

1 (2) Contracts which do not comply with Subsection (1)
2 are void and unenforceable in law or equity, except that the Government
3 has the right to recover any monies expended under such a contract.

4 (3) The Secretary of Finance shall promulgate rules pertaining
5 to purchase orders, and shall use such forms as are approved by the
6 Attorney General or his designee.

7 Section 4. Suits authorized.

8 (1) The Attorney General may sue -

9 (a) to avoid the obligation of any contracting officer,
10 department or agency to pay under contract; or

11 (b) to recover payments made,
12 if services performed under the contract are so unsatisfactory
13 or incomplete, or so inconsistent with the price that payment would
14 involve unjust enrichment.

15 (2) The contrary opinion of the contracting officer, department
16 or agency involved does not affect the authority of the Attorney General
17 under this section.

18 PART III. - TORT LIABILITY.

19 Section 5. Limitation of liability.

20 (1) The Government shall not be liable for more than -

21 (a) \$25,000 in any action for wrongful death; or

22 (b) \$50,000 in any other tort action; or

23 (c) \$50,000 in the aggregate for any number of tort claims
24 arising out of a single occurrence.

25 (2) Awards or resettlements to multiple claimants which would
26 exceed \$50,000 shall be fairly apportioned not to exceed \$50,000 in the aggregate

1 aggregate.

2 (3) If the Government is insured for a greater amount the
3 liability shall be the same as the insurance coverage.

4 (4) The Government shall not be liable for interest prior
5 to judgement nor for punitive damages.

6 Section 6. Liability for employee's conduct.

7 (1) Subject to subsection (2), the Government is liable for
8 the torts of its officers, agents and employees, while working in the scope
9 of their employment, under circumstances where the Government, if a
10 private person, would be liable to the claimant.

11 (2) The Government is not liable for the following acts
12 or omissions of its officers, agents, or employees: -

13 (a) an act or omission of an officer, agent or employee
14 exercising due care in the execution of a valid or invalid statute,
15 regulation, or Cabinet order; or

16 (b) the performance or failure to perform a discretionary
17 duty, whether or not the discretion is abused; or

18 (c) the assessment or collection of taxes, or the detention
19 of any goods or merchandise by any law enforcement, tax or customs
20 officer; or

21 (d) the imposition or establishment of a quarantine; or

22 (e) an assault or battery, except an assault or battery
23 committed by a policeman acting in the line of duty, false arrest,
24 malicious prosecution, abuse of process, libel, slander, misrepresentation,
25 deceit or interference with contract rights; or

26 (f) denial or, or failure to make, a medical referral to

1 a medical facility outside the Marshall Islands.

2 PART IV. - CLAIMS AGAINST THE GOVERNMENT.

3 Section 7. Filing of claims.

4 All tort and contract claims against the Government shall
5 be filed with the Attorney General, and shall contain the following: -

6 (a) the complete name and address of the claimant; and

7 (b) the amount of damages or other relief claimed; and

8 (c) a concise statement of the facts on which the claim
9 is based, including the time, place and other circumstances, and the
10 Department or agency of the Government that is concerned; and

11 (d) a copy of any contract or other instrument in writing
12 upon which the claim is based; and

12 (e) a statement, whether or not the claimant has received
14 any payment on account of such claim, and if so, the amount received; and

15 (f) a statement, whether or not any third person has
16 any interest in the claim, and, if so, the name and address of the
17 person having the interest and the nature of the interest; and

18 (g) if the claimant is an executor, administrator, guardian
19 or other representative, appointed by a judicial tribunal, a duly
20 certified copy of the record of appointment; and

21 (h) a statement, whether or not the claimant has any
22 insurance covering the damage alleged to have been suffered by him,
23 and of any payments he has received from the insurance carrier.

24 Section 8. Claim to be signed and sworn to.

25 The claim shall be signed by the claimant and sworn to him

1 before a person authorized to administer oaths.

2 Section 9. Limitation of filing.

3 All tort and contract claims must be filed with the Attorney
4 General within six months from the date when the claim arose, or within
5 six months of the effective date of this Act, whichever is later.

6 Section 10. Investigation.

7 The Attorney General shall cause each claim to be investigated
8 to determine its merits.

9 Section 11. Ancillary powers of Attorney General.

10 In making his investigation, the Attorney General, or a member
11 of his staff designated by him, has the authority to administer oaths to
12 claimants and witnesses, and to require the production of any books, records
13 or documents that may be material or relative as evidence in connexion
14 with the claim.

15 Section 12. Penalty for false swearing.

16 If any claimant or witness swears falsely to any material fact
17 in an investigation of a pending claim, the false swearing, whether by
18 affidavit or orally, is a misdemeanor, and is punishable by imprisonment
19 for not more than one year or by a fine not exceeding \$1,000 or both.

20 Section 13. Hearing.

21 The Attorney General, or a member of his staff designated
22 by him, may, in his discretion, conduct a formal hearing in connexion
23 with the investigation of any claim.

24 Section 14. Settlement of claims.

25 (1) The Attorney General may arbitrate or settle any claim
36 filed under this Part for \$3,000 or less with the approval of the Chief

1 Secretary, and for more than \$3,000 with the approval of the Cabinet.

2 (2) The Attorney General may recommend other relief if appropriate.

3 Section 15. Actions against the Government.

4 (1) A claimant may institute an action in contract or tort,
5 for money damages only, against the Government provided that -

6 (a) the claimant has been notified by certified mail that
7 his claim has been rejected, in whole or in part; or

8 (b) three months have elapsed since the date of filing
9 the claim under Section 7.

10 (2) Service of process shall be upon the Attorney General.

11 Section 16. Limitation on actions.

12 No action shall be instituted for a sum in excess of the
13 amount of the claim presented to the Attorney General, unless the increased
14 amount of the claim is shown to be based upon new evidence not reasonably
15 discoverable at the time when the claim was filed with the Attorney General.

16 Section 17. No jury trial.

17 Trial shall be without jury.

18 Section 18. Interest, costs and attorney fees.

19 (1) The Government is liable for interest only from the date
20 of judgement, at the rate of 6%, except that in an action on a contract
21 the Government shall also be liable for pre-judgement interest at the
22 rate of 0.5% a month.

23 (2) The Government is not liable for punitive damages or attorney
24 fees.

25 Section 19. Settlement of suits.

26 Subject to the approval of the court in which the action is

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1 pending, the Attorney General is authorized to settle a suit at any time
2 before final judgment in the manner prescribed by Section 14.

3 Section 20. Payment of claims of \$3,000 and under. (Suspended)

4 (1) Settlement or final judgments in the amount of \$3,000
5 or less against the Government shall be presented promptly to the Secretary
6 of Finance by the Attorney General.

7 (2) If the Secretary of Finance determines that there is
8 sufficient money in one or more general operation or management appropriations
9 to the Department or agency from whose activities the claim arose to pay
10 all or part of the claim from that source without unduly hindering the
11 operation of that Department or agency, then the Secretary of Finance
12 shall make such payment or partial payment from that source.

13 (3) In the event of partial payment, the balance of the
14 settlement of final judgment shall be paid from that Department's or
15 agency's next general appropriation or by special appropriation, whichever
16 occurs earlier.

17 Section 21. Payment of claims over \$3,000. (Suspended)

18 Settlements of final judgments over \$3,000 shall be paid
19 only upon specific appropriation, except that the Secretary of Finance
20 may make a partial payment not exceeding \$3,000 as under Section 20.

21 Section 22. Release.

22 (1) Payments under Section 20 or 21 shall be made only upon
23 receipt of a written release by the claimant in a form approved by the
24 Attorney General or his designee.

25 (2) Acceptance of a partial payment under Section 20 or 21
26 does not constitute a waiver of payment of the balance of the settlement
27 or judgment.

1 Section 23. Statute of Limitations.

2 Every tort or contract action is barred unless commenced
3 within one year from the date the claim was filed with the Attorney
4 General under Section 7, or within 6 months from the date of notification
5 of rejection of the claim under Section 15, whichever is sooner.

6 PART V. - MISCELLANEOUS.

7 Section 24. Liability during transition. (Suspended)

8 The Government is not liable for any tort arising out of the
9 administration of any function prior to the transfer of that function pursuant
10 to Secretarial Order 3039 and the Memorandum of Understanding between the
11 Government of the Trust Territory of the Pacific Islands and the Government
12 of the Marshall Islands, which became effective on June 8, 1979.

13 Section 25. Penalties.

14 (1) A person who knowingly presents, or attempts to present,
15 a false or fraudulent claim, or a Government officer, agent or employee
16 who knowingly participates, or assists, in the preparation or presentation
17 of a false or fraudulent claim, or who knowingly enters or attempts
18 to enter into a contract in violation of Section 3, or who knowingly makes
19 or attempts to make a payment on a claim in violation of Part IV, is guilty
20 of a misdemeanor and punishable by imprisonment for not more than one year
21 or by a fine not exceeding \$1,000 or both.

22 (2) If a person convicted under this section is a Government
23 official, he shall forfeit his office.

24 Section 26. Claim forfeited by fraud.

25 Any person who intentionally submits a false claim or attempts

1 to commit a fraud against the Government or its insurance carrier in the
2 proof, statement, establishment, or allowance of any claim, or any part
3 of any claim, forfeits the entire claim to the Government.

4 Section 27. Retroactive effect. (Suspended)

5 The provisions of Section 24 shall be applied retroactively.

6 Section 28. Severability.

7 If any part of this Act is suspended pursuant to Secretarial
8 Order 3039 or is held to be unconstitutional, such suspension or finding
9 shall not effect the remainder of this Act, which shall continue in full
10 force and effect.

11 Section 29. Effective date.

12 This Act shall be effective on the date which it becomes law.

13 Certificate

14 I hereby certify:

15 (1) that the above Nitijela Bill No. 55 has been passed
16 by the Marshall Islands Nitijela on the 13th day of December 1980; and

17 (2) that I am satisfied that Bill No. 55 has been passed in
18 accordance with the Constitution of the Marshall Islands and the Rules
19 of the Nitijela

20 I hereby place my signature before the Clerk of the Nitijela this 19th
21 day of December, 1980.

22

23 /s/ Atlan Anien
Atlan Anien, Speaker
Marshall Islands Nitijela

1 Attest:

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3 /s/ Donald F. Capelle

4 Donald F. Capelle, Clerk
5 Marshall Islands Nitijela

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6 Concurred by High Commissioner Adrian P. Winkel 1/10/81