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AN ACT

To make provision in respect of the judiciary of the Republic, as established by Article VI of the Constitution.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

PART I. PRELIMINARY.

Section 1. Short title.

This Act may be cited as the Judiciary Act 1983.

Section 2. Interpretation.

(1) In this Act -

"judge" means -

(a) the Chief Justice or another judge of the

Supreme Court; or

(b) the Chief Justice or another judge of the

High Court; or

(c) a judge of the Traditional Rights Court; or

(d) the presiding judge or an associate judge

of the District Court; or

(e) the presiding judge or an associate judge

of a Community Court,

as the case requires, and includes an acting,

temporary or ad hoc judge;

"Rules of Court" means, as appropriate, rules made

under a provision of Division 4 of Part II.

(2) Expressions used in this Act that are also used

in the Constitution in relation to the judiciary have the same

meaning as in the Constitution.

1 Section 3. Independence of the judicial power.

2 Article VI, Section 1(1) establishes the basis of the
3 judicial system of the Republic by providing that -

4 "the judicial power of the Marshall Islands shall be
5 independent of the legislative and executive
6 powers",

7 and accordingly this Act and every other law of the Republic
8 shall be interpreted and applied in the light of that principle.

9 Section 4. The constitutional provisions.

10 The judiciary is organized in accordance with the provisions
11 of the Constitution, and this Act shall be interpreted and
12 applied as if those provisions were incorporated in it.

13 PART II. THE SUPREME COURT AND THE HIGH COURT.

14 Division 1. - Preliminary.

15 Section 5. The creation of the Supreme Court and the High
16 Court.

17 The Supreme Court and the High Court are established
18 by Article VI of the Constitution as the superior courts
19 of record of the Republic.

20 Division 2. - The Supreme Court.

21 Section 6. Organization of the Supreme Court.

22 The Supreme Court shall be organized, and its members
23 shall be appointed, shall hold office and may be suspended
24 or removed from office, in accordance with Article VI, Sections
25 2(1) and 1(4)-(10) of the Constitution.

1 Section 7. Jurisdiction of the Supreme Court.

2 The jurisdiction of the Supreme Court is as provided in -

3 (a) Article VI, Section 2 of the Constitution

4 (general jurisdiction); and

5 (b) this Act; and

6 (c) any other law of the Republic.

7 Section 8. Seal of the Supreme Court.

8 (1) There shall be a seal of the Supreme Court, which
9 shall be of such design as the Chief Justice of the Supreme
10 Court determines.

11 (2) The seal of the Supreme Court shall be kept in the
12 custody of the Clerk of Courts.

13 Section 9. Compensation.

14 In accordance with Article VI, Section 1(7) of the
15 Constitution, the compensation of judges of the Supreme Court
16 shall be specifically prescribed by Act.

17 Division 3. The High Court.

18 Section 10. Organization of the High Court.

19 The High Court shall be organized, and its members shall
20 be appointed, shall hold office and may be suspended or removed
21 from office, in accordance with Article VI, Sections 3 and 1(4)-
22 (10) of the Constitution.

23 Section 11. Jurisdiction of the High Court.

24 (1) The jurisdiction of the High Court is as provided in -

25 (a) Article VI, Section 3 of the Constitution

26 (general jurisdiction); and

-
- 1 (b) Article II, Section 5 of the Constitution
2 (compensation for compulsory acquisition); and
3 (c) Article III, Section 1(8) of the Constitution
4 (membership of the Council of Iroi); and
5 (d) Article IV, Section 9 of the Constitution
6 (membership of the Nitijela); and
7 (e) Article XI of the Constitution (relating to
8 citizenship); and
9 (f) this Act; and
10 (g) any other law of the Republic.

11 (2) In particular, the High Court has jurisdiction
12 in probate, admiralty and maritime matters, and the adjudication
13 of title to land or any interest in land.

14 (3) In addition, the High Court has the powers with
15 regard to the determination of the size, membership and
16 procedures of the Traditional Rights Court conferred by Article
17 VI, Section 4(2) of the Constitution and Section 23 of this Act.

18 Section 12. Power of review.

19 (1) The High Court shall review on the record every final
20 decision of the District Court or a Community Court in annulment,
21 divorce and adoption cases from which no appeal has been taken.

22 (2) The High Court may, in its discretion, review on
23 the record any other final decision of the District Court
24 or a Community Court from which no appeal has been taken.

1 Section 13. Exercise of jurisdiction of the High Court,

2 Unless otherwise directed by the Chief Justice of the
3 High Court, and subject to the provisions of Article VI,
4 Section 3(2) of the Constitution and to any Act, the jurisdiction
5 of the High Court may exercised by a single judge of that Court.

6 Section 14. Assessors.

7 (1) Subject to Subsection (2), a judge presiding at
8 the trial of any case in the High Court may select one or more
9 assessors to sit with him at the trial to advise him in regard
10 to any customary law or traditional practice that may be
11 involved, but not to participate in the determination of the
12 case.

13 (2) Subsection (1) does not apply -

14 (a) in any proceedings in which, in accordance with
15 Article VI, Section 4(4) of the Constitution,
16 the jurisdiction of the Traditional Rights
17 Court has been invoked in the High Court and
18 the High Court has given the necessary
19 certificate under that section; or

20 (b) on appeal or second appeal from any proceedings
21 in any other court in which that jurisdiction
22 has been so invoked and the certificate given.

23 Section 15. Seal of the High Court.

24 (1) There shall be a seal of the High Court, which shall
25 be of such design as the Chief Justice of the High Court
26 determines.

1 (2) The seal of the High Court shall be kept in the
2 custody of the Clerk of Courts.

3 Section 16. Compensation.

4 In accordance with Article VI, Section 1(7) of the
5 Constitution, the compensation of judges of the High Court
6 shall be specifically prescribed by Act.

7 Division 4. Rules of Court.

8 Section 17. Rules of Court of the Supreme Court.

9 (1) Subject to any Act, the Supreme Court may make
10 rules for regulating the practice and procedure of that Court,
11 prescribing the fees to be paid in respect of any proceedings
12 and generally for making provision for the proper and effectual
13 exercise of the jurisdiction of the Court.

14 (2) Subject to any Act, the Supreme Court may make rules
15 for prescribing the laws of evidence in any court.

16 (3) Rules made under Subsection (2) may be different for
17 different courts or for different kinds of proceedings or cases.

18 Section 18. Rules of Court of the High Court.

19 (1) Subject to any Act, the High Court may make rules
20 for regulating -

21 (a) civil procedure; and

22 (b) criminal procedure; and

23 (c) the size, membership and procedures of the
24 Traditional Rights Court, in accordance with
25 Article VI, Section 4(2) of the Constitution
26 and Section 23 of this Act; and

1 (d) the fees to be paid in respect of any
2 proceedings in the High Court, the Traditional
3 Rights Court and any subordinate court,
4 and generally for regulating the practice and procedure of
5 the High Court, the Traditional Rights Court and any subordinate
6 courts and for making provision for the proper and effectual
7 exercise of the jurisdiction of any such court.

8 (2) Rules made under Subsection (1) may be different
9 for kinds of proceedings or cases.

10 Section 19. Admission Rules.

11 Subject to any Act and to the approval of the Chief
12 Justice of the Supreme Court, the High Court may make rules -

13 (a) regulating the admission of persons to practice
14 before any court, as Attorneys at Law or
15 Trial Assistants; and

16 (b) prescribing the requirements of the professional
17 responsibilities and the conduct of any such
18 person; and

19 (c) providing for the disciplining, suspension or
20 disbarment of any such person.

21 Section 20. Contents of Rules.

22 (1) Without limiting the generality of the preceding
23 provisions of this Division but subject to any Act, the Rules
24 of Court may make provision for and in respect of -

25 (a) the practice and procedure in the offices of any
26 court; and

-
- 1 (b) the service and execution of judgements of any
2 court; and
- 3 (c) the service and execution within the Marshall
4 Islands of process and judgments of foreign
5 courts; and
- 6 (d) the issuance by the Supreme Court or the
7 High Court of letters of request for the
8 service in a foreign country of process of the
9 courts of the Republic, or for the examination
10 of witnesses in a foreign country; and
- 11 (e) the costs of and relating to proceedings
12 in any court; and
- 13 (f) the methods of pleading; and
- 14 (g) the attendance of witnesses and the taking
15 of evidence; and
- 16 (h) the means by which particular facts may be
17 proved, and the manner in which evidence of
18 particular facts may be given, in any proceedings
19 or in any application in connexion with, or at
20 any stage of, any proceedings.

21 (2) The Rules of Court may require or permit legal
22 argument to be submitted in writing.

23 Section 21. Inconsistency with statutes.

24 (1) In the event of any inconsistency between the
26 Rules of Court and any law of the Republic in effect immediately
27 before the date of the passing of this Act, the Rules of Court

1 prevail and the law is superseded.

2 (2) If an Act passed after the date of the passing of
3 this Act is inconsistent with any provision of the Rules of
4 Court, that provision ceases to have effect to the extent of the
5 inconsistency.

6 PART III. THE TRADITIONAL RIGHTS COURT.

7 Section 22. The creation of the Traditional Rights Court.

8 The Traditional Rights Court is established by Article
9 VI, Sections 1(1), 4 of the Constitution as a court of record.

10 Section 23. Organization of the Traditional Rights Court.

11 (1) The Traditional rights Court shall be organized, and
12 its members shall be appointed, shall hold office, and may
13 be suspended or removed from office, in accordance with
14 Article VI, Section 4(1) and (2) of the Constitution and with
15 determinations of the High Court under Section 4(2) of that
16 Article.

17 (2) The power of the High Court under Article VI,
18 Section 4(2) of the Constitution shall be exercised by Rules
19 of Court made under Section 18.

20 Section 24. Jurisdiction of the Traditional Rights Court.

21 The jurisdiction of the Traditional Rights Court is as
22 provided in -

- 23 (a) Article VI, Section 4(3) - (5) of the
24 Constitution; and
25 (b) Article II, Section 5(7) of the Constitution,
26 subject with the High Court -

1 (a) subject to Subsection (2), in all civil cases,
2 including proceedings for change of name, where
3 the amount claimed or the value of the property
4 involved does not exceed \$1,000, except -

5 (i) matters referred to in Section 11(1)(b) -
6 (e), in which jurisdiction is vested by
7 the Constitution in the High Court; and

8 (ii) admiralty and maritime matters; and

9 (iii) cases of adjudication of title to land or
10 interests in land (other than the right to
11 immediate possession); and

12 (iv) any other matters where by any Act the
13 District Court has no jurisdiction; and

14 (b) in all criminal cases involving offences against
15 any law of the Republic, for which the maximum
16 penalty does not exceed a fine of \$2,000
17 or imprisonment for a term of less than three
18 years, or both; and

19 (c) in any other case in which jurisdiction is
20 conferred on the District Court by or under any
21 law of the Republic.

21 (2) Notwithstanding anything in Subsection (1)(a),
23 the District Court has jurisdiction -

24 (a) to award alimony and support for children
25 in divorce cases and in separate support and
26 separate maintenance cases, and support

1 for the children of unmarried parents,
2 regardless of the \$1,000 limitation; and
3 to Section 5(9) of that Article.

4 Section 25. Compensation.

5 The compensation of judges of the Traditional Rights
6 Court shall be fixed by or under Act.

7 PART IV. THE DISTRICT COURT.

8 Section 26. The creation of the District Court.

9 In accordance with Article VI, Section 1(1) of the
10 Constitution, a District Court for the Marshall Islands is hereby
11 established.

12 Section 27. Organization of the District Court.

13 (1) The District Court shall consist of a presiding
14 judge and such number (if any) of associate judges as is
15 determined by the Judicial Service Commission.

16 (2) A judge of the District Court shall be appointed
17 by the Judicial Service Commission for a term of 10 years, and
18 may be removed from office by it on the ground of clear failure
19 or inability faithfully to discharge the duties of the office,
20 or for the commission of treason, bribery, or other high crime
21 or abuse inconsistent with the authority of his office.

22 (3) Whenever the office of a judge of the District
23 Court, having previously been filled, is temporarily vacant,
24 or any such judge is disabled from performing the duties of his
25 office, the Judicial Service Commission may appoint an acting

1 judge to discharge the duties of the office for the duration of
2 the vacancy or disability.

3 (4) A judge of the District Court need not have legal
4 training or experience.

5 Section 28. Original jurisdiction of the District Court.

6 (1) The District Court has original jurisdiction concurrently
7 with the High Court -

8 (a) subject to Subsection (2), in all civil cases, including
9 proceedings for change of name, where the amount claimed
10 or the value of the property involved does not
11 exceed \$1,000, except -

12 (i) matters referred to in Section 11(1)(b) - (e),
13 in which jurisdiction is vested by the
14 Constitution in the High Court; and

15 (ii) admiralty and maritime matters; and

16 (iii) cases of adjudication of title to land or
17 interests in land (other than the right
18 to immediate possession); and

19 (iv) any other matters where by any Act the
20 District Court has no jurisdiction; and

21 (b) in all criminal cases involving offences against
22 any law of the Republic, for which the maximum
23 penalty does not exceed a fine of \$2,000 or
24 imprisonment for a term of less than three years,
25 or both; and

26 (c) in any other case in which jurisdiction is

1 conferred on the District Court by or under any law
2 of the Republic.

3 (2) Notwithstanding anything in Subsection (1)(a), the District
4 Court has jurisdiction -

5 (a) to award alimony and support for children in divorce
6 cases and in separate support and separate maintenance
7 cases, and support for the children of unmarried
8 parents, regardless of the \$1,000 limitation; and

9 (b) to include in any such award land or an interest
10 in land owned by any party to the case,

11 but paragraph (b) does not include jurisdiction to adjudicate the validity
12 of a claim to ownership of the land or interest.

13 Section 29. Appellate jurisdiction of the District Court.

14 The District Court has jurisdiction to review on appeal any
15 decision of a Community Court.

16 Section 30. Records of cases.

17 The presiding judge of the District Court shall promptly make
18 and file with the Clerk of Courts a record of each case decided by the Court,
19 or cause a record to be so made and filed.

20 Section 31. Compensation.

21 The compensation of judges of the District Court shall be
22 fixed by Act.

23 PART V. COMMUNITY COURTS.

24 Section 32. The creation of Community Courts.

25 In accordance with Article VI, Section 1(1) of the Constitution
26 a Community Court is, subject to Section 35, hereby

1 established for each local government area within the meaning
2 of the Local Government Act 1980 (P.L. 1981-2).

3 Section 33. Organization of Community Courts.

4 (1) Each Community Court shall consist of a presiding
5 judge and such number (if any) of associate judges as is
6 determined by the Judicial Service Commission.

7 (2) A judge of a Community Court shall be appointed
8 by the Judicial Service Commission for a term not exceeding
9 four years specified by the Commission, and may be removed from
10 office by it for cause.

11 (3) Whenever the office of a judge of a Community Court,
12 having previously been filled, is temporarily vacant, or any
13 such judge is disabled from performing the duties of his office,
14 the Judicial Service Commission may appoint an acting judge to
15 discharge the duties of the office for the duration of the
16 vacancy or disability.

17 (4) In making any appointment to a Community Court the
18 Judicial Service Commission may consider, amongst other things,
19 the wishes of the people of the local government area, as
20 expressed through their local government or in any other manner
21 acceptable to the Commission.

22 (5) A judge of a Community Court need not have legal
23 training or experience.

24 Section 34. Jurisdiction of Community Courts.

25 (1) The area of jurisdiction of a Community Court
26 extends over the local government area for which it was

1 established, but nothing in this subsection prevents the service
2 or execution of process outside that area.

3 (2) A Community Court has original jurisdiction
4 concurrently with the High Court and the District Court -

5 (a) in all civil cases (not including divorce,
6 adoption or change of name), where the amount
7 claimed or the value of the property involved
8 does not exceed \$100, except -

9 (i) matters referred to in Section 11(1)(b)-(e),
10 in which jurisdiction is vested by the
11 Constitution in the High Court; and

12 (ii) admiralty and maritime matters; and

13 (iii) cases of adjudication of title to land or
14 interests in land (other than the right
15 immediate possession); and

16 (iv) any other matters where by any Act a
17 Community Court has no jurisdiction; and

18 (b) in all criminal cases involving offenses against
19 any law of the Republic, for which the maximum
20 penalty does not exceed a fine of \$200 or
21 imprisonment for a term of six months, or
25 both; and

26 (c) in cases of contempt of court, in accordance
27 with Part VIII; and

28 (d) in any other case in which jurisdiction is
29 conferred on a Community Court by or under any

1 law of the Republic.

2 Section 35. Effect of changes in local governments.

3 If at any time there is an amalgamation of two or more
4 local governments under Section 21 of the Local Government
5 Act 1980 (P.L. 1981-2), or a transfer or exchange of areas
6 between two local governments under Section 22 of that Act -

7 (a) the Judicial Service Commission shall make
8 such order as it thinks necessary as to -

9 (i) the re-organization of the Community Courts
10 for the local government areas concerned;

11 and

12 (ii) the transfer of judges as between those
13 Courts and, if necessary, the appointment
14 of new judges; and

15 (iii) the disposal of matters before those
16 Courts, and generally for the application
17 of this Act to the changed circumstances;
18 and

19 (b) until an order is made under paragraph (a) the
20 Community Courts for the local government areas
21 concerned shall continue in operation as
22 though the amalgamation, transfer or exchange
23 had not taken place.

24 Section 36. Judge of one Community Court sitting with
25 another.

26 (1) Subject to the Rules of Court regulating Community

1 Courts and to any directions of the Chief Justice of the High
2 Court, a judge of a Community Court may, at the invitation of
3 the presiding judge of another Community Court, sit as an
4 associate judge of that Court, either for a particular case
5 or over a specified period.

6 (2) A judge of a Community Court sitting as an associate
7 judge of another Community Court under Subsection (1) shall,
8 for all purposes other than compensation, be deemed to be a
9 judge of both courts.

10 Section 37. Process.

11 Process and reports of service of a Community Court may
12 be oral if the Court thinks it best, but oral process is effective
13 only within the territorial area of jurisdiction of the Court.

14 Section 38. Records of cases.

15 The presiding judge of a Community Court shall promptly
16 make and file with the Clerk of Courts a record of each case
17 decided by the Court, or cause a record to be so made and filed.

18 Section 39. Compensation.

19 The compensation of judges of Community Courts shall be
20 fixed by or under Act.

21 PART VI. - CONCURRENT JURISDICTION.

22 Section 40. The High Court.

23 (1) Except as provided by this or any other Act, the
24 High Court has original jurisdiction concurrently with the
25 District Court and Community Courts in all cases within the
26 jurisdiction of the District Court or Community Courts, as

1 provided by Sections 28 and 34.

2 (2) The concurrent jurisdiction of the High Court
3 referred to in Subsection (1) need not be exercised in any
4 case that it determines can be promptly and properly tried in
5 the District Court, or in a Community Court having jurisdiction,
6 and the High Court may transfer the case to that other court
7 for trial and determination.

8 Section 41. The District Court.

9 (1) Except as provided by this or any other Act, the
10 District Court has original jurisdiction concurrently with
11 Community Courts in all cases within the jurisdiction of
12 Community Courts, as provided by Section 34.

13 (2) The concurrent jurisdiction of the District Court
14 referred to in Subsection (1) shall be exercised by that court
15 in any case that can be heard by it with convenience to the
16 parties and witnesses and without undue delay.

17 (3) A failure to comply with Subsection (2) in any case
18 does not invalidate any proceedings in or decision of a Community
19 Court on the case.

20 Section 42. Transfer of cases.

21 (1) This section applies to cases in which the courts
22 concerned have concurrent jurisdiction, but does not apply to
23 cases on appeal.

24 (2) Any case brought in the High Court or in the District
25 Court may be transferred by the court in which it has been
26 brought to any other court that has jurisdiction to hear it.

1 (3) Any case brought in a Community Court may be transferred
2 by the court in which it has been brought to the High Court or the District
3 Court, with the consent of that court.

4 (4) By order of the High Court, any case pending in the
5 District Court, or a Community Court may be transferred to the High Court, or if
6 the case was brought in a Community Court to the District Court.

7 (5) Upon receiving a certified copy of an order under Subsection
8 (4) the court in which the case was pending shall take no further action
9 on the merits of the case but may make any orders of a temporary nature
10 that justice requires and that are not inconsistent with any
11 order of the High Court.

12 PART VII. EXTRA - TERRITORIALITY.

13 Division 1. - General.

14 Section 43. Interpretation of Part VII.

15 In this Part -

16 "Marshall Islands vessel or aircraft" means a
17 vessel or aircraft -

18 (a) belonging in whole or in part to -

19 (i) the Republic; or

20 (ii) any citizen or permanent resident of the
21 Marshall Islands; or

21 (iii) any association, partnership, company,
22 corporation or other entity organized
23 under the laws of the Republic; or

24 (b) on lease to, rented by or under charter
25 to any person or entity referred to in
26 Paragraph (a); or

1 (c) documented under a law of the Republic.

2 Section 44. Extra-territorial jurisdiction generally.

3 The courts of the Republic have extra-territorial
4 jurisdiction -

5 (a) as provided by this Part; and

6 (b) as provided or required by any law having
7 extra-territorial effect or making an act or
8 omission outside the Republic an offense or
9 justiciable within the Republic, but subject
10 to the provisions of that law.

11 Section 45. Offences committed outside the jurisdiction.

12 The jurisdiction of the courts of the Republic extends
13 to all offences against the laws of the Republic committed by
14 any person on a Marshall Islands vessel or aircraft outside
15 the territorial limits of the Republic.

16 Section 46. Offences committed partly within and partly
17 outside the jurisdiction.

18 When an act or omission which, if done or made wholly
19 within the territorial limits of the Republic, or a local
20 government area, would be an offence, every person who within
21 those limits or that area does or makes any part of that act
22 or omission may be dealt with as though the act or omission had
23 been done or made wholly within those limits or that area,
24 as the case may be.

25 Section 47. Application of laws on Marshall Islands
26 vessel and aircraft.

1 Except where the contrary intention appears in any such law,
2 the criminal laws of the Republic apply outside the territorial
3 limits of the Republic to all persons on board a Marshall Islands
4 vessel or aircraft.

5 Section 48. Application of foreign law.

6 The criminal law of any jurisdiction that is applicable
7 under any law of the Republic or under international law may
8 be enforced by a court of the Republic in the trial offenses
9 committed outside the territorial limits of the Republic that
10 are triable by that court when, in the opinion of the court,
11 justice and comity will be aided by its enforcement.

12 Section 49. Place of trial.

13 The trial of a person for an offense committed outside
14 the territorial limits of the Republic may be held before any
15 court of the Republic -

16 (a) that is competent to try him for the offense; and

17 (b) in whose territorial jurisdiction he -

18 (i) is found; or

19 (ii) resides,

20 or into whose territorial jurisdiction he is first
21 brought.

22 Section 50. Effect of previous trial.

23 A person shall not be tried by a court of the Republic
24 for an offence committed outside the territorial limits of the
25 Republic if he has already been lawfully tried on the merits
26 for substantially the same offence by a court of another

1 jurisdiction.

2 Division 2. - Civil Jurisdiction over Non-Resident.

3 Section 51. Persons subject to civil jurisdiction.

4 (1) Any person, corporation or legal entity who, in
5 person or through an agent or servant -

6 (a) transacts business within the territorial limits
7 of the Republic; or

8 (b) operates a motor vehicle within those limits; or

9 (c) operates a vessel or aircraft within the
10 territorial waters or airspace of the Republic; or

11 (d) commits a tortious act within the territorial
12 limits of the Republic; or

13 (e) contracts to insure any person or property
14 located within those limits at the time of entry
15 into the contract; or

16 (f) contracts to insure against any risk in those
17 limits; or

18 (g) owns, uses, occupies or possesses any land or
19 interest in land within those limits; or

20 (h) enters into an express or implied contract with
21 a resident of the Marshall Islands, which is
22 to be performed wholly or partly, by either
23 party, within the territorial limits of the
24 Republic; or

25 (i) acts within the territorial limits of the Republic
26 as director, manager, trustee or other officer of

1 a corporation organized under the laws of the
2 Republic or having a place of business in the
3 Republic; or
4 (j) acts within those limits as executor, guardian,
5 trustee or administrator of an estate in the
6 Marshall Islands; or
7 (k) causes injury to a person or property within
8 those limits arising out of an act or omission
9 outside those limits, if, at the time of the
10 injury -
11 (i) he was engaged in solicitation or sales
12 activity within those limits; or
13 (ii) products, materials or things processed,
14 serviced or manufactured by him were used
15 or consumed within those limits,
16 is subject to the civil jurisdiction of the courts of the
17 Republic as to any cause of action arising from any of those
18 matters.
19 (2) A person who has lived in a marital relationship
20 within the territorial limits of the Republic is subject to the
21 jurisdiction of the courts of the Republic as to alimony, child
22 support and property rights under the laws of the Republic
23 relating to domestic relations, marriage, annulment and divorce,
24 adoption, reciprocal enforcement of support, child abuse and
25 family law generally; not withstanding his departure from the
26 Marshall Islands, if the other party to the relationship continues

1 to reside in the Marshall Islands.

2 Section 52. Personal service outside the Marshall Islands.

3 (1) Service of process may be made upon any person
4 subject to the jurisdiction of a court of the Republic under this
5 Division by personally serving the process on him outside the
6 territorial limits of the Republic.

7 (2) Service shall be made, in the same manner as service
8 is made within the territorial limits of the Republic, by any
9 officer or person authorized to serve process in the jurisdiction
10 where service is made.

11 (3) An affidavit of service shall be filed with the court
12 issuing the process, stating the time, manner and place of
13 service.

14 (4) Service under this section has the same force and
15 effect as service within the territorial limits of the Republic.

16 Section 53. Default judgments.

17 (1) No default judgment shall be entered before the
18 expiration of the period of 30 days after service of the relevant
19 process under Section 52.

20 (2) A default judgment entered on service made under
21 this Division may be set aside only on a showing that would be
22 timely and sufficient to set aside a default judgment entered
23 upon personal service within the territorial limits of the
24 Republic.

25 Section 54. Limits of jurisdiction.

1 Only causes of action referred to in Section 51 may be
2 asserted against a person in proceedings in which jurisdiction
3 against him is based on this Division.

4 Section 55. Saving of other methods of service.

5 Nothing in this Division limits or affects the right to
6 serve process in any other manner provided by law or by the
7 Rules of Court, or allowed by order of the court concerned.

8 PART VIII. -- CONTEMPT OF COURT.

9 Section 56. Definition of contempt of court.

10 (1) Contempt of court is -

- 11 (a) any intentional obstruction of the administra-
12 tion of justice by any person; or
- 13 (b) any intentional disobedience of, or resistance
14 to, the lawful writ, process, order, rule,
15 decree or command of a court; or
- 16 (c) any intentional representation by an attorney
17 or trial assistant (whether or not formally
18 admitted as such under the Rules of Court), or
19 any other person acting as or holding himself
20 out to be such an attorney or trial assistant,
21 that he speaks for or represents a court or a
22 judge in any official matter unless specifically
23 authorized by the court or judge to do so; or
- 24 (d) any intentional interference with the operation
25 or function of a court, by open defiance of an

1 order of the court, in or near the court-room;

2 or

3 (e) any disturbance of the peace and good order
4 of a court-room by loud noise, interruption,
5 profane language or refusing to leave the
6 court-room or the court building or premises
7 when lawfully ordered by an official of the
8 court to leave, or any similar disturbance; or

9 (f) any refusal by a witness to answer any lawful
10 question after having been lawfully ordered by
11 the court to answer; or

12 (g) any interference with an official of a court
13 in the pursuit of his official duties; or

14 (h) subject to Subsection (2), any disrespectful
15 or disgraceful conduct directed to a judge,
16 juror or assessor because of any decision or
17 action at the trial of any case, or at any
18 type of judicial hearing or conference; or

19 (i) subject to Subsection (2), any oral or written
20 charge that a judge, juror or assessor, in his
21 capacity as such, is corrupt.

22 (2) Subsection (1)(h) and (i) do not apply in respect
23 of any proper language in, or any proper conduct related to, any
24 petition or other lawful means of seeking relief from any
25 alleged misconduct of a court, judge, jury, juror or assessor.

26 (3) Subsection (1) applies even when the act concerned

1 is done by an official of a court, and whether such an act is
2 done in an official or in a private capacity.

3 (4) Motive is irrelevant, except in considering whether
4 or not to proceed with a formal charge, and in connexion with
5 any penalty.

6 (5) In Subsection (1), a reference to a court-room
7 includes a reference to any place, whether or not in a building,
8 where a court is sitting or is accustomed to sit.

10 Section 57. Charge of contempt: general.

11 (1) By Article VI, Section 1(3) of the Constitution,
12 any court, other than the Traditional Rights Court, may punish
13 contempt of court.

14 (2) Accordingly, this section does not apply to contempts
15 of the Traditional Rights Court.

16 (3) If a contempt of court -

17 (a) is committed in the sight or hearing of the
18 court; and

19 (b) is of such a nature that the court should deal
20 with it immediately,

21 the court may try the contempt summarily and informally.

22 (4) In other cases a charge of the offence of contempt
23 of court shall be laid and dealt with in the same way as other
24 charges of offences.

25 Section 58. Contempts of the Traditional Rights Court.

26 In the case of a contempt of the Traditional Rights Court -

1 (a) that Court shall cite the offender for
2 contempt of court and refer the matter to
3 the High Court; and

4 (b) the High Court shall deal with the matter in
5 the same way that it would deal with a contempt
6 of itself.

7 Section 59. Penalty for contempt.

8 A person who is guilty of a contempt of court, or who
9 intentionally aids in a contempt of court, is guilty of a
10 misdemeanor and is liable to imprisonment for a term not exceeding
11 six months or to a fine of not more than \$500.00, or both, for
12 each violation.

13 Section 60. Civil contempt.

!\$ Subject to Article II, Section 6(3) of the Constitution,
15 if a contempt of court consists of a refusal to comply with any
16 writ, process, order, decree or command of a court and the
17 offender persists in his refusal, the court may, in addition
18 to any penalty that may be imposed under Section 59, imprison
19 him, or assess daily fines against him, or both, until he
20 complies with the writ, process, order, decree or command.

21 PART IX. - CONCILIATION JURISDICTION.

22 Section 61. Settlement of disputes.

23 (1) This section does not apply to matters referred to
24 in Section 11(1)(b)-(e), in which jurisdiction is vested by
25 the Constitution in the High Court, or to criminal proceedings
26 (although it applies to any civil dispute consequent on an offence).

1 (2) Unless the High Court orders otherwise, the District
2 Court or a Community Court may, at the request of a party to a
3 dispute, endeavor to effect an amicable settlement of the
4 dispute, and for that purpose may invite the parties to appear
5 before a judge of the court for an informal hearing.

6 (3) In the case of a request to a Community Court,
7 the request shall be made to the Community Court within whose
8 area the other party, or the majority of the other parties,
9 has or have his or their usual place or places of business
10 or employment.

11 (4) If an agreement in settlement of the dispute is
12 reached the judge shall reduce it into writing, and his report
13 of the settlement agreement, when signed by the parties,
14 has the effect of a judgement of the court and may be enforced
15 as such.

16 (5) This section applies even though the subject-matter
17 of the dispute or of the settlement agreement is beyond
18 (whether in amount or otherwise, but subject to Subsection (1))
18 the jurisdiction of the court for purposes other than
19 conciliation.

20 (6) Rules of Court of the High Court may make provision
21 in respect of the jurisdiction conferred by this Part.

22 PART X. COURTS GENERALLY.

23 Section 62. Enforcement of the Constitution.

24 Any court of general jurisdiction resolving a case or
25 controversy implicating a provision of the Constitution has

1 has power, in accordance with Article I, Section 4(b) of the
2 Constitution, to make all orders necessary and appropriate
3 to secure full compliance with the provision and full enjoyment
4 of its benefits.

5 Section 63. Procedural and subsidiary powers.

6 In accordance with Article VI, Section 1(2) and (3)
7 of the Constitution -

8 (a) all courts have power to issue writs and
9 other process, not inconsistent with law,
10 as are required for the due administration
11 of justice and the enforcement of the
12 Constitution; and

14 (b) all courts except the Traditional Rights
14 Court may -

16 (i) grant bail; and

17 (ii) accept and forfeit security for bail; and

18 (iii) make orders for the attendance of witnesses,
19 with or without documents; and

20 (iv) make orders for the disposal of exhibits.

21 Section 64. Jurisdiction over persons and offences.

22 (1) A court may exercise personal jurisdiction in civil
23 cases only -

24 (a) over persons residing or found within the
25 territorial limits of the Republic who -

26 (i) have been duly summoned; or

27 (ii) voluntarily appear; or

1 (2) Criminal cases may be prosecuted and tried only -

2 (a) in a court having territorial jurisdiction

3 over the place where the crime was committed; or

4 (b) in accordance with Part VII.

5 Section 65. Sessions of courts.

6 (1) Each court shall convene from time to time as may
7 be necessary for the efficient disposition of its duties.

8 (2) The Supreme Court shall sit at such times and
9 places as are determined by the Chief Justice of the Supreme
10 Court, but unless the Chief Justice certifies that urgent or
11 cogent reasons require that it sit elsewhere all sessions shall
12 be hold at the Courthouse on Majuro.

13 (3) The High Court shall sit at such times and places
14 as are prescribed by the Rules of Court, and at such other
15 times and places as are determined by the Chief Justice of
16 of the High Court.

17 (4) As required by Article VI, Section 4(1) of the
18 Constitution, the Traditional Rights Court shall sit at such
19 times and places as to ensure fair and knowledgeable exercise
20 of its jurisdiction, and in accordance with the Rules of Court.

21 (5) District Courts and Community Courts shall sit
22 at such times and places as are prescribed by or under the
23 Rules of Court and at such other times and places as the
24 respective presiding judges, with the approval of the Chief
25 Justice of the High Court, determine.

1 (6) As far as practicable, notice shall be given to the
2 public generally, and to all persons affected, of any special
3 sessions or altered times and places of sitting.

4 (7) All sessions of a court shall be held in public
5 except where otherwise ordered by the court for good cause.

6 Section 66. Powers of courts on appeal or review.

7 (1) The Supreme Court on appeal, the High Court on appeal
8 or review and the District Court on appeal may -

9 (a) affirm, modify, set aside or reverse the decision
10 appealed from or reviewed; or

11 (b) remand the case with directions for a new
12 trial or for the entry of judgment.

13 (2) The findings of a fact of the High Court in cases
14 tried by it shall not be set aside by the Supreme Court unless
15 clearly erroneous, but in all other cases the appellate or
16 reviewing court may review the facts as well as the law.

17 (3) In a criminal case, the appellate or reviewing
18 court may -

19 (a) set aside a conviction (but not a finding of not
20 guilty); or

21 (b) commute or reduce (but not increase), or suspend
22 the execution of, a sentence; or

23 (c) if the defendant has appealed or requested
24 a new trial, order a new trial,

25 but if the Government of the Marshall Islands appeals under

1 6 TTC S. 353 (1980 Edn.) the powers of the appellate court
2 are limited to a reversal of any determination of the invalidity
3 of any written enactment intended to have the force and effect
4 of law.

5 (4) Execution of the judgment, order or sentence of
6 a court will not be stayed pending review or the hearing and
7 determination of an appeal unless -

8 (a) the appellate or reviewing court, or the trial
9 court, for cause shown, orders a stay, on
10 such terms as it fixes; or

11 (b) as otherwise provided by law.

12 Section 67. Disqualification of judges.

13 (1) Under Article VI, Section 1(6) of the Constitution
14 no judge shall take part in the decision of any case in which
15 he has previously played a role or with respect to which he is
16 otherwise disabled by any conflict of interest.

17 (2) To the extent to which it may be doubtful whether
18 the prohibition set out in Subsection (1) applies under the
19 Constitution to courts other than the Supreme Court and the
20 High Court, and to remove any such doubt, it is hereby declared
21 that that prohibition extends, either by virtue of the
22 Constitution or in default by virtue of this Act, to all courts.

23 (3) The Rules of Court may give examples of cases in
24 which a judge might, or might not, be disqualified and of cases
25 in which he should, or need not, disqualify himself.

26 Section 68. Outside employment.

1 (1) Subject to Subsections (2), (3) and (4), no
2 judge may be -

3 (a) a member of the Nitijela; or

4 (b) a member of a local government; or

5 (c) a member, officer or employee of a public
6 corporation or statutory authority; or

7 (d) an officer, employee or consultant of the
8 Government of the Marshall Islands or of a
9 local government,

10 an no judge may engage in the private practice of law.

11 (2) Subsection (1)(c) does not prevent a judge from
12 holding office, ex officio, as head of a local government.

13 (3) Subsection (1)(d) does not prevent a judge, with
14 his own consent and the approval of the Judicial Service
15 Commission, from being a member of a commission, committee,
16 board or similar body set up by statute or for a specific
17 purpose, in cases where his judicial qualifications are relevant
18 and in which his judicial independence will not be, or appear
19 to be, compromised.

20 (4) The prohibition against the private practice of
21 law contained in Subsection (1) does not apply to -

22 (a) the teaching of law or legal research; or

23 (b) the private practice of law (otherwise than in
24 or in matters related to the Marshall Islands)
25 by a judge of the Supreme Court who, as part
26 of his conditions of employment, is principally

1 resident outside the Marshall Islands, or
2 by a temporary or ad hoc judge.

3 PART XI. - ADMINISTRATION.

4 Section 69. Administrative supervision, etc.

5 (1) The Chief Justice of the Supreme Court has
6 administrative supervision over the Supreme Court.

7 (2) The Chief Justice of the High Court has administrative
8 supervision over all other courts.

9 Section 70. Delegation.

10 (1) The Chief Justice of the Supreme Court or the Chief
11 Justice of the High Court may, by written instrument, delegate
12 all or any of his powers and functions (other than judicial
13 powers and functions).

14 (2) A delegation under Subsection (1) is revocable,
15 in writing, at will, and no such delegation prevents the
16 exercise of a power or the performance of a function by the
17 delegating Chief Justice.

18 Section 71. Staff.

19 (1) The Chief Justice of the High Court shall appoint
20 a Clerk of Courts for all courts.

21 (2) The Chief Justice of the High Court may appoint
22 such assistant Clerks of Courts and other officials and
24 employees of courts as he thinks necessary.

25 (3) The Chief Justice of the High Court may remove
26 from office any official or employee appointed under Subsection

1 (1) or (2), for cause.

2 (4) The functions of each official or employee
3 appointed under Subsection (1) or (2) are as determined by
4 the Chief Justice of the High Court.

5 (5) The compensation and other conditions of employment
6 of officials and employees appointed under Subsection (1) or
7 (2) are as determined by Chief Justice of the High Court.

8 Section 72. Budgetary matters.

9 (1) Budgetary requests for the judiciary, with
10 supporting justification, shall be submitted by the Chief
11 Justice of the High Court, with the approval of the Chief
12 Justice of the Supreme Court, to the Cabinet for its consideration.

13 (2) For the purposes of budget estimates and appropriations,
14 the Judiciary shall constitute a single separate program area.

15 (3) For the purposes of Article VIII, Section 5(1) of
16 the Constitution and of Section 10 of the Transitional Provisions
17 (Conformity with Trusteeship Agreement) Act (P.L. 26-23-2),
18 the authority to approve expenditures in the program area
19 referred to in Subsection (2) is delegated to the Chief Justice
20 of the High Court.

21 (4) For the purposes of this section, the Judicial
22 Service Commission may be subsumed under the heading of the
23 Judiciary.

24 PART XII. - MISCELLANEOUS.

25 Section 73. Authority to administer oaths.

26 Each court, each judge and the Clerk of Courts may

1 administer oaths and affirmations for the purpose of any law.

2 Section 74. Authority to exercise powers of notaries public.

3 Each judge, the Clerk of Courts and any assistant Clerk
4 of Courts may administer oaths and affirmations, take acknowledge-
5 ments of deeds, mortgages and other instruments and perform all
6 other functions and exercise all other powers of a notary public.

7 Section 75. Law reports.

8 (1) The Chief Justice of the High Court shall arrange
9 for the printing and publication of --

10 (a) all final decisions of the Supreme Court; and

11 (b) such other decisions of the Supreme Court as
12 the Chief Justice of the Supreme Court orders;
13 and

14 (c) such decisions and determinations of other
15 courts as the Chief Justice of the High Court
16 orders.

17 (2) The format of the law reports shall be as determined
18 by the Chief Justice of the High Court.

19 (3) If practicable, the law reports shall be published
20 both in the Marshallese language and in the English language.

21 (4) By arrangement, the law reports may be published
22 jointly with law reports of any other country approved for
23 the purpose by the Chief Justice of the High Court.

24 Section 76. Rules of the Judicial Service Commission.

25 The Judicial Service Commission may make rules for
26 regulating its procedures and generally for the better performance

1 of its functions under Article VI, Section 5 and Article IV,
2 Section 20 of the Constitution, and any other law.

3 PART XIII. - TRANSITIONAL PROVISIONS.

4 Section 77. Application of Part XIII.

5 The provisions of this Part apply notwithstanding
6 anything in any other provision of this Act.

7 Section 78. Courts generally.

8 In any law or document in effect before the effective
9 date of this Act -

- 10 (a) a reference to the appellate division of the
11 high court for the Trust Territory shall be
12 read as a reference to the Supreme Court; and
13 (b) a reference to the trial division of the high
14 court for the Trust Territory shall be read
15 as a reference to the High Court; and
16 (c) a reference to the district court or a district
17 court established under 5 TTC (1980 Edn.) shall
18 be read as a reference to the District Court
19 established by this Act; and
20 (d) a reference to a community court established
21 under 5 TTC (1980 Edn.) shall be read as a
22 reference to a Community Court established
23 by this Act.

24 Section 79. Rules of Court.

25 Until such time as Rules of Court are made under
26 Division 4 of Part II, the rules made under 5 TTC S. 202

1 (1980 Edn.) and the other laws regulating matters that may
2 under this Act be regulated by the Rules of Court that were
3 in effect immediately before the effective date of this Act
4 continue to apply, with any necessary modifications.

5 Section 80. Judges and court officials.

6 (1) A judge' of the former district court for the
7 Marshall Islands district, or of a community court established
8 under 5 TTC (1980 Edn.) for a local government area, in office
9 immediately before the effective date of this Act shall be
10 deemed to have been appointed to the equivalent office under
11 this Act and may continue in office until -

12 (a) the end of the period of his appointment; or

13 (b) the end of the maximum period for which he
14 he might have been appointed on that date; or

15 (c) a new appointment to that office is made
16 under this Act,

17 whichever first occurs.

18 (2) The Clerk of Courts and other officials and employees
19 of courts in office immediately before the effective date
20 of this Act shall be deemed to have been appointed under this
21 Act, and on the same terms and conditions that applied
22 immediately before that date (with any necessary modifications).

23 Section 81. Special transitional provisions.

24 (1) While the Trusteeship Agreement remains in force,
25 this Act shall be read subject to the provisions of any
26 Secretarial Order of the Secretary of the Interior of the

1 United States and any other applicable United States law.

2 (2) If a Compact of Free Association referred to in
3 Article XIII, Section 6 of the Constitution comes into force,
4 and only for so long as it is in force, this Act shall be
5 read subject to that Compact and to any Act made for the
6 purposes of that section and approved as required by that
7 section.

8 PART XIV. REPEAL AND EFFECTIVE DATE.

9 Section 82. Repeal and amendment.

10 (1) The following provisions of the Trust Territory
11 Code (1980 Edn.) are repealed: -

- 12 (a) 5 TTC; and
13 (b) 6 TTC Ch. 1 Subch. III; and
14 (c) 6 TTC Ch. 3; and
15 (d) 6 TTC S. 354; and
16 (e) 6 TTC S. 355; and
17 (f) 6 TTC S. 356; and
18 (g) 6 TTC S. 357; and
19 (h) 9 TTC Ch. 2; and
20 (i) 11 TTC S. 451; and
21 (j) any other provision that is inconsistent with
22 the Constitution or this Act or has been
23 superseded by the Constitution or this Act.

24 (2) 6 TTC S. 353(1) (1980 Edn.) is amended by omitting
25 "Section 355 of this chapter" and substituting "Section 66(3)
26 of the Judiciary Act 1983".

