

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
39TH CONSTITUTION REGULAR SESSION, 2018**



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

SOCIAL SECURITY (AMENDMENT) ACT 2018

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SOCIAL SECURITY (AMENDMENT) ACT 2018

AN ACT to amend certain sections of the Social Security Act in order to provide for taxi-drivers to be defined as employees and subject tax benefits, and owner of taxi to become the employer responsible for payment of tax contributions; to increase the percentage of lump-sum payment for workers who do not have enough accrued quarters; and to provide option for non-citizens or nationals to claim for lump-sum payment when they leave the Republic of the Marshall Islands.

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

§101. Short title.

This Act may be cited as the Social Security (Amendment) Act 2018.

§102. Amendment.

(1) Section 103(r) of the Social Security Act is amended as follows:

(r) "Earnings" means compensation of any kind, including without limiting any salary, wage, bonus, allowances or fee paid by the employer to or on behalf of the worker in cash or in any other form, but not including:

.....

(xiii) payments made in cash, or any form other than cash, for casual labor not exceeding one week in any month of a quarter if the work is not performed in the course of the employer's trade or business, except for taxi-drivers. For purposes of this Chapter, earnings shall be computed to the nearest cent.

(2) Section 103(s) of the Social Security Act is amended as follows:

- (s) "Employee" means any natural person who, under the common law rules applicable in determining the employer-employee relationship, has entered into or works under a contract with an employer in any capacity, excluding that of an independent contractor except for taxi-driver, whether the contract is express or implied, oral or written, requiring the personal execution of any work or labor and includes all employees of the Government of the Republic of the Marshall Islands, Local Governments, any firm, company, partnership, corporation, association, joint venture, religious organization or other entity, and all elected officials and self-employed workers.

(3) Section 162 of the Social Security Act is amended by inserting a new section, Section 162A to read as follows:

§162A. Taxi-drivers subject to tax.

- (1) Any person who operates taxi service by means of public service vehicle or motor vehicle owned by a person, or managed, maintained or operated by such person, under any form of arrangement with the owner or lessor of the vehicle or whether for hire or reward or for any other valuable consideration or money's worth or otherwise, shall subject to payment of tax for the taxi-driver of such service, provided that such service does not include a driver who is employed exclusively as domestic servant as specified under section 103(r) of the Social Security Act. For the purposes of this section, 'taxi services' includes water taxi.
- (2) Any person who owns a taxi service is deemed to be the employer, or employer and self-employer as the case maybe, and for the purposes of this section shall be responsible for the withholding and payment of employer and employee contributions.

(3) The Administrator shall promulgate regulation on the contributions for the taxi owners and taxi drivers.

(4) Section 141 of the Social Security Act is amended as follows:

§141. The lump sum benefit.

- (1) If a worker or self-employed worker permanently ceases to work for reason of old age, illness, physical disability or any other reason which has an adverse effect on the ability of such person to perform his or her duties, and rights to insurance benefits under Sections 36 through 39 of this Act with respect to the worker or self-employed worker have not otherwise accrued, a lump sum benefit equal to eighty percent (80%) of his or her cumulative contributions to the retirement fund shall be paid to such worker.
- (2) If after a worker or a self-employed worker dies and all rights to survivor's insurance benefits with respect to the worker or the self-employed worker have ceased, a lump sum benefit equal to eighty percent (80%) of his or her cumulative contributions to the retirement fund, less the amount of the benefits actually received by the worker or the self-employed worker, or his survivors, if any, shall be paid as set forth in Subsections (3) and (4) of this Section.
- (3) The lump sum benefit payable under Subsection (2) shall be paid to the spouse, and in the absence of the spouse, shall be paid to the children in equal shares, or guardian, if such children are minors, and in the absence of both, shall be paid to the parents in equal shares.
- (4) In the absence of any of the persons referred to in Subsection (3), the lump sum benefit shall be paid to the persons specified under the prevailing laws and customs with respect to intestate succession in the domicile of the deceased worker's or the deceased self-employed worker's at his or her death.
- (5) If a non-citizen worker or self-employed worker permanently ceases to work and leave the Republic of the Marshall Islands, he or she may elect to benefit under Sections 36 through 39 of this Act with respect to the worker or self-employed worker, a lump sum benefit equal to eighty percent (80%) of cumulative

contributions to the retirement fund, the ("Lump Sum Benefit"), shall be paid to such worker or self-employed worker. If however, a worker or self-employed worker elect to resides in the Republic of the Marshall Islands and ceases to work for reason of old age, illness, physical disability or any other reason, he or she may benefit on monthly cash benefits under Sections 36 through 39 of this Act, provided that where the worker or self-employed worker later elect a lump-sum benefit, such a lump sum benefit equal to eighty percent (80%) of his cumulative contributions to the retirement fund, less the amount of the benefits actually received by the worker or the self-employed worker.

- (6) Any beneficiary who receives benefits prior to the effective date of this provision will be grandfather and may elect for lump-sum payment of eighty percent (80%) of his cumulative contributions to the retirement fund, less the amount of the benefits actually received by the worker or the self-employed worker, except where beneficiary who exceeded his or her cumulative covered earnings and continues to received benefits, he or she or his or her survivor shall benefit only on monthly cash benefits under Sections 36 through 39 of this Act.
- (7) From the eighty percent (80%) lump sum payment, thirty percent (30%) shall be withheld by the Administrator for not less than 90 days from the disbursement of said payment before the Administrator distributes it to the worker or self-employed worker or his or her beneficiaries.

(5) Section 142 of the Social Security Act is amended as follows:

§142. Payment to non-citizens overseas not present.

- (1) Unless modified by a totalization or bilateral agreement, or benefitted from lump-sum payment under Section 141, no more than six (6) months of benefit payments under this Chapter shall be paid to any beneficiary who is not a citizen or national of the Republic and who has been residing outside of the Republic, or country of recipient for more than six consecutive months; provided, however, payments shall be made to citizens and

nationals of the Federated States of Micronesia, the Republic of Palau, and the United States as if they were citizens or nationals of the Republic, if the Federated States of Micronesia, Republic of Palau, and the United States, respectively, extend reciprocal benefits to citizens of the Marshall Islands.

- (2) Notwithstanding any other provisions of this Chapter, this Chapter shall not operate to reduce or otherwise impair the benefits being paid to the beneficiaries on the day before the effective date of this Chapter.

§103. Effective date.

This Act shall take effect on the date of certification in accordance with Article IV of the Constitution and the Rules and Procedures of the Nitijela.

CERTIFICATE

I hereby certify:

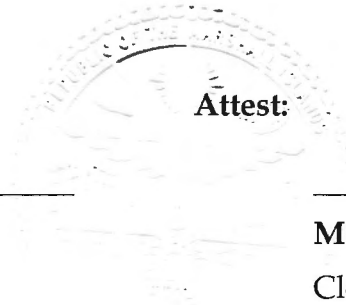
1. That Nitijela Bill No: 148 was passed by the Nitijela of the Republic of the Marshall Islands on the 2nd day of November 2018; and
2. That I am satisfied that Nitijela Bill No: 148 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 22nd day of November 2018.

Attest:



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




Morean S. Watak
Clerk
Nitijela of the Marshall Islands