

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
42ND CONSTITUTION REGULAR SESSION, 2021



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2021

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42ND CONSTITUTION REGULAR SESSION, 2021



Republic of the Marshall Islands
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**PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2021**

A BILL FOR AN ACT to amend the Public Lands and Resources Act, 9 MIRC Ch. 1, by amending the current definition in §102 and inserting a new definition to clarify and update the meaning of Public Land. To also clarify and distinguish the rights of the Government and the rights of the customary and legal owner of the land, whether they are classified as an individual land owner, clan, or family; and, to provide for matters connected therewith or incidental thereto.

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

§101. Short title.

This Act may be cited as the Public Land and Resources (Amendment) Act 2021.

§102. Amendments.

Section 102 of the Public Land and Resources Act, 9 MIRC Ch. 1, is amended to read as follows:

§102. "Public land" define.

Public land is defined as land situated within the Republic which was ~~owned or maintained by the Japanese government during the Japanese administration of the islands presently comprising the Republic, as government or public land, and such other lands as the government of the Republic has acquired or may hereafter, acquire for public purposes, either through sale, mortgage, lease, license or otherwise.~~

1 A new Section 102A is inserted in the proposed Public Land and Resources
2 (Amendment) Act 2021, to read as follows:

3 **§102A. All Formerly Categorized "Public land" Returned.**

4 All Public land previously defined as land situated within the Republic
5 which was that were owned taken or and maintained by the Japanese
6 government during the Japanese administration of the islands, that are now
7 presently comprising the Republic, as government or public land, are
8 hereby returned to their previous customary and legal owner, whether they
9 are classified as an individual land owner, clan, or family.

10 Section 103(1) of the *Public Land and Resources Act 1988*, 9 MIRC Ch. 1, is
11 amended to read as follows:

12 **§103. Rights in areas below high watermark.**

13 (1) ~~That portion of the law established during the Japanese~~
14 ~~administration of the area which is now the Republic, that~~ All marine
15 areas below the ordinary high watermark ~~belong~~ are under the
16 jurisdiction of ~~to~~ the government, ~~is hereby confirmed,~~ which shall
17 enact regulatory instruments, including but not limited to Acts of
18 the Nitijela, Presidential Orders, Cabinet Decrees, Emergency
19 Declarations, to protect its inherent regulatory powers and protect
20 the interests of the customary and legal owner of the abutting
21 land and the marine area below the ordinary high water mark
22 adjacent to their land. This is now a part of the law of the
23 Republic, along with the following exceptions:

24 (a) ...

25 (b) The right of the owner of abutting land to claim ownership of
26 all materials, coconuts, or other small objects deposited on the
27 shore or beach by action of the water or falling from trees
28 located on the abutting land, and such fishing rights on,
29 and in waters over reefs where the general depth of water does
30 not exceed four feet at mean low water as were recognized by
31 local customary law at the time the Japanese administration
32 abolished them, are hereby re-established where such rights
33 are not in conflict with the ~~inherent rights~~ jurisdictional
34 powers of the government as the ~~owner-regulator and~~
35 protector of all marine areas below the ordinary high
36 ~~watermark, provided however, that this Section shall not be~~

1 ~~construed to apply any vessel wrecked or stranded on any part~~
2 ~~of the reefs or shores of the Republic.~~

3 (c) The owner of land abutting the ocean or lagoon shall have the
4 right to fill in, erect, construct and maintain piers, buildings, or
5 other construction on or over the water or reef abutting his
6 land and shall have the ownership and control of such
7 construction; provided, that said owner first obtains written
8 ~~permission~~ consent of the Chief Secretary, in order to comply
9 with any national plan, or any environmental and coastal
10 erosion policy, before beginning such construction.

11 (d) ...

12 (e) ~~Nothing in the foregoing Paragraphs of this Subsection (1)~~
13 ~~shall withdraw or disturb~~ the traditional and customary right
14 of the individual land owner, clan, or family ~~or~~
15 ~~municipality~~ to control the use of, or material in, marine areas
16 below the ordinary high watermark, subject is hereby
17 reestablished, and shall be in conformity subject only to, and
18 limited by, with the inherent rights jurisdictional powers of the
19 government of the Marshall Islands as ~~the owner of~~ regulator
20 and protector of such marine areas. The foregoing Paragraphs
21 of this Subsection (1) shall create no right in the general public
22 to misuse, abuse, destroy or carry away mangrove trees or the
23 land abutting the ocean or lagoon, or to commit any act
24 causing damage to such mangrove trees or abutting land.

25 (f) ...

26 (2) Written notice of any legal interest or title must be filed with the ~~land~~
27 ~~office within two (2) years from January 8, 1958~~ Land Registration
28 Authority established under 24 MIRC Ch. 4. The validity of the
29 claimed legal interest or title shall be determined by the ~~land officer~~
30 Land Registration Authority Board in consultation with the Registrar
31 after notice to the person making the claim or any other known
32 parties in interest, and an opportunity for hearing, in the same
33 manner and with the same rights of appeal as ~~in the case of claims to~~
34 ~~land which the government had possession of under claim of~~
35 ~~ownership~~ in accordance with provisions expressed under 24 MIRC
36 Ch. 4.

1 Section 105 of the *Public Land and Resources Act 1988*, 9 MIRC Ch. 1, is
2 amended to read as follows:

3 **§105. Title to land-filled and land reclaimed from marine areas.**

4 Notwithstanding the provisions of any law to the contrary, title to ~~new~~ any
5 land created through "land-fill" or other land reclamation processes, from
6 marine areas below the ordinary high water mark, by the government, or by
7 any other person, corporation or other legal entity, for any purpose
8 whatsoever, including land created prior to 1979, shall now vests in the
9 rightful owners of the adjoining land or lands.

10 **§103. Effective Date.**

11 This Act shall take effect on the date of certification in accordance with the
12 Constitution and the Rules of Procedures of the Nitijela.

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
2 42ND CONSTITUTION REGULAR SESSION, 2021

**PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2021**

3 **BILL SUMMARY**

4
5 This Bill proposes to amend Sections 102, 103(1)(b)(c)(e), 103(2), and 105 of the Public Lands
6 and Resources Act 1980, 9 MIRC Ch. 1. It also seeks to insert a new Section 102A for
7 clarification purposes.

8
9 The proposed amendment to Section 102 and the insertion of a new Section 102A
10 seek to clarify and update the defined meaning of Public Land, and authorize the “return”
11 of all previously classified “government” land to their rightful landowners in accordance
12 with the Act.

13
14 The proposed amendment to Section 103, as a whole, is to clarify and put to rest the
15 issue of land ownership in the Republic of the Marshall Islands. There is a need to identify
16 and clarify what is public land and the more important need to answer the age old query of
17 “does the government own land”?

18
19 Section 105 is amended to guide the judiciary and the courts that ownership of land
20 created through “land-fill” or other land reclamation processes, from marine areas below
21 the ordinary high water mark, by the government, or by any other person, corporation or
22 other legal entity, for any purpose whatsoever, has always vests in the customary and legal
23 land owners from a time even before the advent of constitutional government in the
24 Republic.

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42ND CONSTITUTION REGULAR SESSION, 2021

PUBLIC LAND AND RESOURCES (AMENDMENT) ACT
2021

SIGNATURES

DATE: 8/31/21 INTRODUCED BY Mike Kabuz [Signature]
Print Name Signature

DATE: 8/31/21 INTRODUCED BY HIROSHI YAMAMURA [Signature]
Print Name Signature

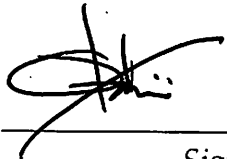
DATE: 8/31/21 INTRODUCED BY Joe Bejang [Signature]
Print Name Signature

DATE: " INTRODUCED BY ADRIAN [Signature]
Print Name Signature

DATE: 8.31.21 INTRODUCED BY Raymond Alfred [Signature]
Print Name Signature

DATE: 8/31/21 INTRODUCED BY STEPHEN W. PHILIP [Signature]
Print Name Signature

1
2 DATE: 08/30 INTRODUCED BY TONY AISIHO ~~WAKA~~
3 *Print Name* *Signature*

4 DATE: 08/31/21 INTRODUCED BY OTA IASINO 
5 *Print Name* *Signature*

6 DATE: _____ INTRODUCED BY _____
7 *Print Name* *Signature*

8 DATE: _____ INTRODUCED BY _____
9 *Print Name* *Signature*
10