

1 "person interested" with reference to a land, means
2 an Iroij Laplap, Iroij Erik, Alab and Senior Dri
3 terhal and any or all person claiming under them;
4 or a person having an interest in the land, as,
5 owner, co-owner, mortgagee, lessee or otherwise,
6 whether absolutely for himself or in trust for
7 any other person or for any charitable religious
8 or other purpose, or a person having a servitude
9 over a land, but does not include a monthly tenant.

10 "public use" includes the use which, under this Act or
11 any other written law, is deemed to be a public use,
12 but does not include a use primarily to generate profits
13 profits or revenues and not primarily to provide
14 a public service.

15 "secretary" means the Secretary to the Ministry in
16 charge of the Minister.

17 "servitude" means any right over any land and includes
18 a right of way, right to draw water and similar
19 rights over any land.

20 Section 3. Investigation for selecting land.

21 (1) Where the Minister decides that any land in any area is
22 needed for any public use, he may direct the acquiring officer of the
23 area in which the land is situated to cause a notice in accordance with
24 Subsection (2) to be exhibited in some conspicuous place in that area.

1 (2) The notice referred to in Subsection (1) shall be in the
2 Marshallese and English languages and shall state that land in the area
3 specified in the notice is required for public use and that all or any
4 of the acts authorized by Subsection (3) may be done on any land in that
5 area in order to investigate suitability of that land for that public
6 use.

7 (3) After notice under Subsection (2) is exhibited for the
8 first time in any area, any officer authorized by the acquiring officer
9 who has caused the exhibition of that notice, may enter any land in that
10 area, together with such persons, implements, materials and vehicles, as
11 may be necessary and: -

- 12 (a) survey and take levels of that land,
13 (b) dig or bore into the subsoil of that land,
14 (c) set out the boundaries of that land and intended
15 line of any work proposed to be done on that
16 land,
17 (d) mark such levels, boundaries, and lines by
18 placing marks and cutting trenches,
19 (e) where otherwise the survey of that land cannot
20 be completed and such levels taken and such
21 boundaries and lines marked, cut down and clear
22 away any part of any standing crop, fence or
23 jungle on that land, and
24 (f) do all other acts necessary to ascertain whether
25 that land is suitable for public use for which
26 land in that area is required,

1 provided that no officer, in the exercise of the powers conferred on him
2 by the preceding provisions of this Subsection, shall enter any occupied
3 building or any enclosed court or garden attached thereto unless he has
4 given the occupier of that building at least seven days written notice
5 of his intention to do so.

6 Section 4. Compensation for damage done during investigations.

7 (1) Where any officer empowered by Subsection (3) of Section
8 3 to enter any land causes any damage to that land or to any thing
9 thereon by doing on that land any of the acts which he may do under that
10 Subsection, he shall assess the amount of compensation for that damage
11 and shall, if that land is owned by more than one person, determine the
12 apportionment of that amount among the owners of that land. Such
13 officer shall give the owner or owners of that land written notice of
14 the amount of compensation assessed by him and any of such apportionment
15 of that amount as may have been determined by him.

16 (2) If any person who is entitled to receive the whole or a
17 portion of that amount of compensation assessed in respect of any land
18 under Subsection (1) and specified in the notice under that Subsection,
19 is dissatisfied with such amount or with the apportionment of such
20 amount, he may, within fourteen days make a written appeal to the
21 Secretary against the assessment or apportionment of compensation
22 referred to in such notice.

23 (3) Where the secretary allows an appeal made to him under
24 Subsection (2) he shall make a fresh assessment and apportionment of
25 compensation or shall confirm the amount of compensation assessed under

1 Subsection (1) and make a fresh apportionment of that amount. The
2 decision of the Secretary on such appeal shall be final.

3 (4) The officer who issues a notice under Subsection (1)
4 shall:

5 (a) where on appeal against the assessment or
6 apportionment of compensation referred to
7 in such notice is made under Subsection (2)
8 within the time allowed therefor by that
9 Subsection or where such an appeal is so made
10 and the Secretary to whom the appeal is made
11 disallows the appeal, tender to each person
12 who is entitled to compensation according to
13 such notice the amount of compensation allowed
14 to him by such notices, or
15 (b) where such an appeal is so made and such
16 Secretary allows the appeal, tender to each
17 person who is entitled to compensation according
18 to the decision of such appeal the amount of
19 compensation allowed to him by such decision,
20 and shall pay the **tendered** amount to such person if he consents to
21 receive it.

22 (5) Where the person to whom any amount is payable as
23 compensation under this section is a minor or is of unsound mind or
24 declines to accept that sum when it is tendered to him or is dead or
25 cannot be found after diligent search, that sum shall be paid into the
26 High Court to be drawn by the person entitled thereto.

1 Section 5. Notice of intended acquisition.

2 (1) Where the Minister considers that a particular land is
3 suitable for a public use, or that particular servitude over a
4 particular land should be acquired for public use, he shall direct the
5 Secretary to cause notice in accordance with Subsection (3) to be given
6 to the owner or owners of that land to be exhibited in some conspicuous
7 places on or near that land; provided however that it shall not be
8 necessary to give a notice under the preceding provisions of this
9 Subsection to the owner or any owner of land whose name and address
10 cannot be found or ascertained.

11 (2) Before any decision is made by the Minister under
12 Subsection (1) he shall satisfy himself that there does not exist any
13 alternative means, by land fill or otherwise, of achieving at
14 non-prohibitive expense the purpose to be served by such acquisition: -

- 15 (a) be in the Marshallese and English languages;
- 16 (b) contain a description of the land or servitude
17 which is intended to be acquired;
- 18 (c) state that the government intended to acquire
19 that land or servitude for public use, and that
20 written objections to the intended acquisition
21 may be made to the Secretary;
- 22 (d) specify a period within which such objections
23 must be made, such period being not less than
24 one month from the date on which such notice is
25 given.

1 (4) Where a notice relating to the intended acquisition of a
2 land or of a servitude over a land is exhibited under Subsection (3) and
3 objections to such acquisition are made to the Secretary by any of the
4 persons interested in the land within the time allowed therefor by the
5 notice, the Secretary shall consider such objections and make
6 recommendations to the Minister. When such objections are considered
7 every objector shall be given an opportunity of being heard in support
8 thereof. After the consideration of the objections the Secretary shall
9 make his recommendations on the objections to the Minister.

10 (5) When the time allowed by a notice under this Section for
11 making objections to the intended acquisition of the land or servitude
12 referred to in the notice has expired and where any such objections have
13 been made within such time, after the Minister had considered the
14 Secretary's recommendations on those objections, the Minister shall
15 subject to the provisions of Subsection (6), decide whether that land or
16 servitude should or should not be acquired under this Act.

17 (6) A decision shall not be taken under Subsection (5) to
18 acquire only a part of a building if the owner of the building desires
19 that whole of the building should be acquired under this Act, **unless**
20 **such part can be severed or demolished without serious detriment to or**
21 **seriously affecting the amenities of, the building.**

22 For the purposes of this Subsection "building" includes
23 land which, is necessary for the convenient use and occupation of the
24 building.

1 PART II

2 PROCEEDINGS IN COURT.3 Section 6. Determination by Court.

4 (1) Where the Minister decides that a particular land or
5 servitude in any area should be acquired under this Act he shall direct
6 the Attorney General to file an application in the High Court praying
7 for a declaration by the High Court, that such taking of land for public
8 use is lawful.

9 (2) The Attorney General upon the receipt of a direction by
10 the Minister, shall within 14 days make an application to the High Court
11 praying for a declaration by the High Court, that such taking of land or
12 servitude is lawful and for an order providing for just compensation.

13 (3) The Attorney General in his application referred to in
14 Subsection (2) shall:

15 (a) describe the land or servitude which is intended
16 to be acquired;

17 (b) give the names and the addresses of the claimants
18 or person who have any interest in the land or
19 the servitude;

20 (c) name all persons interested in the land or who
21 have objected to the proposed acquisition,
22 parties to the application; and,

23 (d) give a brief description of the purpose for which
24 the land is to be acquired.

1 (e) state that there does not exist alternative
2 means, by land fill or otherwise, or achieving
3 at non-prohibitive expense the purpose to be
4 served by such acquisition.

5 Section 7. The procedure before the High Court.

6 (1) Upon the receipt of an application by the Attorney
7 General the High Court shall take immediate steps to issue notice on
8 the defendants who have been made parties to the application, to show
9 cause why the application should not be allowed.

10 (2) In the said notice the Court shall set a date for the
11 defendants to file objections, if necessary, and such date shall be a
12 date less than one month from the receipt of notice but more than
13 fourteen days.

14 (3) Upon the filing of any objections on or before the due
15 date or in any event whether objections have been filed or not by the
16 defendants, the Court shall inquire into the application of the Attorney
17 General and shall make order whether the taking of such land is lawful
18 or not. Where the Court decides that the taking of such land is lawful,
19 it shall make order on the payment of compensation.

20 (4) An application made by the Attorney General under this
21 Section shall be disposed of by the High Court within a period of three
22 months from the date of filing of the application.

23 (5) The Attorney General may, if he is dissatisfied with the
24 decision of the High Court in respect of the legality of the acquisition
25 or quantum of compensation, appeal against that decision to the Supreme

1 Court. The decision of the Supreme Court in an appeal under this
2 section, shall be final.

3 Section 8. Assessment of compensation.

4 (1) Where any land or servitude is taken, the amount of
5 compensation shall include, reasonably equivalent land rights for all
6 interest holders or the means to obtain the subsistence and benefits
7 that such land rights provide.

8 (2) Whenever the taking of land or servitude forces those who
9 are dispossessed to live in circumstances reasonably requiring a higher
10 level of support, that fact shall be considered in assessing whether the
11 compensation provided is just.

12 (3) In determining whether compensation for land rights is
13 just, the High Court shall refer the matter to the Traditional Rights
14 Court and shall give substantial weight to the opinion of the
15 Traditional Rights Court.

16 (4) In construing this section, the High Court shall have
17 due regard for the unique place of land rights in the life and law of
18 the Marshall Islands.

19 (5) In the event of a dispute to ownership amongst the
20 persons interested in the land the Court shall adjudicate and determine
21 the ownership of the property as part of the proceedings and determine
22 the apportionment of compensation amongst the persons interested.

23 PART III.

24 PAYMENT OF COMPENSATION

25 Section 9. Tender and Payment.

1 Where an order is made by the High Court under section 7(3);
2 or by the Supreme Court under Section 7(5) in respect of compensation
3 the acquiring officer shall tender to each person who is entitled to
4 compensation according to the order, the amount of compensation allowed
5 to him by that order and shall pay the tendered amount to him if he
6 consents to receive it.

7 Section 10. Compensation which cannot be paid.

8 Where any person to whom any compensation for the acquisition
9 of a land or servitude under this Act is awarded, declines to receive it
10 when it is tendered to him, or is dead or cannot be found after diligent
11 search, or where no person entitled to any compensation for the
12 acquisition of a land or servitude under this Act is known, that
13 compensation shall be paid into the High Court to be drawn by that
14 person entitled thereto.

15 Section 11. Renunciation of right to compensation.

16 (1) If any person to whom compensation is payable under this
17 Act for his interest in any land which is to be acquired or over which a
18 servitude is to be acquired under the Act, desires to renounce his
19 right to such compensation, he shall make or sign a written declaration
20 that he renounces such right. Such declaration shall be conclusive
21 evidence that such person has renounced such right, and thereafter no
22 person shall, save as provided in Subsection (3) be entitled to claim
23 compensation from the government in respect of such interest.

24 (2) The declaration made by any person under Subsection (1)
25 shall state the amount of compensation which would have been paid to him

1 by the government if he had not renounced his right thereto.

2 (3) Where any person, other than the declarant in a
3 declaration made under Subsection (1), proves that he was entitled to
4 such interest in the land to which that declaration relates as was
5 claimed by that declarant, he shall be entitled to compensation from the
6 government in respect of such interest the amount of compensation
7 payable to him shall not exceed the amount of compensation specified
8 under Subsection (2) in that declaration.

9 Section 12. Interest on compensation.

10 Where the amount of compensation payable under this Act to any
11 person for the acquisition of any land or servitude is not paid to him
12 or into court before the date on which an order under Section 16 in
13 respect of that land or servitude is published, that amount shall be
14 paid with interest thereon at the rate of twelve percent (12%) per
15 annum from the date of such order up to the date of payment.

16 Section 13. Exchange.

17 (1) Any person, to whom compensation for the acquisition of
18 any land is payable under this Act, may enter into a written agreement
19 with the Minister, in lieu of the whole or part of such compensation,
20 for transfer of any other land which is the property of the government
21 or for transfer of any other land, if available, with other land owners
22 for such compensation. The amount of compensation in lieu of which the
23 transfer is accepted shall be specified in such agreement.

24 (2) Where any person accepts the transfer of any land made
25 under an agreement executed under Subsection (1), such transfer shall,

1 for the purpose of this Act, be deemed to be payment of the
2 compensation in lieu of which such transfer is accepted by that
3 person.

4 Section 14. Finality as to payment of compensation.

5 Where compensation for the acquisition of any land or
6 servitude has been, or is deemed to have been paid in accordance with
7 the provisions of this Act, no further claim against the government
8 for compensation for such acquisition shall be allowed.

9 Section 15. Exchange with other land owners.

10 (1) Where land is available for the purpose of exchange
11 as referred to in Section 13 above, with other land owners and any
12 person to whom compensation for the acquisition of any land is
13 payable, the Minister may enter into an agreement with the land
14 owners of such land to transfer a portion of that amount of land in
15 lieu of the land acquired, in the name of the person to whom
16 compensation is payable, for the sum awarded as compensation for the
17 acquisition for such land.

18 (2) The amount payable to the land owners of such land
19 who have agreed to transfer to such person who, is willing to accept
20 such land in lieu of compensation, shall be the amount of compensation
21 which has been assessed under this Act for the land acquired.

22 PART IV.

23 POSSESSION AND DISPOSAL.

24 Section 16. Order for taking possession of land.

25 (1) At any time after an order is made by the Court on the

1 quantum of compensation, the Minister may, by order published in the
2 local newspaper;

3 (a) where the order relates to the acquisition of
4 any land, direct the acquiring officer to
5 take possession of that land for and on
6 behalf of the Republic, or

7 (b) where the order relates to the acquisition of
8 any servitude declare that the land over
9 which that servitude is to be acquired shall
10 be subject to that servitude.

11 Section 17. Effect of Order under Section 16.

12 When an order of the Minister under Section 16 is made then:

13 (a) where that order is in regard to taking possession
14 of a particular land, that land shall, by virtue
15 of that order, vest absolutely in the Republic
16 free from all encumbrances with effect from the
17 date on which that order is so published, and
18 any officer who is authorize to do so by that
19 order may, on or after that date take possession
20 of that land for and on behalf of the Republic.
21 or

22 (b) where that order is in regard to the
23 subiection of a particular land to a particular
24 servitude, that land shall be subject to that
25 servitude, and that servitude may be utilized

1 for the public use for which it was acquired
2 on and after the aforesaid date.

3 Section 18. Possession.

4 (1) No officer shall, under Section 17, take possession of
5 any occupied building or any part of an occupied building without
6 giving the occupier of that building at least forty eight hours'
7 notice of the intention to do so.

8 (2) Where any officer directed by an order under Section 16
9 to take possession of any land is unable or apprehends that he will be
10 unable to take possession of that land because of any obstruction or
11 resistance which has been or likely to be offered, such officer shall
12 on his making an application in that behalf to the High Court, be
13 entitled to an order of that Court directing the person in occupation to
14 deliver possession of that land to him for and on behalf of the
15 Republic.

16 (3) Where an order under Subsection (2) is made by the High
17 Court, any failure to obey such order shall constitute an offence and be
18 punished as for contempt of court.

19 Section 19. Immediate Possession on Urgency.

20 (1) Notwithstanding anything contrary in this Act or in any
21 other law, where it becomes necessary to take immediate possession of
22 any land on the ground of any urgency, the Minister shall direct the
23 Attorney General to file an application in the High Court praying for a
24 declaration to take immediate possession of the land so described. The
25 Attorney General shall also along with the application deposit a sum of
26 money which is considered to be the fair value of the land.

1 (2) The Attorney General in his application referred to in

2 Subsection (1) shall:

3 (a) describe the land or servitude which is intended
4 to be acquired;

5 (b) give the name and address of all persons
6 interested in the land, if know;

7 (c) give a brief description of the purpose for
8 which the land is to be acquired;

9 (d) state that the Republic requires immediate
10 possession of the land;

11 (e) state that there does not exist alternative
12 means, by land fill or otherwise, of achieving
13 at non-prohibitive expense the purpose to be
14 served by such acquisition.

15 (f) state that a sum of money which is considered to
16 be a fair value of the land has been deposited
17 in court which sum may be drawn by the
18 defendants anytime after order from court;

19 (g) state that payment to court in accordance with
20 this section shall entitle the Republic to take
21 immediate possession of the land.

22 (3) Upon the application being filed under Subsection (2) the
23 High Court shall at an ex-parte hearing determine whether taking of such
24 land is lawful or not. Upon the determination by court that taking of
25 such land is lawful the court shall direct the defendants to give

1 immediate possession of the land and the Republic shall take immediate
2 possession of the land; and such land shall vest absolutely in the
3 Republic free from all encumbrances with effect from the date of such
4 determination. Any failure to obey such an order by the defendants
5 shall constitute an offence and be punished as for contempt of court.

6 (4) Anytime after the Republic has taken possession of that
7 land the court shall determine the quantum of compensation as provided
8 for in Section 9 and the payment shall be made in terms of Part III of
9 this Act.

10 Section 20. Immediate possession after proceedings commenced.

11 Where it becomes necessary to take immediate possession of the
12 land on the ground of any urgency after the proceedings under this Act
13 have been commenced but before the quantum of compensation is determined
14 by court under Section 7, the provisions of Section 10 shall apply
15 mutatis mutandis and possession shall be taken accordingly.

16 PART V.

17 DIVESTING OF LANDS.

18 Section 21. Divesting Orders.

19 (1) Notwithstanding that by virtue of an order under Section
20 16, hereinafter referred to as a "vesting order", any land has vested
21 absolutely in the Republic, if possession of the land has not actually
22 been taken for and on behalf of the Republic in pursuance of that order,
23 the Minister may by subsequent order revoke the vesting order and the
24 land to which the order relates shall be deemed never to have vested in
25 the Republic.

1 (2) Notwithstanding that by virtue of an order under Section
2 16, hereinafter in this Section referred to as "vesting order", any land
3 has vested absolutely in the Republic and actual possession of such land
4 has been taken for on behalf of the Republic under the provisions of
5 paragraph (a) of Section 17 the Minister may, subject to Subsection (3),
6 by subsequent order, hereinafter referred to as a "divesting order",
7 divest the Republic of the land so vested by the aforesaid vesting
8 order.

9 (3) The Minister shall prior to making a divesting order
10 under Subsection (2) satisfy himself that:

- 11 (a) no compensation has been paid under this Act
12 to any person or persons interested in the land
13 in relation which the said divesting order is
14 to be made;
- 15 (b) the said land has not been used for the public
16 use after possession of such land has been
17 taken by the Republic under the provisions of
18 paragraph (a) of Section 17;
- 19 (c) no improvements to the said land had been
20 effected after the order of possession under
21 paragraph (a) of Section 16 has been made; and
- 22 (d) the person or persons interested in the said
23 land have consented in writing to take possession
24 of such land immediately after the divesting
25 order is made.

1 (4) The following provisions shall apply in any case where
2 any land vested in the Republic by a vesting order referred to in
3 Subsection (2) is subsequently divested by a divesting order under the
4 said subsection:

- 5 (a) that land shall be deemed never to have vested
6 in the Republic by virtue of that vesting order;
- 7 (b) every right, title, or interest in or over that
8 land of a person interested in that land existing
9 at the time of the divesting order was made,
10 shall be deemed not to have been extinguished and
11 every such right, title or interest shall be
12 valid and enforceable notwithstanding such
13 vesting order;
- 14 (c) the person or persons interested in that land
15 at the time vesting order was made shall forth-
16 with be restored to possession of the said lands;
- 17 (d) all claims made under this Act to the compensation
18 payable in respect of that land and all
19 proceedings taken under this Act in relation to
20 such claims before the divesting order took
21 effect shall be deemed to be null and void;
- 22 (e) no fresh claims to compensation in respect of
23 that land and no claim for damages against the
24 Republic, a public officer or the Minister by any
25 person or persons interested in that land at the

1 time the vesting order was made or subsequent
2 thereto, shall be entertained or allowed in any
3 court or tribunal; and

4 (f) the preceding provisions of this section shall
5 have effect notwithstanding anything in any
6 other provisions of this Act or in any other
7 written law.

8 PART VI.

9 GENERAL.

10 Section 22. Compulsory acquisitions authorized by any other
11 written law.

12 Where any other written law authorizes the acquisition of land
13 under this Act and the Minister decides that any land is reasonably
14 required under such other written law by any authority, person or body
15 of persons, the purpose for which that land is required shall be deemed
16 to be a public use and the provisions of this Act shall apply
17 accordingly to the acquisition of that land for that authority, person
18 or body of persons.

19 Section 23. Abandonment of acquisition proceedings.

20 (1) The proceedings commenced under this Act for the
21 acquisition of any land or servitude may at any time before an order
22 under Section 16 in respect of that land or servitude is made, be
23 abandoned.

24 (2) Where the proceedings commenced under this Act for the
25 acquisition of any land or servitude are abandoned after a person

1 interested in the land which is to be acquired or over which the
2 servitude is to be acquired, has incurred costs by reasons of any
3 proceedings taken under this Act in any Court, the government shall pay
4 to that person the amount of those costs as determined by that Court.

5 Section 24. Serving of notices.

6 Where this Act requires a notice relating to a land to be
7 given to any person interested in that land, that notice shall be deemed
8 to be given to him if:

9 (a) where his address is known, it is sent by
10 registered letter through the post to him at
11 that address.

12 (b) where his address is not known, it is
13 exhibited in some conspicuous places on or
14 near the land.

15 Section 25. Constitution.

16 The provisions of this Act shall not be in derogation but in
17 addition to the provisions of Article IV Section 5 of the Constitution.

18 Section 26. Repeal.

19 Title 10 of T.T.C. on Eminent Domain is hereby repealed.

20 Section 27. Payment.

21 The payment of money for the compensation shall be a charge on
22 and paid out of the General Fund or may be appropriated from the monies
23 allocated to the Ministry of Interior and Outer Islands Affairs or upon
24 a supplementary estimate passed by the Nitijela for that purpose.

25 Certificate

1 I hereby certifiy:

2 (1) that the above Nitijela Bill No. 101 has been passed by the
3 Nitijela of the Marshall Islands on the 4th day of December, 1986;
4 and

5 (2) that I am satisfied that Nitijela Bill No. 101 has been
6 passed in accordance with the Constitution of the Marshall Islands
7 and the Rules of the Nitijela.

8 I hereby place my signature before the Clerk of the Nitijela this 31st
9 day of December, 1986.

10

11 /s/ Andrew Hisaiah
Andrew Hisaiah, Vice-Speaker
12 Nitijela of the Marshall Islands

13

14 Attest:

15

16 /s/ Rufina N. Jack
Rufina N. Jack, Clerk
17 Nitijela of the Marshall Islands

18

19