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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
41<sup>ST</sup> CONSTITUTION REGULAR SESSION, 2020**



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

**MUTUAL ASSISTANCE IN CRIMINAL MATTER  
(AMENDMENT) ACT, 2020.**

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NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
41<sup>ST</sup> CONSTITUTION REGULAR SESSION, 2020



Republic of the Marshall Islands  
*Jepilpilin Ke Ejukaan*

MUTUAL ASSISTANCE IN CRIMINAL MATTER  
(AMENDMENT) ACT, 2020.

A BILL FOR AN ACT to amend Title 32, Chapter 4 of the Marshall Islands Revised Code to clarify certain provisions of the Chapter in line with international standards for anti-money laundering and countering the financing of terrorism.

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

§101. Short title.

This Act may be cited as the Mutual Assistance in Criminal Matter (Amendment) Act, 2020. .

§102. Amendments.

(1) Section 404(1) of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended as follows:

§404. Interpretations.

...

(q) "serious offense" means an offense against a provision of:

- (i) any law of the RMI, for which the maximum penalty is a criminal offense punishable by imprisonment or other deprivation of liberty for a term of more than one year period of not less than 12 months or imposition of a fine of \$5,000 or more; or

(ii) a law of a foreign country, in relation to acts or omissions, which, had they occurred in the RMI, would have constituted ~~a criminal offense punishable by imprisonment for a term of more than one year~~ an offense for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months or imposition of a fine of \$5,000 or more; and

(r) "tainted property" means:

(i) property used, or intended to be used, in the commission of a serious offense, or in connection with the commission of a serious offense;

(ii) proceeds of crime, as defined in paragraph (n) of this section; or

(iii) property of corresponding value.

...

(2) Section 406(3) and (4) of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 are hereby amended as follows:

**§406. Mutual legal assistance requests by the RMI.**

...

(3) locate or restrain any property ~~believed to be the proceeds of crime~~ suspected to be tainted property located in the foreign country;

(4) confiscate any property believed to be located in the foreign country, which is the subject of a confiscation order made under any law in place in the RMI for the purpose of preventing money laundering or realizing ~~proceeds of crime~~ tainted property.;

...

(3) Section 409 of the Republic of the Marshall Islands Mutual Assistance in Criminal Matters Act, 2002 is hereby amended to add a new Subsection (2) as follows:

**§409. Considerations for grant of request for mutual legal assistance.**

...

1           (2) A request may be granted under subsection (1) notwithstanding the  
2           absence of dual criminality if the assistance does not involve coercive  
3           actions. In the case of coercive actions, dual criminality is deemed  
4           satisfied regardless of whether both countries place the offense  
5           within the same category of offense, or denominate the offense by the  
6           same terminology, provided that both countries criminalize the  
7           conduct underlying the offense.

8           (4) Section 415(1) of the Republic of the Marshall Islands Mutual  
9           Assistance in Criminal Matters Act, 2002 is hereby amended as  
10          follows:

11          **§415. Requests for enforcement of foreign confiscation or restraining**  
12          **orders.**

13          (1) Where a foreign country requests the Attorney-General to make  
14          arrangements for the enforcement of a.:

15               (a) foreign restraining order; or

16               (b) foreign confiscation order, the Attorney-General may apply to  
17               the High Court of the RMI for entry and enforcement of the  
18               order under this Chapter or under any law in place in the RMI  
19               for the purpose of preventing money laundering or realizing  
20               ~~proceeds of crime~~ tainted property.

21          ...

22          (5) Section 416 of the Republic of the Marshall Islands Mutual Assistance  
23          in Criminal Matters Act, 2002 is hereby amended as follows:

24          §416. Foreign requests for the location of ~~proceeds of crime~~ tainted  
25          property.

26          Where a foreign country requests the Attorney-General to assist in locating  
27          property ~~believed to be the proceeds of a serious crime committed in that~~  
28          ~~country~~ suspected to be tainted property in respect of an offense within its  
29          jurisdiction, the Attorney-General may authorize the making of any  
30          application to the High Court, for the purpose of acquiring the information  
31          sought by the foreign country.

32          (6) Section 417 of the Republic of the Marshall Islands Mutual Assistance  
33          in Criminal Matters Act, 2002 is hereby amended as follows:

34          **§417. Sharing confiscated property with foreign Countries.**

1 The Attorney-General may enter into an arrangement with the competent  
2 authorities of a foreign country, in respect of money laundering and  
3 ~~proceeds of crime~~ tainted property, for the reciprocal sharing with that  
4 country of such part of any property realized:

- 5 (a) in the foreign country, as a result of action taken by the  
6 Attorney-General pursuant to section ~~407(4)~~ 406(4); or  
7 (b) in the RMI, as a result of action taken in the RMI pursuant to  
8 section ~~416(1)~~ 415(1), as the Attorney-General thinks fit.

9 **§103. Effective Date.**

10 This Bill, and all Acts contained herein, shall take effect in accordance with  
11 the Constitution and the Rules of Procedures of the Nitijela.

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
2 41<sup>ST</sup> CONSTITUTION REGULAR SESSION, 2020

MUTUAL ASSISTANCE IN CRIMINAL MATTER  
(AMENDMENT) ACT, 2020.

3 BILL SUMMARY

4 The Republic of the Marshall Islands (RMI) is a member of the Asia/Pacific Group on  
5 Money Laundering (APG), and as a member of the APG, the RMI has an obligation  
6 to ensure its anti-money laundering and countering the financing of terrorism  
7 (AML/CFT) regime meets the international standard. The RMI's AML/CFT regime  
8 will be evaluated against the international standard by the APG in October 2020. A  
9 successful evaluation is of key importance to the RMI's international standing and  
10 its access to the international financial system.

11 In advance of the APG evaluation, a gap analysis was performed, and it identified  
12 clarifications and improvements to the RMI's AML/CFT laws that will aid in  
13 ensuring the RMI has a successful evaluation. Under the Mutual Assistance in  
14 Criminal Matters Act, 2002, these include (i) revising the definition of "serious  
15 offense" to be consistent among this act, the Banking Act 1987, and the Proceeds of  
16 Crime Act, 2002; (ii) adding a definition of "tainted property" and making its usage  
17 consistent with the Proceeds of Crime Act, 2002; and (iii) clarifying the dual  
18 criminality requirement for granting foreign requests for assistance. By swiftly  
19 enacting these amendments, the RMI will improve its position within the  
20 international community and continue meeting its obligations to the APG.


21

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS  
41ST CONSTITUTION REGULAR SESSION, 2020

MUTUAL ASSISTANCE IN CRIMINAL MATTER  
(AMENDMENT) ACT, 2020.

SIGNATURES

DATE: \_\_\_\_\_ INTRODUCED BY Alfred Alfred, Jr.   
Print Name Signature

DATE: \_\_\_\_\_ INTRODUCED BY KESAIH.KOTE   
Print Name Signature

DATE: \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_  
Print Name Signature

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