

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL

FOR AN ACT

To amend Chapter 1, Title 33 of the MIRC by repealing the Marine Zones Act of 1984, and replace with the Maritime Zones Declaration Act to provide for all the internal waters, the archipelagic waters, the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf of the Republic of the Republic of the Marshall Islands.

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

PART 1

PRELIMINARY

Section 101. Short Title

This Act may be cited as the Republic of the Marshall Islands Maritime Zones Declaration Act, 2016.

Section 102. Interpretation

(1) In this Act:

(a) “**archipelago**” means a group of islands, including parts of islands, interconnecting waters and other natural features, which are so closely interrelated that they form an intrinsic geographical, economic and political entity, or have historically been regarded as such;

(b) “**local government waters**” means the waters lying within the jurisdiction of a local government pursuant to Article IX, subsections 1(2) and (3) of the Constitution of the Republic of the Marshall Islands;

(c) “**conservation and management**” includes all rules, regulations methods and

1 measures that:

2 (i) are required to build, restore or maintain, or are useful in building,
 3 restoring or maintaining, any fishery resources or the marine environment.

4 (ii) are designed to ensure that:

5 (A) a supply of food and other products may be taken, and
 6 recreational benefits obtained, on a continuing basis;

7 (B) Irreversible or long-term ill effects on fishery resources or the
 8 marine environment are avoided; and

9 (C) there will be a multiplicity of options available with respect to
 10 use of those resources.

11 (d) “**Fishery resource**” means any fishery, stock of fish, species of fish or habitat
 12 of fish;

13 (e) “**geodetic datum**” means World Geodetic System 1984 (WGS84);

14 (f) “**lagoon**” means the waters lying within the reef of an atoll;

15 (g) “**low-water line**” means the line of low water at the lowest astronomical tide;

16 (h) “**nautical mile**” means an international nautical mile of 1,852 metres;

17 (i) “**the Minister**” means the Minister or Ministers in charge of the subject matters of
 18 this Act.

19 (2) For the purposes of this Act, permanent harbor works that form an integral part of
 20 a harbor system shall be regarded as forming part of the coast, but this subsection does not
 21 apply to off-shore installations or artificial islands.

22

23 Section 103. References to International Law

24 Where in this Act it is provided that anything shall be done by the Government of the

1 Marshall Islands or by Cabinet, or any law or order shall be made, or any other thing shall be
2 done, in accordance with the rules of international law, the question whether it was so done or
3 made, is non-justiciable.

4
5 **Section 104. Application of this Act**

6 The provisions of this Act shall be read subject to the provisions of any other treaty or
7 international obligation which is finally accepted by or on behalf of the Republic and
8 approved by the Nitijela by Resolution.

9

10

PART 2

11

LOCAL GOVERNMENT WATERS

12 **Section 105. Local Government Waters**

13 The Minister may confirm by declaration the outer limits of waters lying within the
14 jurisdiction of a local government pursuant to Article IX, section 1(2) and (3) of the
15 Constitution of the Republic of the Marshall Islands. Such a declaration shall only be made
16 following consultation between the National Government and the relevant local government.

17

18

PART 3

19

TERRITORIAL SEA

20

21 **Section 106. The Territorial Sea**

22 (1) Subject to subsection (2), the territorial sea comprises those areas of the sea having:

23 (a) as their inner limits, the baseline described in section 107(1); and

24 (b) as their outer limits, a line measured seaward from that baseline, every point of
25 which is distant 12 nautical miles from the nearest point of that baseline.

1 (2) Where archipelagic baselines are drawn pursuant to section 107(2), the territorial sea
2 comprises those areas of the sea referred to in subsection (1) above and, to the extent that
3 they are not thereby included, those additional areas of the sea having:

- 4 (a) as their inner limits, archipelagic baselines referred to in section 107(2); and
5 (b) as their outer limits, a line measured seaward from those archipelagic baselines,
6 every point of which is distant 12 nautical miles from the nearest point of those
7 archipelagic baselines.

8
9 **Section 107. Baselines of the Territorial Sea**

10 (1) Subject to subsection (2) below, the baseline from which the breadth of the territorial sea
11 is measured shall be:

12 (a) where a reef is present

13 (i) the low-water line of the seaward side of the reef fringing the coast of any
14 part of the Republic or bounding any lagoon adjacent to any part of that coast;
15 and

16 (ii) where there are breaks in reefs or entrances to lagoons, any closing lines
17 drawn between the natural entrance points at low water or between the
18 geographic coordinates of points declared by order of the Minister; or

19 (b) where a reef is not present, the low-water line of the coast itself and outermost
20 permanent harbour works.

21 (2) Where there is an archipelago, the Minister may, by order, declare, in accordance with
22 international law, the geographic coordinates of points between which archipelagic baselines
23 are to be drawn.

1 (3) Archipelagic baselines drawn pursuant to subsection (2) above shall not affect the
2 baselines referred to in Article IX, subsection 1(2) of the Constitution of the Republic of the
3 Marshall Islands.

4

5 Section 108. Internal waters

6 The internal waters of the Republic are all waters on the landward side of the low-water line
7 and closing lines described in section 107(1), including lagoons.

8

9

PART 4

10

ARCHIPELAGIC WATERS

11

12 Section 109. Archipelagic Waters

13 The archipelagic waters of the Republic comprise all waters, other than internal waters,
14 enclosed by the archipelagic baselines drawn pursuant to section 107(2).

15

16 Section 110. Reserved

17

18

PART 5

19

CONTIGUOUS ZONE

20

21 Section 111. Contiguous Zone

22 (1) Subject to subsection (2) below, the contiguous zone of the Republic comprises
23 those areas of the sea that are beyond and adjacent to the territorial sea, having as their outer
24 limits a line measured seaward from the baseline described in section 107(1) every point of
25 which is distant 24 nautical miles from the nearest point of that baseline.

26

1 (2) Where an archipelagic baseline is drawn pursuant to section 107(2), the outer
2 limits of the contiguous zone are a line measured seaward from that archipelagic baseline,
3 every point of which is distant 24 nautical miles from the nearest point of that archipelagic
4 baseline.

5
6 **PART 6**

7 **EXCLUSIVE ECONOMIC ZONE**

8
9 **Section 112. Exclusive Economic Zone**

10 (1) Subject to subsections (2) and (3) below, the exclusive economic zone of the Republic
11 comprises those areas of the sea, seabed and subsoil that are beyond and adjacent to the
12 territorial sea, having as their outer limits a line measured seaward from the baseline
13 described in section 107(1), every point of which is not more than 200 nautical miles from
14 the nearest point of that baseline.

15
16 (2) Where an archipelagic baseline is drawn pursuant to section 107(2), the outer limits of the
17 exclusive economic zone are a line measured seaward from that archipelagic baseline, every
18 point of which is not more than 200 nautical miles from the nearest point of that archipelagic
19 baseline.

20 (3) The Minister may, by order, declare that the outer limits of the exclusive economic zone
21 of the Republic are such as are specified in the order.

22
23 **PART 7**

24 **CONTINENTAL SHELF**

25 **Section 113. Continental Shelf**

1 (1) Subject to subsections (2) and (3), the continental shelf of the Republic comprises
2 those parts of the seabed and subsoil of the submarine areas beyond and adjacent to the
3 territorial sea, having as their outer limits a line measured seaward from the baseline
4 described in section 107(1), every point of which is not more than 200 nautical miles from
5 the nearest point of that baseline.

6 (2) Where an archipelagic baseline is drawn pursuant to section 107(2), the outer
7 limits of the continental shelf are a line measured seaward from that archipelagic baseline,
8 every point of which is not more than 200 nautical miles from the nearest point of that
9 archipelagic baseline.

10 (3) The Minister may, by order, declare that the outer limits of the continental shelf of
11 the Republic are such as are specified in the order.

12
13 **PART 8**

14 **RIGHTS IN THE MARITIME ZONES**

15 **Section 114. Legal Character of Maritime Zones**

16 The sovereignty of the Republic of the Marshall Islands extends to its land areas, internal
17 waters, local government waters, territorial sea and archipelagic waters, and to the airspace
18 over them and the seabed and subsoil under them, and the resources contained in them.

19
20 **Section 115. Rights in the Contiguous Zone**

21 Within the contiguous zone, the Republic has all rights necessary:

- 22 (a) to prevent infringement of its customs, fiscal, immigration and sanitary laws and
23 regulations within its land areas, territorial sea and archipelagic waters; and

1 (b) to punish any such infringement, and all relevant laws of the Republic extend to
2 the contiguous zone accordingly.

3
4 **Section 116. Rights in the Exclusive Economic Zone and Continental Shelf**

5 (1) Within the exclusive economic zone, the Republic has sovereign rights:

6 (a) for the purposes of exploring and exploiting, conserving and managing the natural
7 resources, whether living or non-living, of –

8 (i) the seabed;

9 (ii) the subsoil under the seabed; and

10 (iii) the waters over the seabed; and

11 (b) with regard to other activities for the economic exploitation and exploration of the
12 zone, such as the production of energy from the water, currents and winds.

13 (2) Within the continental shelf, the Republic has:

14 (a) sovereign rights for the purpose of exploring it and exploiting its natural resources;

15 and

16 (b) exclusive rights to authorise and regulate drilling on it for all purposes.

17 (3) Within the exclusive economic zone and the continental shelf, the Republic has the
18 exclusive right to construct, authorise and regulate the construction, operation and use of:

19 (a) artificial islands;

20 (b) installations and structures for the purposes provided in subsection (1), marine
21 scientific research, the protection and preservation of the marine environment and other
22 economic purposes; and

23 (c) installations and structures which may interfere with the Republic's exercise of its
24 rights in the exclusive economic zone or continental shelf.

1 (4) Within the exclusive economic zone and continental shelf, the Republic has exclusive
 2 jurisdiction over the artificial islands, installations and structures referred to in subsection (3),
 3 including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and
 4 regulations.

5 (5) Within the exclusive economic zone and continental shelf, the Republic:

6 (a) has jurisdiction with respect to protection and preservation of the marine
 7 environment, and

8 (b) has the right to regulate, authorise and conduct marine scientific research.

9 (6) Within the contiguous zone, the exclusive economic zone and the continental shelf, the
 10 Republic has such other rights as are conferred or recognised by international law.

11

12 **Section 117. Rights of other States in Maritime Zones**

13 (1) The Minister may, by order:

14 (a) designate sea lanes and air routes suitable for the continuous and expeditious
 15 passage of foreign ships and aircraft through and over the archipelagic waters and the
 16 adjacent territorial sea;

17 (b) prescribe traffic separation schemes for the purpose of ensuring the safe passage
 18 of ships through narrow channels in any such sea lanes; and

19 (c) prescribe sea lanes and traffic separation schemes for foreign ships exercising the
 20 right of innocent passage through the territorial sea.

21 (2) In sea lanes and air routes designated under subsections (1)(a) and (1)(b), all ships and
 22 aircraft may, in accordance with international law, enjoy the right of navigation and
 23 overflight, in their normal modes, for the purpose of continuous, expeditious and
 24 unobstructed transit through and over the archipelagic waters and the adjacent territorial sea,

1 from one part of the high seas or exclusive economic zone to another part of the high seas or
2 exclusive economic zone.

3 (3) Until sea lanes and air routes are designated under subsections (1)(a) and (1)(b), the rights
4 of navigation and overflight referred to in subsection (2) may be exercised through and over
5 all routes normally used for international navigation and overflight.

6 (4) Subject to subsections (2) and (3), ships of all States have, in accordance with
7 international law, the right of innocent passage through the territorial sea and the archipelagic
8 waters of the Republic.

9 (5) Subject to this Act, any other law of the Republic, and international law, all States shall
10 enjoy in the exclusive economic zone the high seas freedoms, navigation and overflight and
11 of the laying of submarine cables and pipelines, and all other internationally lawful uses of
12 the sea related to those freedoms.

13 (6) Subject to this Act and any other law of the Republic all States may lay submarine cables
14 and pipelines on the continental shelf in accordance with international law.

15

16

PART 9

17 **DECLARATIONS, REPEAL OF MARINE ZONES (DECLARATION) ACT AND**

18

REGULATIONS

19 Section 118. Declarations and official charts

20 (1) The Minister may, by order, declare:

21 (a) the geographic coordinates of the points on the baseline described in section

22 107(1); or

1 (b) the geographic coordinates of the limits of the whole or any part of the local
2 government waters, territorial sea, archipelagic waters, the contiguous zone, the
3 exclusive economic zone and the continental shelf.

4 (2) The Minister may cause the points, lines or limits declared pursuant to sections 107(1),
5 107(2), 112(3), 113(3), and 118(1) to be clearly indicated on charts of a scale or scales
6 adequate for them to be readily determined.

7

8 **Section 119. Evidentiary provisions**

9 In any proceedings before a court or person acting judicially, a certificate signed by the
10 Minister stating that a specified nautical chart is a chart to which section 118(2) applies is
11 evidence of the matters stated in the certificate, and the chart is evidence of the matters set
12 out in it.

13

14 **Section 120. Repeal of Marine Zones (Declaration) Act 1984**

15 The Marine Zones (Declaration) Act 1984 is repealed in its entirety.

16

17 **Section 121. Consequential amendments**

18 (1) A reference to the Marine Zones Declaration Act 1984 in any laws of the Republic
19 shall be read as a reference to this Act.

20 (2) Section 605(1)(d) of the Admiralty Jurisdiction Act 1986 is amended by deleting ‘as
21 defined in the Marine Zones (Declaration) Act 1984’ and after the words ‘territorial
22 sea’ inserting ‘and archipelagic waters as defined in the Maritime Zones Declaration
23 Act 2016.’

- 1 (3) Section 302 of the Tuna and Game-Fish Conservation Zone Act 1996 is amended by
2 inserting '(1A) For the purposes of this Chapter, "base line" means the baseline
3 referred to in section 106(1) of the Maritime Zones Declaration Act 2016.'
- 4 (4) Section 113(c) of the Regulation and Control of Shipping Act 1966 is amended by
5 deleting 'as defined and described in Section 107 of the Marine Zones (Declaration)
6 Act 1984' and after the words 'territorial sea' inserting 'and archipelagic waters as
7 defined in the Maritime Zones Declaration Act 2016.'
- 8 (5) Section 130(1) of the Environmental Protection Authority Act 1984 is amended by
9 deleting 'territorial waters' and inserting 'waters within the jurisdiction of the
10 Republic.'
- 11 (6) The Coast Conservation Act 1988 is amended as follows:
- 12 (a) Section 302 insert 's.302(aa) "archipelagic waters" means the area of sea declared
13 to be the archipelagic waters of the Republic of the Marshall Islands under the
14 Maritime Zones Declaration Act 2016';
- 15 (b) Section 302(m) delete the definition of "straight base line"; and
- 16 (c) Section 328 after 'territorial sea' insert 'and archipelagic waters.'
- 17 (7) Section 112(7) of the Maritime Administration Act 1990 is amended by inserting after
18 'territorial waters' the words ', archipelagic waters'.
- 19 (8) Section 903(4)(iii) of the Domestic Watercraft Act 1992 is amended by deleting
20 'territorial waters, and exclusive economic zone as defined in the Marine Zones
21 (Declaration) Act 1984' and inserting 'archipelagic waters, territorial sea and
22 exclusive economic zone as defined in the Maritime Zones Declaration Act 2016'.
- 23 (9) The Marine Resources Act 1997 is amended as follows:

- 1 (a) Section 25(4)(e)(i) delete ‘five miles of the baseline from which the territorial sea
 2 is measured’ and replace with ‘local government waters’;
- 3 (b) Section 43(1) delete ‘five miles of the baseline from which the territorial sea of
 4 any atoll or island is measured’ and replace with ‘local government waters’;
- 5 (c) Section 43(2) delete ‘internal waters and with its waters up to five miles seaward
 6 of the baseline from which the territorial sea is measured’ and replace with ‘local
 7 government waters’; and
- 8 (d) Section 43(5) delete ‘extending up to five miles seaward from the baseline from
 9 which the territorial sea is measured’ and replace with ‘local government waters’.

10

11 Section 122. Regulations

12 The Minister may make regulations to give effect to this Act, including but not limited to the
 13 following:

- 14 (a) regulating the conduct of marine scientific research within the exclusive economic
 15 zone and continental shelf;
- 16 (b) regulating the exploration and exploitation, conservation and management of the
 17 natural resources within the exclusive economic zone;
- 18 (c) regulating the exploration and exploitation of the exclusive economic zone for the
 19 production of energy from the water, currents and winds, and for other economic purposes;
- 20 (d) regulating the construction, operation and use of artificial islands, installations and
 21 structures within the exclusive economic zone and the continental shelf, including
 22 requirements for the establishment of safety zones around any such island, installation or
 23 structure;

- 1 (e) prescribing measures for the protection and preservation of the marine
2 environment of the exclusive economic zone and continental shelf;
- 3 (f) regulating the exploration and exploitation of the continental shelf and of its
4 natural resources;
- 5 (g) regulating drilling on the continental shelf; and
- 6 (h) providing for such other matters as are necessary or expedient to give effect to the
7 rights and obligations of the Republic in relation to its internal waters, local government
8 waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone and
9 continental shelf, or as are necessary to give full effect to the provisions of this Act.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Dated: 8/10/16

Introduced by:

Johov Sikh

PRINT NAME

[Signature]

Signature

PRINT NAME

Signature

BILL SUMMARY

1
2
3 **Overview**

4 The Bill proposes to amend Chapter 1, Title 33 of the MIRC by repealing and replacing the
5 Marine Zone (Declaration) Act of 1984. The Bill seeks to confirm and codify in domestic
6 law the maritime zones and the geographical extent of RMI's maritime jurisdiction consistent
7 with international law, as codified in the United Nations Convention on the Law of the Sea
8 (UNCLOS). These maritime zones include all the internal waters, the archipelagic waters,
9 the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf
10 of the Republic of the Marshall Islands. It is the intention of the Bill to provide the basis for
11 the RMI Government to maximize the areas of RMI's sovereignty, sovereign rights and
12 maritime zones by declaring in geographical coordinates the coastal baselines and the outer
13 limits of RMI's maritime zones, and submitting these to the United Nations, as required by
14 the UNCLOS. This will confirm RMI's maritime zones and areas of exclusive jurisdiction
15 (including fisheries jurisdiction) in the eyes of the international community, and ensure that
16 they are maintained for future generations.

17
18 **Background**

19 As a Party to the UN Convention on the Law of the Sea (UNCLOS), RMI is entitled to
20 declare and exercise jurisdiction in a series of maritime zones, which are measured outwards
21 from RMI's coastal baselines. Indeed, under UNCLOS, RMI has an international legal
22 obligation to declare the geographical coordinates of its coastal baselines and the outer limits
23 of its maritime zones, and submit these to the United Nations. Once the relevant
24 geographical coordinates have been submitted to the United Nations Division for Ocean

1 Affairs and the Law of the Sea, and published by that office, they will provide jurisdictional
2 certainty and become binding on other countries and all vessels entering RMI waters.

3

4 The clear international codification of the extent of RMI's maritime jurisdiction is important
5 in view of the implications of climate change. The latest climate science projects a rise in
6 global sea level of at least 1.3 meters before 2100. This would have a profound impact on
7 RMI's territory, including loss of some territory that would be used as the basis for measuring
8 RMI's maritime jurisdiction. Prompt declaration of the geographical coordinates required to
9 define RMI's baselines, and the outer limits of its maritime zones, therefore provides the best
10 possible safeguard against any future loss of maritime jurisdiction.

11

12 **Contents of the Bill**

13 Part 1 contains the short title and defines a number of terms used in the Act.

14

15 Part 2 confirms local government waters and jurisdiction as established in the RMI
16 Constitution.

17

18 Part 3 contains the basis for establishing the extent of RMI's territorial sea, including through
19 the use of archipelagic baselines where appropriate. It also sets out the processes for the
20 definition of RMI's Internal waters. Within its territorial sea, RMI is entitled to exercise its
21 full sovereignty and may apply all its laws with respect to all persons and activities.

22

1 Part 4 defines the extent of RMI's archipelagic waters. Within its archipelagic waters, RMI is
2 entitled to exercise its full sovereignty and may apply all its laws with respect to all persons
3 and activities.

4
5 Part 5 defines the extent of RMI's contiguous zone. Within its contiguous zone, RMI may
6 apply laws to prevent infringement of its customs, fiscal, immigration or sanitary laws and
7 regulations applicable within its territory or territorial sea.

8
9 Part 6 defines the extent of RMI's Exclusive Economic Zone (EEZ). Within its EEZ, RMI
10 has exclusive sovereign rights to explore and exploit the living and non-living natural
11 resources of the water column, seabed and subsoil. RMI's jurisdiction within the EEZ also
12 extends to the establishment and use of artificial islands, installations and structures, marine
13 scientific research, and the protection and preservation of the marine environment.

14
15 Part 7 defines the extent of RMI's Continental Shelf. Within its Continental Shelf, RMI has
16 sovereign rights to explore and exploit its natural resources, and exclusive rights to authorise
17 and regulate drilling on it for all purposes.

18
19 Part 8 codifies certain of the rights of RMI and of other States within RMI's maritime zones.

20
21 Part 9 sets out the powers of the Minister or Ministers in charge of the subject matters of the
22 Act to make declarations regarding geographical coordinates under the Act, including their
23 representation on maritime charts, and also to promulgate regulations to give effect to the Act.

24 This includes the possibility of confirming by declaration the outer limits of water lying

1 within the jurisdiction of a local government ('Local Government Waters') as defined by
2 Article IX of the Constitution of the Republic of the Marshall Islands, however such
3 declaration shall only be made following consultation between the National Government and
4 the relevant local government.

5

6 The Bill also repeals the Marine Zones (Declaration) Act of 1984, and makes consequential
7 amendments to several other Acts.

8

9