

AN ACT

For the better interpretation and application of statutes, in relation to the Cabinet and the Public Service.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

PART I. - PRELIMINARY.

1 Section 1. Short title.

2 This Act may be cited as the Interpretation (Executive
3 Government) Act 1983.

4 Section 2. Application of this Act.

5 This Act applies to any Act or subordinate instrument
6 made before or after the effective date of this Act.

7 PART II. - INTERPRETATION OF STATUTES.

8 Section 3. Defintions of general application.

9 In any Act or subordinate instrument, unless the
10 context requires otherwise -

11 "Department" means a Department or office of
12 government, other than a public corporation or other
13 statutory authority to which Article VII of the
14 Constitution applies by virtue of Section 1(3) of that
15 Article;

16 "the Department" means the Department for which the
17 Minister is responsible and, where there are two or
18 more such Departments, that one of them that is
19 specified by the Minister for the purpose;

20 "member of the Public Service" means an officer,
21 employee or member of the Public Service appointed under

1 Article VII of the Constitution, but does not include
2 a member or employee of a public corporation or statutory
3 authority to which Article VII, Section 1(3) of the
4 Constitution applies, nor a person referred to in
5 Subsection (4) of that section;

6 "Minister" means a member of the Cabinet (including
7 the President on his capacity of having primary
8 responsibility for any Department or function of
9 government by virtue of Article V, Section 5 of the
10 Constitution);

11 "the Minister" means the Minister responsible for
12 the administration of the Act, or of the Act under which
13 the subordinate instrument was made, as the case may
14 be, and includes another Minister discharging, under
15 Article V, Section 6(4) of the Constitution, the
16 responsibilities of the Minister primarily responsible,
17 as described in Section 4(3);

18 "Secretary" means the head of a Department
19 (including the Attorney-General in his capacity as head
20 of a Department referred to in Article VII, Section 3(2)
21 of the Constitution);

22 "the Secretary" means the Secretary of the
23 Department.

1 PART III. - PROVISIONS RELATING TO THE CABINET.

2 Division 1. - General.

3 Section 4. The allocation of portfolios.

4 (1) In accordance with Article V, Section 5 of the
5 Constitution -

6 (a) the President shall, as soon as practicable
7 after taking office, by writing signed by
8 him allocate among the members of the Cabinet
9 (including himself if he so desires) the
10 portfolios specified in Subsection (1) of that
11 section and such other portfolios as may be
12 necessary or desirable for giving to a member
13 of the Cabinet the primary responsibility for
14 any Department or function of government; and

15 (b) the President has the primary responsibility
16 for any Department or function of government
17 in respect of which no allocation of a portfolio
18 is for the time being in force.

19 (2) In accordance with Article V, Section 6(1) of the
20 Constitution, the President may, at any time, by instrument signed
21 by him, allocate any portfolio in respect of which no allocation
22 is in force, or may re-allocate any portfolio.

23 (3) In accordance with Article V, Section 6(4)
24 of the Constitution, whenever it appears to the President that
25 any other member of the Cabinet will, by reason of illness or
26

1 absence from the Marshall Islands or from the seat of government,
2 be temporarily unable to discharge the responsibilities of any
3 portfolio allocated to him, he may, by writing signed by him,
4 direct any other Minister to discharge the responsibilities of
5 that portfolio, until the member of the Cabinet to whom that
6 portfolio has been allocated is again able to discharge those
7 responsibilities.

8 (4) Responsibility for any Department or function of
9 government includes responsibility for the administration of any
10 law relating to the functions of that Department, or to that
11 function, as the case may be.

12 (5) Where by any provision of the Constitution or any
13 other law the Attorney-General, the Auditor-General, the
14 Public Service Commission, the judiciary, or any other person
15 or authority is said to be independent or not subject to direction
16 the possession of responsibility for any function of government
17 that relates to, affects or is affected by the person or authority
18 does not confers power to act in contravention of that provision.

18 (6) When a portfolio is allocated or re-allocated, or
19 a Minister is directed, under Article V, Section 6(4) of the
20 Constituion, to discharge the responsibilities of a portfolio,
21 the Clerk of the Cabinet shall cause notice of the allocation,
22 re-allocation or direction to be published in the Government
23 Gazette.

24 Section 5. Change of title of portfolio.

25 (1) When the title of portfolio is changed, a reference
26 in any law to the Minister holding the portfolio under its

1 former title shall be read as a reference to the Minister
2 holding the portfolio under its new title.

3 (2) When the title of a portfolio is changed, the
4 Clerk to the Cabinet shall cause notice of the change to be
5 published in the Government Gazette.

6 Section 6. References to Ministers.

7 Where in any Act or subordinate instrument a reference
8 is made to a Minister by the title of his portfolio, and the
9 Department or function of government to which the reference relates
10 becomes the primary responsibility of the holder of some other
11 portfolio, the reference shall be read as a reference to the
12 holder of that other portfolio.

13 Section 7. Governmental Organization Order.

14 (1) The Clerk of the Cabinet shall from time to time,
15 with the approval of the President, publish a list showing
16 the portfolios in existence, and -

17 (a) the Department and functions of government
18 for which the holder of each portfolio
19 is primarily responsible; and

20 (b) in relation to each law the portfolios with
21 which responsibility for its administration,
22 or for the administration of any provision
23 of it, rests,

24 and shall similarly bring the list up to date from time to time.

25 (2) A list published under Subsection (1) may be cited
26 as a Governmental Organization Order.

1 Section 8. Validity of acts of Ministers, etc.

2 (1) Subject to Subsection (2), no act of a Minister
3 is open to challenge on the ground that he was not empowered
4 to do the act, if some other Minister, or any Minister, was
5 so empowered.

6 (2) Subsection (1) does not apply to -

7 (a) the performance of any function that is
8 specifically conferred by the Constitution
9 on the President or on a particular member of
10 the Cabinet; or

11 (b) the performance of a function by virtue of a
12 delegation under Section 9.

13 (3) The question, whether any procedures prescribed
14 (otherwise than by the Constitution) for the Cabinet have been
15 complied with or are been complied with, is non-justiciable.

16 Division 2. - Devolution of Power.

17 Section 9. Delegation by Cabinet.

18 (1) As provided for by Article V, Section 1(2) of the
19 Constitution, the Cabinet may, by written order, delegate to its
20 individual members or to other officers responsible to the
21 Cabinet elements of its executive authority.

22 (2) In accordance with Article V, Section 1(2) of the
23 Constitution, no such delegation shall have the effect of
24 diminishing the responsibility of the Cabinet and of each of its
25 members to the Nitijela for the direction and implementation
26 of executive authority.

1 (3) A delegation under this section is revocable,
2 in writing, at will, and no such delegation prevents the performance
3 of a function by the Cabinet.

4 Section 10. Delegation by Ministers.

5 (1) Subject to Subsections (2) and (3), a Minister may
6 by written order, delegate to a member of the Public Service
7 all or any of his functions under any Act.

8 (2) Subsection (1) does not apply to -

9 (a) any function vested in the Minister by the
10 Constitution; or

11 (b) any function the delegation of which is
12 expressly prohibited by law; or

12 (c) unless expressly authorized by the Cabinet,
13 any function delegated to the Minister under
14 Section 9.

15 (3) In accordance with Article V, Section 1(2) of the
16 Constitution no delegation under Subsection (1) has the effect
17 of diminishing the responsibility of the Minister to the Nitijela
18 for the direction and implementation of executive authority.

19 (4) A delegation under this section is revocable, in
20 writing, at will, and no such delegation prevents the performance
21 of a function by the Minister.

22 PART IV. - PROVISIONS RELATING TO THE PUBLIC
23 SERVICE.

24 Section 11. Re-allocation of functions.

25 (1) Where in any Act or subordinate instrument there

1 is a reference to a member of the Public Service by office -

2 (a) the Minister may, if the office is in a
3 Department for which he is responsible, by
4 written notice alter the reference to a
5 reference to another office in that Department;
6 and

7 (b) in any case, the Cabinet may, by written
8 order, alter the reference to a reference to
9 another office.

10 (2) When the functions of an office are altered,
11 or an office is abolished, the Public Service Commission may,
12 by written notice, declare that any reference in any Act or
13 subordinate instrument to that office shall be read as a
14 reference to whichever other office is appropriate.

15 (3) A notice or order under this section shall be
16 published in the Government Gazette.

17 Section 12. Change of title of office.

18 (1) When the title of an office is changed, a reference
19 in any law to the office under its former title shall be read
20 as a reference to it under its new title.

21 (2) When the title of an office is changed, the Public
22 Service Commission shall cause notice of the change to be
23 published in the Government Gazette.

24 PART V. - MISCELLANEOUS.

25 Section 13. Effective date.

26 This Act becomes effective on the date on which it
27 becomes law.

