commission from time to time.
- 30 (3) The Director may, by written instrument, delegate to any Immigration officer, powers
31 and functions under the Act or regulations, subject to limitations, restrictions or

1 conditions as the Director deems necessary. A delegation shall be revocable in writing, at
2 will, and shall not prevent the exercise or performance of a power or function by the
3 Director under the Act.

- 4 (4) In the administration and financial management of the Division, the Director shall ensure
5 that the Division is in strict compliance with the requirements of the Financial
6 Management Act 1990, Procurement Code Act 1988 and other related regulations and
7 policies of the Republic.

8
9 **§8. Functions of the Minister**

10 (1) The Minister is charged with the following functions:

- 11 (a) approving the appointment of the Director and officers of the Division, after
12 being consulted by the Public Service Commission:
- 13 (b) ensuring that the Division performs its functions in accordance with the Act and
14 in furtherance of the immigration policy of the Government:
- 15 (c) ensuring effective coordination between the Division and –
- 16 (i) national enforcement agencies; and
- 17 (ii) international enforcement agencies pursuant to bilateral, regional and
18 international agreements to which the Republic is a Party:
- 19 (d) providing policy advice to the President and the Cabinet on matters to be
20 included in the Government's immigration policy, and in particular, issues of
21 national or international interest that might have a bearing on the Government's
22 immigration policy objectives:
- 23 (e) presenting the annual report of the Division to the Cabinet before 01 January
24 each year.

25
26 **§9. Delegation of Powers of Minister**

27 (1) The Minister may from time to time, by writing under the Minister's hand, delegate to the
28 Attorney General or Director all or any of the powers conferred upon the Minister by this
29 Act, except this power of delegation and the powers conferred by or in any of sections
30 7(1), 8(1)(a), 8(1)(c), 8(1)(e), 11(1), 93(1), 95(1) and 96(1).

- 1 (2) Any delegation may be made subject to such restrictions and conditions as the Minister
2 thinks fit.
- 3 (3) Every such delegation shall be revocable in writing at will, and no such delegation shall
4 prevent the exercise of any power by the Minister.
- 5 (4) A delegation of the Minister's powers shall continue in force until revoked,
6 notwithstanding that the Minister by whom it was made has ceased to hold office, and
7 shall continue to have effect as if made by the successor in office of the Minister.

8

9 **§10. Matters concerning border security not covered by legislation**

- 10 (1) Where an issue arises concerning border security and there are no provisions under the
11 Act to adequately deal with that issue, the Minister shall seek a Cabinet order on the
12 matter.
- 13 (2) The Cabinet order shall be consistent with the objectives of this Act and with the
14 Government's immigration policy applicable at the time.

15

16 **§11. Minister may approve forms**

- 17 (1) The Minister may, from time to time, approve and issue all forms as the Minister
18 considers necessary for the purposes of the Act.
- 19 (2) At the commencement of the Act, every document purporting to be in a form approved
20 and issued by the Minister for the purposes of this Act shall be deemed to have been so
21 approved and issued, unless the Minister certifies otherwise.

22

23 **PART III – CONTROL OF ENTRY INTO THE REPUBLIC OF PERSONS ENTERING**
24 **AT AIRPORTS**

25

26 **§12. Requirement to hold a visa or exemption to enter the Republic**

- 27 (1) Any person who is not a citizen of the Republic is not permitted to enter the Republic
28 unless that person is-
- 29 (a) the holder of a visa granted under this Act; or
- 30 (b) exempt from the requirement to hold a visa.
- 31 (2) Any person entering the Republic under this Part must enter at an approved airport.

1 (3) Any person who is in the Republic in contravention of subsections (1) and (2) is deemed
2 for the purposes of this Act to be in the Republic unlawfully.

3 (4) A person issued with a valid visa shall be entitled to enter the Republic, and upon entry,
4 shall be issued with an entry permit in accordance with procedures set out in Part VII.

5 (5) The fact that an application for a visa or permit has been made by or for any person does
6 not, on the expiration date of that visa or permit –

7 (a) render the person's presence in the Republic lawful; or

8 (b) give the person the right to remain in the Republic while the application is
9 considered; or

10 (c) prevent removal procedures under this Act.

11 **§13. Exemption from requirement to hold a visa**

12 (1) The following persons shall be exempt from the requirement to hold a visa to enter the
13 Republic, to such extent or subject to such conditions as specified by this Act or by
14 regulations –

15 (a) subject to section 33(3), a person who is for the time being entitled to any
16 immunity from jurisdiction by or under the Diplomatic Privileges and Immunities
17 Act 1988;

18 (b) a person who is for the time being entitled to any immunity from jurisdiction by
19 or under the International Organizations Immunities Act 1974, or is brought to
20 the Republic by the Government of the Marshall Islands under any assistance
21 program of the Government of the United States of America, or any other
22 country under any similar program approved by the Minister;

23 (c) a citizen of the United States;

24 (d) a citizen of Palau or the Federated States of Micronesia;

25 (e) United States contractor personnel and their official dependents;

26 (f) a member of a visiting force including its civilian component, and the crew of
27 any craft used to transport them to the Republic while members of that force are
28 in the Republic at the request or with the consent of the Government;

29 (g) a member of the crew or a passenger on any cruise ship or private vessel carrying
30 passengers between any foreign place and the Republic, who will remain in the

1 Republic for less than 7 days, commencing on the date on which the ship or
2 vessel first arrives in the Republic;

3 (h) a member of the crew of any commercial aircraft flying between any foreign
4 place and the Republic, who will remain in the Republic for less than 14 days,
5 commencing on the date on which the aircraft first arrives in the Republic;

6 (i) a person who is under employment contract to enter into the service of the
7 Government of the Republic of the Marshall Islands;

8 (j) a member of the official staff or household of any person referred to under
9 subparagraph (a);

10 (k) the spouse or any dependent child of any person referred to under the foregoing
11 subparagraphs (a) to (i).

12 (2) Except as otherwise directed by the Division, all exempt persons under subsections 1(a),
13 1(b), 1(c), 1(d) and 1(e), 1(i) and 1(k) must present the following documents before being
14 issued with a permit to enter the Republic:

15 (a) a valid medical certificate showing clearance from HIV/Aids or tuberculosis or
16 any other contagious disease as notified by the Ministry of Health from time to
17 time;

18 (b) a police clearance showing that the person does not have any criminal conviction
19 for an offence punishable by imprisonment for a term of 12 months or more.

20 (3) Notwithstanding the exemptions granted to persons in subsection (1), exempt persons
21 will be subject to immigration clearance procedures upon arrival and departure from the
22 Republic. Exempt persons shall be refused entry into the Republic if they are found to be
23 ineligible for an entry permit under section 14 of the Act.

24
25 **§14. Certain persons not eligible for a visa, permit or exemption**

26 (1) Unless specifically exempted in writing by the Attorney General, in such circumstances
27 as may be prescribed by Regulations, no exemption shall apply and an entry permit shall
28 not be granted to any person-

29 (a) who, at any time (whether before or after the commencement of this Act), has
30 been convicted of any offence punishable by a term of imprisonment of more

- 1 than 12 months, or for an indeterminate period capable of running for more than
2 12 months; or
- 3 (b) against whom a Deportation Order is in force whether under this Act or any other
4 Act; or
- 5 (c) who has been removed or deported-
- 6 (i) from the Republic, at any time (whether before or after the
7 commencement of this Act) or pursuant to any other enactment; or
- 8 (ii) from any other country, at any time (whether before or after the
9 commencement of this Act); or
- 10 (d) who the Director or designee has proper reason to believe-
- 11 (i) has engaged in, or claimed responsibility for, or is likely to engage in an
12 act of terrorism in the Republic or any other country; or
- 13 (ii) adheres to any organization or group of people that has engaged in, or
14 has claimed responsibility for, or is likely to engage in an act of terrorism
15 in the Republic or any other country; or
- 16 (iii) is unable to support himself, or to support his dependents whilst in the
17 Republic; or
- 18 (iv) is of unsound mind, or is mentally defective, or is a chronic alcoholic, or
19 is addicted to the use of any narcotic drug; or
- 20 (v) is certified to be carrying a disease which would make it undesirable for
21 medical reasons to admit such person into the Republic; or
- 22 (vi) is a prostitute, procurer or person living on the earnings of the
23 prostitution of others; or
- 24 (vii) is a stowaway on any aircraft or ship or vessel, or other any mode of
25 transportation that enabled such person to enter the Republic; or
- 26 (e) who fails to satisfy any other requirement as the Minister may impose in the
27 public interest by Regulation, or in the case of national emergency, by special
28 written instruction.
- 29 (2) Subsection (1)(a) shall apply whether the sentence is of immediate effect or is deferred or
30 is suspended in whole or in part.

- 1 (3) Any visa or entry permit found to be issued in contravention of this Section shall be
2 deemed to be void and of no effect for the purposes of this Chapter.
3

4 **PART IV – CONTROL OF ENTRY INTO THE REPUBLIC OF PERSONS ENTERING**
5 **AT DOCKS**
6

7 *Procedures for fishing and commercial vessels*
8

9 **§15. Immigration clearance upon entry into the Republic**

- 10 (1) At least 24 hours prior to entering the Republic, the ship's Captain or agent must notify
11 the Immigration Division of -
12 (a) the expected time of arrival; and
13 (b) the crew list.
14 (2) Except as otherwise directed by the Division, every fishing or commercial vessel shall
15 enter the Republic at the Uliga or Delap docks for immigration clearance.
16 (3) Upon entry, every Officer and crew member must present to the issuing officer a -
17 (a) seaman's book; or
18 (b) valid passport.
19 (4) The issuing officer, upon being satisfied that a person is -
20 (a) an Officer or member of the crew; and
21 (b) should not be denied entry under section 14 shall -
22 (i) scan; and
23 (ii) endorse the person's seaman's book or passport with an entry
24 authorization.
25 (5) The issuing officer is authorized to retain all passports for further processing, provided
26 however that all passports must be kept in safe storage and returned to the holder prior to
27 or upon departure of the vessel.
28

29 **§16. Procedures for the issuance of shore passes to the crew and passengers of fishing**
30 **and commercial vessels**

- 1 (1) In addition to the documents required under section 15(3), the Division may require all
2 officers and members of the crew of a fishing or commercial vessel intending to go on
3 land while the vessel is at the dock, to present to the issuing officer upon arrival a valid
4 medical certificate in order to obtain a general shore pass.
- 5 (2) If a valid medical certificate is required, the issuing officer, upon being satisfied that the
6 medical certificate complies with the requirements of this Act, shall issue that crew
7 member with a general shore pass.
- 8 (3) A general shore pass will entitle the holder to go on land outside curfew hours and will be
9 valid for the period stated on the pass.
- 10 (4) The general shore pass shall be in the prescribed form.
- 11

12 **§17. Procedure for crew requesting medical checks upon arrival**

- 13 (1) Upon arrival, and if requested by the Division, crew members may be granted temporary
14 shore passes, in order to conduct medical checks in the Republic for obtaining valid
15 medical certificates.
- 16 (2) Subject to all crew being cleared under section 15, the Captain will be provided with a
17 letter from the Division listing the names of crew members cleared for medical checks.
- 18 (3) The issuing officer will provide those members listed with temporary shore passes.
- 19 (4) A temporary shore pass will entitle the holder to go on land without a medical clearance
20 for the purposes of obtaining a medical certificate at the hospital.
- 21 (5) The temporary shore pass shall be in the prescribed form.
- 22

23 **§18. Shore pass to be carried at all times**

- 24 (1) An officer or crew member on land must have in his or her possession a shore pass at all
25 times.
- 26 (2) A person must show his or her shore pass to any enforcement officer who requests
27 identification.
- 28 (3) A person who does not present a shore pass when requested by an enforcement officer
29 shall be liable to a fine of \$100.00.
- 30

31 **§19. Hours of curfew to be observed**

- 1 (1) Subject to subsection 4 of this section, all members of a fishing or commercial vessel,
2 shall be prohibited from going on land between the curfew hours of 10.00pm to 6.00am
3 each day, or at such other times as prescribed by the Minister from time to time.
- 4 (2) The curfew stated in subsection (1) shall not ordinarily apply to officers of the vessel,
5 provided however that officers must still comply with the requirement to present a valid
6 medical certificate at the time of arrival. For good reason, and if in the public interest,
7 the Division may apply the curfew to officers of any vessel.
- 8 (3) A member of a crew may apply to the Director for an exemption from curfew upon
9 presenting evidence that -
- 10 (a) his or her spouse or children are visiting the crew member in the Republic; or
11 (b) there has been a loss in the family, and it would be necessary for the crew
12 member to remain on land for a period of time; or
13 (c) such other emergency which would make it necessary for the crew member to
14 remain on land for a period of time.
- 15 (4) Except where a person has previously breached a condition of a shore pass, the issuing
16 officer shall grant a temporary shore pass to -
- 17 (a) all officers who qualify under subsection (2):
18 (b) all crew members who qualify under subsection (3).
- 19 (5) A temporary shore pass issued under this section will entitle the holder to be on land
20 during curfew hours and will be valid for the period stated in the pass.
- 21 (6) A temporary shore pass shall be in the prescribed form.

22
23 **§20. Cases of Emergency**

- 24 (1) In the case of a medical emergency and a crew member does not hold a valid medical
25 certificate, the shipping agent will notify the Director by phone or by fax and seek a
26 temporary shore pass for the crew member.
- 27 (2) The Director or designee may authorize issuance of the shore pass over the phone, in
28 which case, the crew member shall be allowed to go on land for medical treatment.

29
30 **§21. Penalty provisions under this Part**

- 31 (1) The Minister shall by regulations promulgate fines not exceeding \$2,000 per offence for -

- 1 (a) breach of curfew hours;
- 2 (b) disorderly behaviour while officers or crew are on land; or
- 3 (c) breach of provisions under this Part.
- 4 (2) All fines collected under this Part shall be collected and deposited in the Ministry of
- 5 Justice Special Revenue Fund.
- 6

7 **§22. Immigration clearance prior to departure from the Republic**

- 8 (1) Prior to departure of a vessel, the issuing officer must:
- 9 (a) check the identity of each officer and crew member against the crew list;
- 10 (b) endorse each passport with a departure authorization; and
- 11 (c) return to every officer and crew member his or her passport.
- 12 (2) A vessel will not receive final clearance to leave the Republic until all fines or penalties
- 13 are paid in full, in accordance with section 23(2) and (3).
- 14

15 **§23. Liability of ship owner or agent for breach of provisions under this Part**

- 16 (1) The ship's agent shall be responsible for ensuring that all fishing and commercial vessels
- 17 adhere to the requirements of this Part.
- 18 (2) The ship's owner or agent shall be liable to pay a fine of \$10,000 if all officers and crew
- 19 members are not on board the vessel at the time of departure, or if it is later found that an
- 20 officer or crew member alighted from the vessel after departure.
- 21 (3) The ship's agent shall be responsible for ensuring that all outstanding fines or fees
- 22 incurred by the crew or vessel are paid in full, prior to that vessel being cleared for
- 23 departure.
- 24

25 *Procedures for cruise ships and privately-owned vessels*

26

27 **§24. Immigration clearance upon entry**

- 28 (1) At least 24 hours prior to entering the Republic, the Captain or agent of the vessel must
- 29 notify the Immigration Division of -
- 30 (a) the expected time of arrival; and
- 31 (b) the crew and passenger list.

- 1 (2) Every cruise ship or private yacht or private vessel shall enter the Republic at the RRE
2 Shoreline dock for immigration clearance.
- 3 (3) Upon entry, every officer, crew member or passenger intending to go on land must
4 present to the issuing officer a valid passport.
- 5 (4) The issuing officer, upon being satisfied that a person should not be denied entry under
6 section 14 shall –
- 7 (a) scan; and
8 (b) endorse the person's passport with an entry authorization.
- 9 (5) The Director is authorized to retain all passports for further processing, provided however
10 that all passports must be kept in safe storage and returned to the holder prior to or upon
11 departure of the vessel.
12

13 **§25. Conditions for entry into the Republic**

- 14 (1) Any person entering the Republic under section 24 will not be required to obtain a shore
15 pass or be subject to a curfew, provided however that a person shall be -
- 16 (a) subject to the applicable laws of the Republic while on land; and
17 (b) subject to fees or fines promulgated by the Minister for the enforcement of
18 provisions under this Part.
19

20 **§26. Penalty provisions under this Part**

21 Officers, crew and passengers in breach of the provisions under this Part may be liable to
22 payment of penalties and fines under section 21 of this Act.
23

24 **§27. Immigration clearance prior to departure from the Republic**

- 25 (1) Upon departure, the issuing officer shall -
- 26 (a) check the identity of each person against the crew and passenger list; and
27 (b) endorse each person's passport with a departure authorization.
- 28 (2) The owner or shipping agent may be liable for penalties prescribed under this Act or
29 regulations if all officers and crew members are not on board the vessel at the time of
30 departure.

- 1 (3) A vessel will not receive final clearance to leave the Republic until all fines or penalties
2 are paid in full, in accordance with section 28(2) and (3).
3

4 **§28. Liability of ship owner or agent for breach of provisions under this Part**

- 5 (1) The vessel's agent shall be responsible for ensuring that all vessels adhere to the
6 requirements of this Part.
7 (2) The vessel's owner or the shipping agent shall be liable to pay a fine of \$10,000 if all
8 officers and crew members are not on board the vessel at the time of departure, or if it is
9 later found that an officer or crew member alighted from the vessel after departure.
10 (3) The vessel's agent shall be responsible for ensuring that all outstanding fines or fees
11 incurred by the crew or vessel are paid in full, prior to that vessel being cleared for
12 departure.
13

14 **PART V – GOVERNMENT IMMIGRATION POLICY**

15
16 **§29. Publication of Government Immigration Policy**

- 17 (1) The Cabinet shall from time to time, publish the Immigration policy or changes to the
18 Immigration policy of the Government.
19 (2) Publication for the purposes of this section shall include, but is not restricted to, the
20 inclusion of that policy in-
21 (i) the Government Gazette; or
22 (ii) a document available to the public at the offices of the Immigration Division and
23 Attorney General's office; or
24 (iii) a newspaper or journal of general publication in Majuro.
25 (3) Government Immigration policy may include:
26 (a) general or specific objectives of the Government relating to immigration;
27 (b) criteria for the eligibility of persons for the issuance of visas or permits;
28 (c) indicators, attributes, or other relevant information that may or must be taken into
29 account in assessing a person's eligibility for the grant of a visa or permit;
30 (d) matters relevant to balancing individual eligibility against the overall objectives
31 of Government policy generally.

PART VI – TYPES OF VISAS**§30. Types of visas**

(1) The following types of visas may be issued under this Act:

- (a) residence visa (R-1);
- (b) diplomatic visa (D-1);
- (c) business visa (B-1);
- (d) general visa (G-1);
- (e) work visa (E-1);
- (f) student visa (S-1);
- (g) visitor's visa (V-1);
- (h) transit visa (T-1);
- (i) any other type of visa approved by the Minister and promulgated in regulations under this Act.

(2) The application procedure and criteria for the issuance of all visas shall be prescribed by regulations.

§31. Meaning and effect of visa

(1) Every visa shall be valid for the period or until the date specified in it, and may be expressed to be effective for any number or an unlimited number of journeys to the Republic, within that period or before the specified date.

(2) Subject to a visa being revoked under section 45, a visa granted under this Act shall entitle the holder to be issued with an entry permit and to remain in the Republic for the duration of that permit.

(3) Except for visas issued under section 30(1)(a) and (1)(b), all visas must be obtained prior to entry in the Republic.

§32. Residence visas

(1) Every person who –

- (a) is the holder of a Certificate of Actual Residence that was issued prior to or following commencement of this Act; or

- 1 (b) is a naturalized or registered citizen of the Republic but does not hold an RMI
- 2 passport; or
- 3 (c) is an honorary citizen of the Republic but does not hold an RMI passport -
- 4 may apply in the prescribed manner for a residence visa.

5

6 **§33. Diplomatic visas**

- 7 (1) Every person who is outside the Republic and is a serving diplomat intending to visit or
- 8 be stationed in the Republic is not required under the Act to obtain a visa prior to arrival.
- 9 (2) A person who nevertheless seeks to obtain a diplomatic visa prior to arrival shall, before
- 10 proceeding to the Republic, apply in the prescribed manner for a diplomatic visa.
- 11 (3) A Diplomatic visa will be issued by the Division upon arrival, provided that the
- 12 following documents have been received by the Division at least 48 hours prior to the
- 13 arrival date:
 - 14 (a) written notification from the Ministry of Foreign Affairs of Diplomat's name,
 - 15 arrival date, purpose and duration of visit; and
 - 16 (b) a copy of the Diplomat's valid passport.

17

18 **§34. Business visas**

19 Every person who is outside the Republic and intends to enter the Republic for the

20 purposes of establishing, seeking to establish, or conducting trade with a business in the

21 Republic, shall before proceeding to the Republic, apply in the prescribed manner for a

22 business visa.

23 **§35. General visas**

24 Every person who is outside the Republic and is the legal spouse or dependent child

25 of a person who is legally working or stationed in the Republic, that person may, before

26 proceeding to the Republic, apply in the prescribed manner for a general visa.

27 **§36. Work visas**

- 28 (1) Every employer that is issued with a work permit under the Labor (Non-Resident
- 29 Workers) Act 2006 in respect of a non-resident worker, shall, subject to the person's

1 application being denied under section 14, be entitled to be issued with a work visa in
2 respect of that employee.

3 (2) Subject to any restrictions prescribed by regulations, the Immigration Division will issue
4 a work visa that is valid for the same duration as the work permit or not more than 21
5 calendar days longer than the duration of the permit.

6 **§37. Visitor's visas**

7 (1) Every person who is outside the Republic and intends to enter the Republic as a tourist or
8 a visitor shall, before proceeding to the Republic, apply in the prescribed manner for a
9 visitor's visa.

10 (2) The Cabinet may, according to Government Immigration Policy applicable at the time,
11 identify countries whose nationals may be granted visitor's visas upon arrival in the
12 Republic. Countries approved by the Cabinet shall be listed in a Schedule to the
13 regulations.

14 **§38. Student visas**

15 Every person who is outside the Republic and intends to enter the Republic for the
16 purpose of studying at a school or academic institution shall, before proceeding to the
17 Republic, apply for a student visa in the prescribed manner.

18 **§39. Transit visas**

19 Every person who is outside the Republic and intends to enter the Republic for the
20 purpose of transit to another country shall, before proceeding to the Republic, apply in
21 the prescribed manner for a transit visa.

22
23 **§40. Currency of visas**

24 (1) The currency of visas issued under this Act shall be –

- 25 (a) for a residence visa, a period of up to 5 years;
26 (b) for a diplomatic visa, a period of up to 2 years;
27 (c) for a business visa, a period of up to 2 years;
28 (d) for a general visa, a period of up to 2 years;
29 (e) for a work visa, a period of up to 2 years;

- 1 (f) for a student visa, a period of up to 1 year;
- 2 (g) for a visitor's visa, a period of up to 3 months;
- 3 (h) for a transit visa, a period of up to 3 days;
- 4 (i) for any other type of visa, the period prescribed by regulations.
- 5 (2) Every visa must indicate -
- 6 (a) the name of the holder and date of birth;
- 7 (b) the date on which it comes into effect; and
- 8 (b) the date on which it will expire.
- 9 (3) Where a person is removed or deported from the Republic under this Act, a visa and any
- 10 consequent permit that has been issued shall automatically be void.

11

12 **§41. Grant of a visa or permit in accordance with provisions of the Act**

- 13 (1) No person is entitled as of right to a visa or permit and any question whether or not to-
- 14 (a) grant;
- 15 (b) impose any condition;
- 16 (c) vary;
- 17 (d) cancel or revoke;
- 18 a visa is a matter for the decision of the Director or designee in accordance with the
- 19 provisions of this Act.
- 20 (2) Where an application for a visa is denied -
- 21 (a) the Director shall provide in writing, reasons for that decision; and
- 22 (b) the applicant may appeal the decision to the Attorney General in the manner
- 23 prescribed by section 70 of this Act.

24

25 **§42. Requirement of bond**

- 26 (1) The Cabinet may, in accordance with Government Immigration policy applicable at the
- 27 time, identify countries whose nationals may be required to pay a bond as a pre-condition
- 28 to the issuance of a visa. Countries approved by the Cabinet shall be listed in a Schedule
- 29 to the regulations.
- 30 (2) Notwithstanding subsection (1), a bond may be imposed as a pre-condition to the
- 31 issuance of a visa if the Director or designee determines that -

- 1 (a) there is a risk that the applicant will remain in the Republic after the expiry of the
2 visa ; and
- 3 (b) the imposition of the bond is necessary to manage that risk.
- 4 (3) The value of all bonds imposed shall be approved by the Cabinet and listed in a Schedule
5 to the regulations. The value of bonds shall be determined according to the projected cost
6 of deportation of a person from the Republic to their country of origin.
- 7 (4) If a bond has been paid in respect of a non-resident worker under the Labor (Non-
8 Resident) Workers Act 2005, an additional bond will not be required under subsection (1)
9 or (2) of this section.

11 PART VII – TYPES OF PERMITS

13 §43. Types of Permits

- 14 (1) The following types of permits may be issued under this Act -
- 15 (a) entry permit; and
- 16 (b) any other type of permit approved by the Minister and promulgated in regulations
17 under this Act.

19 §44. Meaning and effect of permit

- 20 (1) Subject to the requirements of this Act, a person -
- 21 (a) holding a valid visa shall be entitled to be issued with an entry permit upon entry
22 into the Republic within the duration of that visa;
- 23 (b) exempted from the requirement to obtain a visa shall be entitled to be issued with
24 an entry permit upon entry into the Republic.
- 25 (2) An entry permit must be issued and endorsed on a person's passport upon arrival to
26 indicate the date of entry and duration of that person's stay in the Republic and shall only
27 be valid for one entry.

28 PART VIII – REVOCATION OF VISAS AND PERMITS

29 §45. Revocation due to an administrative error

- 1 (1) Where a visa is granted to any person as a result of administrative error, that visa and any
2 consequent permit may be revoked at any time, and every such revocation shall take
3 effect immediately.
- 4 (2) Where a visa is revoked and the same person is within the arrival hall, then, unless some
5 other is granted under this Act, the person shall be required to leave the Republic
6 immediately.
- 7 (3) A revocation under this section shall be made by an appropriate mark on the person's
8 passport or certificate of identity.

9 **§46. Revocation in general**

- 10 (1) Where a person is granted with a visa or permit and that person subsequently breaches a
11 condition of that visa or permit, the Director or designee may revoke the visa or permit
12 by service of a notice of revocation.
- 13 (2) A notice of revocation shall –
- 14 (a) state the reason for the revocation;
- 15 (b) specify the date by which the holder must leave the Republic.
- 16 (3) The holder of a permit that has been revoked under this section must leave the Republic
17 before the date specified in the notice, or be liable to removal under Part IX.
- 18 (4) A notice of revocation shall be in the prescribed form.
- 19

20 **PART IX – REMOVAL OF PERSONS UNLAWFULLY IN THE REPUBLIC**

21

22 **§47. Holder of visa or permit not to remain in the Republic after expiry**

- 23 (1) Every person to whom a visa or permit is granted under this Act or under the Labor
24 (Non-Resident Workers) Act 2006 and who is in the Republic after the expiry of that visa
25 or permit, shall be deemed to be in the Republic unlawfully.
- 26 (2) Every person who is in the Republic for any period of time after having entered without a
27 visa, and does not qualify for an exemption, shall be deemed to be in the Republic
28 unlawfully.
- 29

30 **§48. Liability for removal**

- 1 (1) Any person who is in the Republic unlawfully pursuant to Section 47 of this Act, may be
 2 the subject of a removal order provided that -
- 3 (a) the person has been unlawfully in the Republic;
- 4 (i) for a period of more than 14 consecutive days after the expiry of that visa
 5 or permit;
- 6 (ii) an appeal under section 71 has been determined against the person, and
 7 the person is still in the Republic 7 days after the decision has been
 8 notified to the person; or
- 9 (b) the person is in the Republic while a previously executed removal order is still in
 10 force; or
- 11 (c) the person is in the Republic after having entered without a visa and does not
 12 qualify for an exemption.
- 13 (2) A removal order may include a person's legal spouse or dependent child.
- 14 (3) A removal order shall inform the subject person that he or she must voluntarily depart
 15 from the Republic within 14 calendar days from the date of service of the order.
- 16 (4) Any person unlawfully in the Republic under subsection (1)(a)(i) may, within 14 days of
 17 being served of a removal order, appeal that order under section 71. Failure to file an
 18 appeal shall result in the person named in the order being removed from the Republic
 19 according to the procedures set out in the Act.
- 20 (5) Nothing in this Part shall be construed as preventing voluntary departure from the
 21 Republic at any time before or after the removal order is made and served.

22

23 **§49. Content and effect of removal order**

- 24 (1) A removal order must be signed by the Attorney General.
- 25 (2) Every removal order shall state -
- 26 (a) the provision pursuant to which it is made; and
- 27 (b) the ground or grounds on which it is made; and
- 28 (c) shall include notice of the right to appeal pursuant to section 48(4) and conferred
 29 by section 71, and the manner in which that right is to be exercised.
- 30 (3) If after 14 days following service of the removal order and the subject has not voluntarily
 31 departed from the Republic or filed an appeal of the order pursuant to section 48(4), the

- 1 (2) A person arrested under this section may be detained for up to 24 hours without further
2 authority than this section, pending the placement of that person on a craft that is leaving
3 the Republic.
- 4 (3) Once the person has been placed on a craft, a member of the Police may make
5 appropriate arrangements to ensure that the person does not leave the craft, and may
6 continue to detain the person on board the craft for that purpose.
- 7 (4) No order made under section 49 shall be defeated by reason of the fact that such person
8 has, whether prior or subsequent to the order being issued –
- 9 (a) contracted a marriage with a citizen of the Republic; or
10 (b) had a child with a citizen of the Republic; or
11 (c) made an application to the High Court under Article XI of the Constitution of the
12 Republic of the Marshall Islands or other enactment for registration as a citizen
13 of the Republic.
- 14 (5) Where an unmarried person who is under 18 years of age is to be removed from the
15 Republic otherwise than in the company of a parent or guardian, the Director must ensure
16 that all reasonable efforts are made to contact a parent or guardian of the person and to
17 agree on suitable traveling arrangements for the person to be removed.

18 **§54. Release or extended detention if craft unavailable**

- 19 (1) Where a person is arrested and detained in accordance with a removal order and it
20 becomes apparent that -
- 21 (a) no craft will be available within the 24 hour period specified section 53(2); or
22 (b) it is not practicable for the person to be placed on a craft within the 24 hour
23 period; or
24 (c) for some other reason the person is unable to leave the Republic within the 24
25 hour period -
- 26 then, unless the person is released, the Director must arrange for the person to be brought
27 before a High Court Judge for the purpose of obtaining a warrant for further detention.
- 28 (2) A warrant for further detention authorizes the detention of the person named in it for a
29 period of 14 days, or such shorter period as the Judge thinks necessary to enable the
30 execution of the removal order.

1 Division shall be authorized to take into custody or confine in a suitable place the person
2 named in the order and to proceed to execute the order in accordance with section 53.

3 (4) A removal order shall be in the prescribed form.

4 **§50. Service of removal order**

5 (1) A removal order may be served by an Immigration officer on the person named in the
6 order, either by personal service or by post to the person's last known address.

7 (2) Where service is to be effected personally, the removal order may be served on any day
8 at any reasonable time of day or night.

9 (3) Service shall be deemed to have been effected if the removal order is served on the
10 person's agent, employer or lawyer.

11 **§51. Currency of removal order once served**

12 A removal order shall remain in force from the time at which it is served, and shall,
13 unless it is cancelled, remain in force until the person named in the order leaves or is
14 removed from the Republic.

15
16 **§52. Cancellation of a removal order**

17 (1) In accordance with section 71(2)(a), the Attorney General may, in writing while the
18 person named in the removal order is still in the Republic, cancel a removal order.

19 (2) The notice of cancellation shall be served by an Immigration officer on the person.

20 (3) The notice shall serve as a direction to any person who may be detaining the person in
21 custody to release the person immediately.

22 (4) A notice of cancellation of a removal order shall be in the prescribed form.

23 **§53. Execution of removal order**

24 (1) Any Immigration officer may arrest and detain a person –

25 (a) on whom a removal order has been properly served;

26 (b) the person named in the order has remained in the Republic after the date
27 specified in the removal order in accordance with this section;

28 (c) the person named in the order has not filed an appeal pursuant to section 48(4).

- 1 (3) A Judge may issue a warrant for further detention on the application by or on behalf of
2 the Director Immigration Officer if satisfied on the balance of probabilities that the
3 person in custody is likely to abscond or is unlikely to voluntarily board the next
4 available craft.

5 **§55. Form of custody**

- 6 (1) Every person who is placed in custody under section 53(2) or 54(2) and is to be detained
7 overnight, is to be detained-
- 8 (a) in the case of an unmarried person who is under 18 years of age, in any residence
9 or other premises approved by the Minister; or
- 10 (b) in any other case, at a police station or premises approved by the Minister.

11
12 **PART X – DEPORTATION OF PERSONS FOLLOWING CONVICTION**

13
14 **§56. Deportation following conviction**

- 15 (1) The Attorney General may order the deportation from the Republic of any person who is
16 convicted of an offence for which the Court has power to impose imprisonment for a
17 term of 12 months or more, committed at any time when that person was-
- 18 (a) in the Republic unlawfully; or
- 19 (b) in the Republic and the holder of a valid visa or permit; or
- 20 (c) in the Republic but was exempt under this Act from the requirement to hold a
21 visa or permit.
- 22 (2) Nothing in this section shall prevent the Division from instituting deportation
23 proceedings against any person who persistently commits misdemeanors in the Republic,
24 which in the Division's opinion threatens public safety and order.

25
26 **§57. Content and effect of deportation order**

- 27 (1) A deportation order shall be signed by the Attorney General.
- 28 (2) The order shall authorize any Immigration officer to take into custody the person named
29 in the order and to proceed to execute the order in accordance with section 61.
- 30 (3) Every deportation order shall state-

- 1 (a) the provision pursuant to which it is made; and
2 (b) the ground or grounds on which it is made; and
3 (c) shall include notice of the right to appeal conferred by section 71 and the manner
4 in which that right is to be exercised.

5 (4) A deportation order shall be in the prescribed form.
6

7 **§58. Service of deportation order**

- 8 (1) A deportation order shall be served on the person named in the order by personal service
9 only.
10 (2) Service shall be deemed to have been effected if the deportation order is served on the
11 person's agent, employer or lawyer.
12 (3) The deportation order may be served on any day at any reasonable time of day or night.
13

14 **§59. Currency of deportation order once served**

15 A deportation order shall remain in force from the time at which it is served, and will,
16 unless it is revoked, remain in force until the person named in the order leaves or is
17 deported from the Republic.
18

19 **§60. Revocation of a deportation order**

- 20 (1) Pursuant to section 71(2)(a), the Attorney General may in writing, while a person is still
21 in the Republic, cancel a deportation order.
22 (2) The notice of cancellation shall be served by an Immigration officer on the person named
23 in the order.
24 (3) The notice shall serve as a direction to any person who may be detaining the person in
25 custody to release the person immediately.
26 (4) A notice of cancellation of a deportation order shall be in the prescribed form.
27

28 **§61. Execution of a deportation order**

- 29 (1) Any person in respect of whom a deportation order has been served may be arrested
30 without a warrant at any time by any member of the Police and placed in custody.

- 1 (2) Every person who is arrested and placed in custody under sections 57(2), 61(1), 62(2)(b),
2 or 63(2) is to be detained-
- 3 (a) in the case of an unmarried person who is under 18 years of age, in any residence
4 or other premises approved by the Minister; or
- 5 (b) in any other case, at a police station.
- 6 (3) No order made under section 57 shall be defeated by reason of the fact that such person
7 has, whether prior or subsequent to the order being issued –
- 8 (a) contracted a marriage with a citizen of the Republic; or
9 (b) had a child with a citizen of the Republic; or
10 (c) made an application to the High Court under Article XI of the Constitution of the
11 Republic of the Marshall Islands or other enactment for registration as a citizen
12 of the Republic.

13
14 **§62. Powers of the Court in relation to a person in custody**

- 15 (1) Every person who is arrested under section 61(1) shall be brought before a High Court
16 Judge within 24 hours of the arrest, to determine whether that person should be detained
17 or released from custody pending deportation from the Republic.
- 18 (2) Where any person is brought before a Judge under subsection (1), the following
19 provisions shall apply:
- 20 (a) if satisfied on the balance of probabilities that the person is not the person named
21 in the deportation order, the Judge shall order that the person be released from
22 custody forthwith; or
- 23 (b) if the Judge is satisfied on a balance of probabilities that the person is likely to
24 abscond, the Judge may issue a warrant of commitment for the detention of that
25 person in custody; or
- 26 (c) if the Judge is satisfied on a balance of probabilities that the person is unlikely to
27 abscond, the Judge shall order that the person be released in accordance with
28 section 63 of this Act.
- 29 (3) A warrant of commitment shall be in the prescribed form.

30
31 **§63. Conditions on release**

- 1 (1) Any person who is released from custody under section 61(2)(c) shall be issued with a
2 notice specifying -
- 3 (a) the address at which the person is to reside;
- 4 (b) any reporting requirements;
- 5 (c) any other conditions the Judge may consider necessary.
- 6 (2) A breach of any condition specified in the notice shall nullify the order for release,
7 following which the person shall be arrested by any member of the police without
8 warrant and placed in custody.
- 9 (3) A notice under this section shall be in the prescribed form.

10

11 **§64. Release or extended detention if craft unavailable**

- 12 (1) When a craft becomes available to take any person to whom this Part applies from the
13 Republic, a member of the Police shall escort that person to the approved airport or dock
14 and ensure that the person is placed on the craft and detained there until the craft leaves
15 the Republic.
- 16 (2) If for any reason the craft ceases to be available to take the person from the Republic or is
17 likely to be delayed beyond the period named in a warrant of commitment, the person
18 shall be brought before a High Court Judge for necessary modifications to the warrant of
19 commitment or conditions of release previously issued.

20

21 **§65. Deported or removed persons not allowed re-entry**

- 22 (1) The Director shall be responsible for establishing and maintaining the registers and files
23 of the Division. Details of all persons that have been deported from the Republic shall be
24 entered into the registers and files of the Immigration Division.
- 25 (2) Any person that has been deported or removed from the Republic under this Act shall not
26 be allowed to re-enter the Republic.

27

28 **PART XI – PROCEDURES RELATING TO LOST PASSPORTS AND OTHER**
29 **RELATED MATTERS**

30

31 **§66. Provisions relating to lost passports**

- 1 (1) Where a person has entered the Republic and subsequently loses his or her passport, that
 2 person shall report this to the Division immediately.
- 3 (2) The Division shall, as far as it is practicable, assist a person under subsection (1) to obtain
 4 a new passport.
- 5 (3) The fact that a person has reported a lost passport to the Division does not render his or
 6 her stay in the Republic lawful. Subject to subsection (4), a person who has lost a
 7 passport and –
- 8 (a) at the time of reporting the matter to the Division has already overstayed his or
 9 her permit; or
- 10 (b) after the time of reporting, subsequently overstays his or her permit;
 11 may nevertheless be subject to removal or deportation proceedings under the Act.
- 12 (4) If a passport is lost by the Division it shall be the responsibility of the Division to ensure
 13 that the passport is replaced or in the case where replacement is not practicably possible,
 14 that the passport holder is issued with the appropriate identification document to enable
 15 that person to return to his or her point of origin.

17 **§67. Provisions relating to persons without financial means to return**

18 If, at the expiration date of a visa or permit, the holder claims that he or she does not have
 19 the financial means to leave the Republic, the Director may authorize the arrest of the
 20 person pending his or her appearance in Court in accordance with section 68(1).

22 **§68. Powers of the Court in relation to a person in custody**

- 23 (1) Every person who is arrested under section 67(1) shall be placed in police custody and be
 24 brought before a High Court Judge within 24 hours of the arrest, to determine the manner
 25 in which that person can be removed from the Republic.
- 26 (2) Where any person is brought before a Judge under subsection (1), the following
 27 provisions shall apply:
- 28 (a) if satisfied on the balance of probabilities that the person has the financial means
 29 to pay for a ticket out of the Republic immediately, the Judge shall order that –
- 30 (i) the person be released from custody forthwith;
- 31 (ii) the person immediately purchase a valid ticket out of the Republic; and

- 1 (iii) the person must leave the Republic by or before a certain date;
- 2 (b) if satisfied on a balance of probabilities that the person cannot pay for a ticket out
- 3 of the Republic immediately, but will be able to provide weekly or bi-weekly
- 4 payments towards the required amount, the Judge shall order that –
- 5 (i) the person be released from custody forthwith;
- 6 (ii) the person make weekly or bi-weekly payments to the Court for the
- 7 required amount;
- 8 (iii) the person report to the Police station at specified times; and
- 9 (iv) the person must leave the Republic by or before a certain date;
- 10 (c) if satisfied on a balance of probabilities that the person is likely to abscond, or
- 11 that the person will not be able to make contributions under subsection 2(b), the
- 12 Judge may –
- 13 (i) issue a warrant of commitment for the detention of that person in custody
- 14 until such time that the Division is able to remove that person from the
- 15 Republic; or
- 16 (ii) taking into account the circumstances of the case, making any other order
- 17 as the Judge deems appropriate.
- 18 (3) Any person who fails to comply with the order of a Judge under sections 2(a), 2(b) and
- 19 2(c)(ii), shall be immediately arrested and within 24 hours of the arrest, be taken before a
- 20 High Court Judge. The Judge shall consider the reasons for the non-compliance, and
- 21 make such order as the Judge deems necessary, to facilitate the person's removal from
- 22 the Republic.

23 PART XII – PERSONS MARRIED TO CITIZENS OF THE REPUBLIC

24 §69. Persons who are married and have children with citizens of the Republic

- 25
- 26 (1) Except as otherwise provided under subsection (2), a non-citizen who enters the Republic
- 27 and subsequently marries and has children with a citizen of the Republic may be subject
- 28 to removal or deportation proceedings at the expiration of his or her visa or permit.
- 29

- 1 (2) A non-citizen under subsection (1) who intends to lawfully remain in the Republic shall,
2 not later than 14 days before the date of expiration of his or her visa or permit, provide
3 the following documentation to the Division -
- 4 (a) marriage license showing marriage has been valid for more than three years; and,
 - 5 (b) birth certificate of any children from the marriage; and
 - 6 (c) evidence of filing to apply citizenship of the Republic, if such application is still
7 being considered at the time his or her visa or permit expires; and
 - 8 (d) any other supporting documents as may be required by the Division.
- 9 (3) If the documentation complies with the requirements of this section, the Director shall
10 review the decision as to whether or not to issue or extend the non-citizen's visa or permit
11 and whether or not to initiate removal or deportation proceedings. Such a review shall
12 take favorable consideration of the non-citizen's marital and parental status, subject to
13 other requirements of the Act.

PART XIII - APPEALS

§70. Appeals in general

- 17 §70. Appeals in general
- 18 (1) Any person who wishes to appeal a decision, other than for removal or deportation, made
19 under this Act may appeal, in writing, to the Attorney General within 14 calendar days of
20 being informed of that decision.
- 21 (2) Upon receipt of an application for an appeal under subsection (1), the Attorney General
22 may –
- 23 (a) overturn the decision and make a new one; or
 - 24 (b) request that the Director reconsider the decision in the light of any findings that
25 the Attorney General has made as to the appeal; or
 - 26 (c) dismiss the application and uphold the original decision.
- 27 (3) A decision by the Attorney General shall be issued within 14 calendar days of the
28 application being lodged.
- 29 (4) A decision by the Attorney General may be appealed to the High Court, provided it is
30 filed within 14 calendar days of the decision being notified to the appellant.

- 1 (5) The fact that an appeal pursuant to this section has been filed by any person, unless
2 otherwise ordered by the High Court, does not,—
3 (a) render the person's presence in the Republic lawful; or
4 (b) give the person the right to remain in the Republic while the appeal is considered;
5 or
6 (c) prevent removal procedures under this Act.

7
8 **§71. Appeals against removal or deportation**

- 9 (1) Any person who has been served with a removal order under section 48(1)(a)(i), may
10 appeal, to the High Court, provided it is filed within 14 calendar days of the order being
11 served.
12 (2) Any person who has been served with a deportation order, may appeal, to the High Court,
13 provided it is filed within 14 calendar days of the order being served.
14 (3) The fact that an appeal pursuant to this section has been filed by any person, unless
15 otherwise ordered by the High Court, does not —
16 (a) render the person's presence in the Republic lawful; or
17 (b) give the person the right to remain in the Republic while the appeal is considered;
18 or
19 (c) prevent removal procedures under this Act.

20
21 **§72. Withdrawal of appeals**

- 22 (1) A person may at any time withdraw an appeal under sections 70 and 71 by filing a
23 written notice to the Attorney General, whereupon the Attorney General shall notify the
24 Director and the Minister that the appeal has been withdrawn.
25 (2) If an appeal has been withdrawn under subsection (1), the original removal or deportation
26 order shall continue to have effect and the provisions under Parts IX and X shall continue
27 to apply.
28

29 **PART XIV – OFFENCES AND PENALTIES**

30
31 **§73. Unlawfully being in the Republic**

1 Any person found to be unlawfully in the Republic pursuant to section 47, and any other
2 applicable section of the Act, is guilty of an offence and is liable to imprisonment for a
3 term not exceeding 5 years, a fine not exceeding \$10,000 or both.
4

5 **§74. Knowingly making a false statement**

6 Any person who makes any statement, written or otherwise, to an officer exercising a
7 function under this Act, knowing that it is false, is guilty of an offence and is liable to
8 imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000 or both.
9

10 **§75. Knowingly using or providing a forged, false or misleading document**

11 Any person who uses, produces, supplies or surrenders any document to an officer
12 exercising a function under this Act, knowing that it is forged, false or misleading is
13 guilty of an offence and is liable to imprisonment for a term not exceeding 5 years, a fine
14 not exceeding \$7,000 or both.
15

16 **§76. Obstructing an Immigration officer in the execution of his duties**

17 Any person who threatens, assaults, intentionally obstructs or hinders an officer in the
18 exercise of a function, power or duty under this Act is guilty of an offence and is liable to
19 imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000, or both.
20

21 **§77. Failure to surrender any document or supply information**

22 Any person who without reasonable excuse, fails to produce or surrender any document
23 or refuses to supply any information when required to do so by an officer exercising a
24 function under this Act, is guilty of an offence and is liable to imprisonment for a term
25 not exceeding 2 years, a fine not exceeding \$3,000 or both.
26

27 **§78. Offence to offer bribe**

28 Any person who offers, gives or agrees to give any bribe to any person while executing a
29 function under this Act, with the intent to influence that person in respect of any act or
30 omission by that person in his or her official capacity, is guilty of an offence and is liable
31 to imprisonment for a term not exceeding 5 years, a fine not exceeding \$10,000 or both.

1
2 **§79. Offence to accept bribe**

3 (1) Any person who obtains, attempts to obtain, accepts or agrees to accept, any bribe for
4 himself or any other person, in respect of any act done or omitted by him in his official
5 capacity, is guilty of an offence and is liable to imprisonment for a term not exceeding 5
6 years, a fine not exceeding \$10,000 or both.
7

8 **§80. Aiding and abetting**

9 (1) Any person who aids, abets, incites, counsels, or procures any other person to –

- 10 (a) enter the Republic without a visa or permit; or
11 (b) breach any condition of a permit; or
12 (c) obtain a permit fraudulently,

13 is guilty of an offence and is liable to imprisonment for a term not exceeding 3 years, a
14 fine not exceeding \$5,000 or both.

15 (2) Any person who brings any other person into the Republic, having reasonable grounds to
16 know that the entry of that other person would be in contravention of any provision of
17 this Act, or Regulation made thereunder, is guilty of an offence and is liable to
18 imprisonment a for term not exceeding 5 years, a fine not exceeding \$10,000 or both.
19

20 **§81. General penalties**

21 (1) Every person who commits an offence for which no penalty is provided other than in this
22 subsection, shall be liable to imprisonment for a term not exceeding 3 years, a fine not
23 exceeding \$5,000, or both.

24 (2) The Minister may prescribe under regulations, regulatory offences and fines which may
25 be additional to the offences prescribed under this Part.
26

27 **§82. Initiation of legal proceedings**

28 (1) A prosecution for an offence against this Act or regulations shall be upon the information
29 of the Attorney General or some other person authorized for that purpose.

- 1 (2) In any proceedings relating to any matter under this Act, a certificate signed by the
2 Attorney General or Minister containing a statement in relation to any person to the effect
3 that -
- 4 (a) the person holds or does not hold a visa or permit; or
5 (b) any permit granted to the person was granted for a specified period or purpose; or
6 (c) the person is or was at any material time, exempt from the requirement to hold a
7 permit; or
8 (d) the person, or any permit or other document was or was not the subject of a
9 special direction given under the Act; or
10 (e) for the purpose of obtaining a visa or permit, the person made any statement or
11 supplied any information that was false or misleading in any material respect, or
12 produced or surrendered to the Director or an Immigration officer any passport,
13 certificate of identity or other document that was forged or obtained fraudulently;
14 or
15 (f) the person has, or has not, left the Republic at any particular time or during any
16 particular period -
17 shall, in the absence of proof to the contrary, be deemed to be proof of the truth
18 of the content of the certificate.
- 19 (3) In any legal proceedings relating to any matter under this Act -
- 20 (a) a document purporting to be a special direction given under this Act shall be
21 conclusive evidence of the fact that such a special direction was given:
22 (b) a document purporting to be a Deportation or Removal order issued under this
23 Act shall be conclusive evidence of the fact that such an order was made in
24 respect of the person named and on the date specified in the document:
25 (c) a certificate signed by the Minister stating that a particular place is or was an
26 official port of entry or arrival hall shall be sufficient evidence of that fact.
27

28 **§83. Service of Notices**

- 29 (1) Where under any of the provisions of this Act, any notice or other document is to be
30 served on any person, or that person's agent, employer or lawyer, the document shall be
31 deemed to have been served -

- 1 (a) immediately if served personally; or
2 (b) within seven days if the document was sent by post.
3

4 **PART XV – FUNCTIONS AND POWERS OF IMMIGRATION OFFICERS**
5

6 **§84. General powers of an immigration officer to question and detain**

- 7 (1) Where an Immigration officer has good cause to suspect that any person has or is
8 committing an offence against this Act, the officer shall be authorized to ask preliminary
9 questions and to obtain that person's -
10 (a) name and address;
11 (b) passport or certificate of identity;
12 (c) documentary or other evidence as to the person's identity;
13 (d) permit or visa;
14 (e) photograph.
15 (2) If a person refuses or fails to comply with any requirement of an officer under subsection
16 (1), the officer may arrest and detain a person at a Police station for a period of up to 24
17 hours until proper documentation and details of that person's identity are provided.
18 (3) Where a person who is arrested and detained under subsection (2) fails to provide proper
19 documentation within 24 hours, the Director shall request that the Attorney General
20 initiate legal proceedings as appropriate.
21

22 **§85. Powers of inspection, search and arrest**

- 23 (1) Where an Immigration officer believes on reasonable grounds that the information
24 contained on any register or list kept by any person on any premise might lead to the
25 apprehension of any persons who are in the Republic unlawfully, and there is no adequate
26 time to obtain a search warrant for reason that such person may flee with the information,
27 the officer may enter the premises and require any person to produce any part of that
28 register, list or record.
29 (2) Where an Immigration officer believes on reasonable grounds that a person is in the
30 Republic unlawfully and is hiding or living or is at a particular premise, vessel or craft,

1 and there is no adequate time to obtain a search warrant for reason that such person may
2 flee, the officer may enter and search the premises.

3 (3) Where an Immigration officer believes on reasonable grounds that a person has
4 committed or is committing an offence under the Act or regulations, the officer may
5 arrest and detain the person in custody for a period of up to 24 hours for the purposes of
6 investigating the alleged offence.

7 (4) If an Immigration officer exercises a right to search any premise or arrest any person
8 without a search warrant under this section, the officer must forward a written report
9 within 24 hours to the Director of the Immigration Division, providing reasons for not
10 having first obtained a warrant and appending documents or other evidence as
11 appropriate.

12
13 **§86. Power to enter and board ships, vessels or aircraft**

14 (1) Notwithstanding any other enactment to the contrary, the Director or any Immigration
15 Officer in the exercise of a function or duty under this Act, shall be authorized to –

- 16 (a) enter and board any ship, vessel or aircraft in the Republic;
17 (b) detain, question and examine any person on any ship, vessel or aircraft in the
18 Republic;
19 (c) require the production of documents by any person on any ship, vessel or aircraft
20 in the Republic.

21
22 **§87. Power to enter or access airports, docks and other approved ports of entry**

23 (1) Notwithstanding any other enactment to the contrary, the Director, Immigration Officers
24 and any other officer holding a valid warrant of designation or instrument of delegation
25 issued by the Minister, shall be authorized to enter or access any premise, area, building
26 or facility at any airport, dock or other place in the Republic which is an approved port of
27 entry.

28 (2) For the purposes of subsection (1), authorization to enter or access may mean in person or
29 by vehicular or other transport.

30
31 **§88. Complaints against officers performing functions under the Act**

- 1 (1) Any person wishing to make a complaint in relation to any officer exercising functions or
2 duties under this Act shall make that complaint, in writing, to the Attorney General.
- 3 (2) The Attorney General may request the Public Service Commission to discipline, or
4 initiate proceedings necessary under the Public Service Regulations against any officer,
5 upon being presented with evidence that the officer -
- 6 (a) accepted a bribe; or
7 (b) induced any person to pay a sum of money not prescribed by this Act, in relation
8 to any function or duty performed by that or any other officer; or
9 (c) assisted any person to obtain or extend a visa, permit or other document
10 unlawfully; or
11 (d) altered any record or register or any information required under the Act
12 unlawfully.

13 14 **PART XVI – TRANSITIONAL PROVISIONS**

15 16 **§89. Persons unlawfully in the Republic of the Marshall Islands as at date of enactment**

- 17 (1) This section applies to any person who is in the Republic without a visa or permit or who
18 has overstayed that visa or permit before the date of enactment and in respect of whom no
19 Deportation Order or Notice to Depart has been issued under the Immigration and
20 Emigration Act 1986.
- 21 (2) Any person who is in the Republic unlawfully as at the date of enactment shall apply in
22 the prescribed manner for a valid visa or permit. Applications must be submitted within a
23 specified period to be determined by the Attorney General and notified by the Division.
- 24 (3) Where the application for a visa or permit is granted, that person may continue remain in
25 the Republic for the period of validity. If the application is denied, the person must leave
26 the Republic immediately, or face removal or deportation proceedings under this Act.

27 28 **§90. Deportation orders in effect as at the date of enactment.**

- 29 (1) This section applies to any person who is in the Republic, and has been issued with a
30 Deportation Order or Notice to Depart under the Immigration and Emigration Act 1986.

- 1 (2) Any person who has been served with a Deportation Order or Notice to Depart before the
2 date of enactment must leave the Republic immediately, or face removal or deportation
3 proceedings under this Act.
4

5 **PART XVII – IMMIGRATION (BOND) FUND**

6
7 **§91. Administration of this Part**

- 8 (1) This Part of the Act shall be jointly administered by the Attorney General's Office,
9 Immigration Division and the Ministry of Finance.

- 10 (2) In this Part unless the context otherwise requires –

11 **“Immigration (Bond) Account”** means the bank account held by the Ministry of Finance and administered
12 by the Attorney General, Director of Immigration and the Secretary of the Ministry of Finance under section
13 92(2).
14

15 **§92. Immigration (Bond) Fund**

- 16 (1) There is hereby established a special revenue fund to be known as the Immigration
17 (Bond) Fund, which shall comprise of the sum of all bonds paid or forfeited under the
18 Act and regulations.

- 19 (2) All bonds must be paid in cash to the Ministry of Finance and deposited in the
20 Immigration (Bond) Account. Any interest earned may be used to cover the cost of
21 administering the bond system, and any surplus must be retained in the Immigration
22 (Bond) Account.

- 23 (3) The Immigration (Bond) Account shall be applied for the purposes of funding the
24 removal or deportation of any person who has -

25 (a) unlawfully remained in the Republic after his or her visa or permit has expired:

26 or

27 (b) breached the conditions of his or her visa or permit: or

28 (c) been convicted of any offence under this Act.

- 29 (4) A bond must only be used for the removal or deportation of the person in respect of
30 whom the bond attaches, and not any other person.

- 31 (5) The officers administering the Immigration (Bond) Account shall, no later than 1 October
32 each year, provide the Minister with a report setting out –

- 1 (a) the amount collected in bonds in the preceding year; and
2 (b) the total accumulated amount in the Immigration (Bond) Account; and
3 (c) how the Immigration (Bond) Fund Account was applied in the preceding year;
4 and
5 (d) the balance remaining in the Immigration (Bond) Account.
6 (6) The Minister shall present this report to the Nitijela within 14 days of its receipt.
7

8 **§93. Minister to prescribe bonds**

- 9 (1) The Minister shall, with the approval of Cabinet, prescribe the amount of any bond to be
10 paid as a pre-condition to the issuance of a visa under this Act.
11

12 **§94. Payment and refund of bonds**

- 13 (1) Every person who is required to pay a bond, must pay in the manner prescribed by
14 regulations under this Act.
15 (2) Where a person leaves the Republic before the expiry of a visa, that person may apply for
16 the bond to be refunded or to be retained in the Immigration (Bond) Account for the
17 purpose of obtaining a further visa.
18 (3) Any person who intends to apply for a refund of a bond must apply for a refund in the
19 prescribed manner within 12 months, or forfeit the bond to the Government.
20 (4) Any person who is entitled to a refund of a bond shall be paid within 30 calendar days of
21 the written request and all required documentation being received by the Director.
22

23 **§95. Minister to prescribe fees**

- 24 (1) The Minister shall, by regulations made under this Act, prescribe fees in relation to any
25 matter, appeal or service under or arising from this Act.
26 (2) All fees prescribed and collected under this Act must be paid to the Ministry of Finance
27 and deposited into the Ministry of Justice Special Revenue Fund.
28

29 **§96. Other charges**

- 30 (1) The Minister may, from time to time, prescribe fees for the following administrative
31 matters -

- 1 (a) a telephone information service for which each caller pays according to their
2 usage or on some averaged basis:
- 3 (b) the cost of mailing information:
- 4 (c) the cost of written material, unless required by regulations to be provided free of
5 charge:
- 6 (d) access to any website operated by the Ministry:
- 7 (e) supply of forms to a person, where it is apparent that the forms are not for
8 personal use.
- 9 (2) Other charges prescribed under this Act must be paid to the Ministry of Finance and
10 deposited into the Ministry of Justice Special Revenue Fund.

11

12 **§97. Fees and charges non-refundable**

- 13 (1) All fees and charges under the Act and regulations shall be non-refundable.
- 14 (2) All monies received under or pursuant to the Act and regulations shall be subject to the
15 provisions of the Financial Management Act 1990 and related regulations and policies of
16 the Republic.

17

18 **PART XVIII – MISCELLANEOUS PROVISIONS**

19

20 **§98. Relationship between this Act and the Labor (Non-Resident Workers) Act 2006**

- 21 (1) The Labor (Non-Resident Workers) Act 2006 shall govern the issuance, extension and
22 revocation of work permits. All matters arising from or relating to work permits shall be
23 governed by the provisions of that Act.
- 24 (2) This Act shall govern the issuance, extension and revocation of work visas. All matters
25 arising from or relating to work visas shall be governed by the provisions of this Act.

26

27 **§99. Regulations**

- 28 (1) The Minister shall, with the approval of Cabinet, promulgate regulations as necessary to
29 give effect to the provisions of this Act, for all or any of the following purposes -
- 30 (a) prescribing matters of procedure in relation to any application under this Act:
- 31 (b) prescribing conditions attached to visas and permits:

- 1 (c) prescribing fees and bonds in respect of any matters under this Act:
- 2 (d) prescribing forms for the purposes of this Act:
- 3 (e) prescribing Government immigration policy:
- 4 (f) prescribing regulatory offences and penalties:
- 5 (g) providing for such other matters as is contemplated by or necessary for giving
- 6 full effect to the provisions of the Act and for its due administration.

§100. Repeal

- 9 (1) The Immigration and Emigration Act 1986 (Title 43, MIRC Chapter 1) is hereby
- 10 repealed.

§101. Effective date

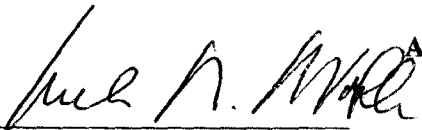
- 13 (1) This Act shall take effect upon certification in accordance with Article IV Section 21 of
- 14 the Constitution and in accordance with the Rules of Procedures of the Nitijela.

CERTIFICATE

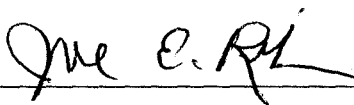
I hereby certify:

- 18 (1) That Nitijela Bill No: 100ND1 was passed by the Nitijela of the Republic of the
- 19 Marshall Islands on the 6th day of November, 2006; and
- 20 (2) That I am satisfied that Nitijela Bill No.: 100ND1 was passed in accordance
- 21 with the relevant provisions of the Constitution of the Republic of the Marshall
- 22 Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 5th day of December, 2006.

24  ^{Attest:}

26 **Ruben R. Zackhras**
 27 Vice-Speaker
 28 Nitijela of the Marshall Islands



Joe E. Riklon
 Clerk
 Nitijela of the Marshall Islands