

CONSTITUTION OF THE MALEOLEP ATOLL  
LOCAL GOVERNMENT

PART I. - PRELIMINARY

SECTION 1. Name of the Local Government

The name of the local government is Maloelap Atoll Local Government.

SECTION 2. Local Government Area.

The area of jurisdiction of the local government is Maloelap Atoll and, in accordance with Article IX, Section 1(2) and (3) of the Constitution of the Marshall Islands, extends to the sea and the seabed of the internal waters of Malelap Atoll and to the surrounding sea and seabed to a distance of 5 miles from the baselines from which the territorial sea of Maloelap atoll is measured, as more particularly described in Schedule 1.

SECTION 3. Capitol

The principal office of the local government shall be located at Tarawa Islands, Maloelap Atoll, or at such other place in the local government area as the Council by resolution declares.

PART II. - WARDS

SECTION 4. Division of the local government area into wards

In accordance with Section 19 of the Local Government Act 1980, the local government area is divided into the following wards, as more particularly described in Schedule 2, each electing the number of members to the Council set out against its name: -

- (a) Kaven Ward -- 5 representatives
- (b) Jang Ward -- 2 representatives
- (c) Wollot Ward -- 3 representatives
- (d) Tarawa Ward -- 3 representatives
- (e) Airok Ward -- 4 representatives

Candidacy from each ward shall be based on population. Forty persons for one representative from each election ward.

PART III. - THE LEGISLATURE

SECTION 5. Establishment of the Legislature

A legislature, to be known as the Maloelap Atoll Local Council, is hereby established for the local government, and in accordance with Section 13(1) of the Local Government Act 1980 the Ordinance-making, taxing and appropriation powers of the local government under Article IX, Section 2 of the Constitution of the Marshall Islands are vested in it.

SECTION 6. Membership and Elections

(1) The Council shall consist of the members elected from each ward.

(2) The two(2) Iroi of Maloelap sitting as ex-officio members.

(3) The general members referred to in Subsection (1) shall be elected by ballot by eligible voters, as provided for by Section 13 and 23 of the Local Government Act 1980.

(4) The first general election of members referred to in Subsection (1) shall be held on a date, as soon as practicable after the effective date of this Constitution, and thereafter on a date as near as practicable to the fourth anniversary of the date of the preceding general election, fixed by the Chief Electoral Officer.

SECTION 7. Qualifications

(1) The qualifications for election as a general member referred to in Section 6(1) are to -

(a) be a citizen of the Marshall Islands; and

(b) have land rights; and

(c) have resided on Maloelap Atoll three years prior to election; and

(d) have resided on the election ward in which he is running from for at least one year; and

(e) 20 years of age or older; and

(f) not be under criminal sentence at the time of his election.

SECTION 8. Term of Office

(1) The term of office of a member referred to in Section 6 (1) is four years and -

(a) the registered voters of Maloelap Atoll shall determine by vote which half of the total membership of the Council elected during the first general election under the Constitution of Maloelap Atoll, shall have a term of two years; and

(b) commences on the day after his election is announced; and

(c) terminates on the day before the election for his seat.

(d) The office of the Mayor shall call a special election for those members whose term expired approved by the voters.

SECTION 9. Vacation of Seats

(1) The seat of a member of the Council becomes vacant if, and only if --

(a) his term of office terminates in accordance with Section 8; or

(b) he ceases to possess the qualifications for election that he was required, under Section 7, to have at the time of his election; or

(c) he dies; or

(d) he resigns his seat by notice in writing to the local government; or

(e) he is removed from office under Subsection (2).

(2) The Council may, by affirmative vote of not less than 3/4 of the total membership of the Council, remove a member from office for cause.

SECTION 10. Casual Vacancies

(1) If the seat of a member of the Council referred to in Section 6(1) becomes vacant otherwise than by the termination of his term of office in accordance with Section 8, the vacancy shall be filled as soon as practicable by a special election in the ward that he represented.

SECTION 11. Meetings

(1) Meetings of the Council shall be held four (4) times a year, on such days and at such times as are fixed by the Council by resolution, or in default by the Mayor, or by notice in accordance with the Rules of Procedures. Special sessions will be called by the Mayor.

(2) The Chief Electoral Officer shall, as soon as practicable after the declaration of the results of the first general election to the Council, by notice to all members call a meeting of the Council.

(3) The Mayor may at any time, and shall as soon as practicable after receipt of a petition of a majority of the members of the Council, stating the business to be dealt with, call a meeting of the Council, by notice in accordance with the Rules of Procedures of the Council stating the business to be dealt with.

(4) A special meeting shall deal only with the subjects stated in the notice calling the meeting.

(5) Meetings of the Council shall be held in public.

(6) The quorum for a meeting of the Council is a majority of the total number of the membership of the Council.

(7) The Mayor shall preside at all meetings of the Council at which he is present and, subject to Section 18 and to the Rules of Procedures of the Council, in his absence or during a vacancy in his office a member elected by the members present shall preside.

(8) Except as otherwise provided by the Local Government Act 1980, all questions before a meeting of the Council shall be determined in accordance with the majority of the votes of the members present and voting, but no question shall be decided on an evenly-divided vote.

#### SECTION 12. Procedures

(1) The Council shall keep and publish a journal of its proceedings.

(2) The Council shall make Rules of Procedures, not inconsistent with this Constitution, any Central Government law or any Ordinance of the local government, for the regulation and orderly conduct of its proceedings and the dispatch of its official business.

(3) Subject to this Constitution, any Central Government law or any Ordinance of the local government, the Council may regulate its own proceedings.

#### SECTION 13. Committees

The Council may establish standing and other committees to deal with any matter that can in its opinion more properly or more conveniently be dealt with by a committee.

### PART IV. -- THE HEAD OF THE LOCAL GOVERNMENT

#### SECTION 14. Office of the head of the local government

An office of head of the local government, who shall be known as the Mayor, is hereby established for the local government.

SECTION 15. Qualification

The Mayor must be a member of the Council who is 30 years of age or more.

SECTION 16. Election

(1) The Mayor shall be elected by the Council by the affirmative vote of a majority of the total number of the membership of the Council.

~~(2) If on a ballot no member receives the votes of a majority of the total number of the membership of the Council, the candidate receiving the lowest number of votes (or if there be more than one such candidate, one of them selected by lot), shall be excluded and a fresh ballot taken, and so on until one candidate has received the votes of a majority of the total number of the membership.~~

(3) If at the end of that procedure no candidate has received the votes of the majority of the total membership of the Council, the election is void and a fresh election shall be held on the next sitting day of the Council, and so on until a member is elected Mayor.

SECTION 17. Vacation of Office

(1) The office of the Mayor becomes vacant if, and only if -

- (a) his seat in the Council becomes vacant under Section 9; or
- (b) he is dismissed under Subsection 2; or
- (c) he resigns his office by notice in writing to the Clerk of the local government.

(2) The Council may, by the affirmative vote of 2/3 of the total membership of the Council, dismiss the Mayor from office.

(3) If the office of the Mayor becomes vacant by reason of the termination of the term of his office as a member of the Council in accordance with Section 8, he shall continue to perform the functions of the Mayor until a new Mayor is elected, but unless he becomes

again a member of the Council he shall not vote or take part in its deliberations otherwise than as the member presiding at a meeting.

SECTION 18. Acting head of the local government

(1) In the event of the absence or incapacity of the Mayor, his functions shall be performed by a member of the Executive Committee appointed by him or, in default, the Executive Committee.

(2) For the purpose of the performance of any function of the Mayor that a member of the Executive Committee is authorized to perform by virtue of Subsection (1), the member shall be deemed to be the Mayor, and any reference in any law or in the Rules of Procedures of the Council to the Mayor shall be read as including a reference to that member accordingly.

SECTION 19. Functions of the head of the local government

The Mayor has such powers, functions, duties and responsibilities as are conferred or imposed on him by this Constitution, an Ordinance of the local government, a Central Government law or the Rules of Procedures of the local government.

PART V. - THE EXECUTIVE

SECTION 20. Establishment of the executive

(1) An executive committee of the Maloelap Atoll local government is hereby established, which shall, in accordance with Section 14(1) of the Local Government Act 1980, be the principal executive arm of the Maloelap Atoll government.

(2) The Executive Committee is collectively responsible to the Council for the executive government of the local government area, and for the performance of the functions of the Executive Committee and the members of the Executive Committee under this Constitution, any Ordinance of the local government or a Central Government law.

SECTION 21. Composition

(1) The Executive Committee shall consist of -

(a) The Mayor; and

(b) three members of the Council appointed by the Mayor in writing.

(2) The quorum for a meeting of the Executive Committee is two.

SECTION 22. Vacation of Office

(1) The office of the Mayor becomes vacant in accordance with Section 17.

(2) The office of an Executive Member becomes vacant if, and only if -

(a) his seat in the Council becomes vacant under Section 9; or

(b) The office of the Mayor becomes vacant under Section 17; or

(c) he is dismissed from office under Subsection 3; or

(d) he resigns his office by notice in writing to the Mayor.

(3) The Mayor may at any time, with cause, dismiss an Executive Member from office.

(4) If the office of the Mayor becomes vacant otherwise than by reason of his dismissal under Section 17(2), the Executive Members shall continue to perform their functions (including the function of appointing under Section 18 a member of the Executive Committee to perform the functions of the Mayor).

(5) If the office of an Executive Member becomes vacant by reason of the termination of the term of his office as a member of the Council under Section 8, he may continue to perform the functions of an Executive Member until a new Mayor is elected, but unless he becomes again a member of the Council he shall not vote or take part in its deliberations.

SECTION 23. Acting appointment

In the event of the absence or incapacity of an Executive Member,

the Mayor may -

- (a) appoint another Executive Member to perform some or all of his functions; or
- (b) appoint a member of the Council to act as an Executive member, or both, during the absence or incapacity.

SECTION 24. Allocation of responsibilities to Executive Members

(1) Subject to this Constitution, any Ordinance of the Maloelap Atoll Council and any Central Government law, the Mayor may from time to time allocate to an Executive Member responsibility for matters within the competence of the Executive Committee (including responsibility for the administration of Ordinances of the local government).

(2) The Mayor is responsible for any matter of responsibility for which is not for the time being allocated under Subsection (1).

(3) Nothing in this section affects the collective responsibility of the Executive Committee under Section 20(2).

SECTION 25. Functions of the Executive Committee

The Executive Committee has such powers, functions, duties and responsibilities as are conferred or imposed on it by this Constitution, an Ordinance of the local government or a Central Government law.

SECTION 26. Advice to the Council, etc., of certain matters

(1) The Mayor shall promptly notify the Council and the Minister of the Government of the Marshall Islands responsible for local government matters of --

- (a) the appointment, dismissal or resignation of a member of the Executive Committee; or
- (b) the appointment, or the termination of the appointment of a member of the Council to act as an Executive Member under Section 23(b); or

(c) the appointment by him of a member of the Executive committee to perform the functions of the Mayor under Section 18(1); or

(d) the allocation under Section 24(1) of responsibilities to Executive Members and the appointment under Section 23(a) of an Executive Member to perform functions of another Executive Member.

(2) The Executive Committee shall promptly notify the Council and the Minister of the Government of the Marshall Islands responsible for local government matters of the appointment by it of a member of the Executive Committee to perform the functions of the Mayor under Section 18(1).

(3) The Clerk of the Maloelap Atoll Local Government shall promptly notify the Council and the Minister of the Government of the Marshall Islands responsible for local government matters of the resignation of the Mayor under Section 17(1)(c), or of the dismissal of the Mayor under Section 17(2).

## PART VI -- FINANCE

### SECTION 27. Control of revenue and expenditure

(1) No taxes shall be imposed and no other revenue shall be raised, and no money of the local government shall be expended, unless authorized by law.

(2) Subsection (1) does not apply to the acceptance of grants (other than loans) from the government of the Marshall Islands, for the purpose of which, and subject to the conditions on which, they are made.

(3) All money received by the local government shall, unless other-

wise authorized by Ordinance of the local government or by or under Local Government Financial Memoranda issued under Section 41(2) of the Local Government Act 1980, be paid into a fund or account established in accordance with such an Ordinance or the Financial Memoranda.

SECTION 28. Financial responsibility of the Executive Committee

(1) It is the responsibility of the Executive Committee to make proposals to the Council on all matters relating to the budget, and in particular the Executive Committee shall make recommendations to the Council for the raising of taxes and other revenue, and for the expenditure of money of the local government.

(2) The Executive Committee is accountable to the Council for all expenditure of money of the local government and for relating such expenditure to appropriations made by the Council or to other authority conferred by this Constitution, an Ordinance of the local government or a Central government law.

(3) Except on the recommendation or with the consent of the Executive Committee, signified by or on behalf of the Mayor, the Council shall not make or approve any Ordinance or other proceeding introduced by a member other than the Mayor or an Executive member if the Ordinance or proceeding would, in the opinion of the member of the Council presiding-

- (a) dispose of or charge any of the revenues of the local government; or
- (b) revoke or alter (otherwise than by way of reduction) any such disposition or charge; or
- (c) impose, alter or abolish any tax, rate, due, fee or fine.

SECTION 29. Budget and appropriation

(1) The Executive Committee shall cause to be introduced into

the Council in respect of each financial year -

- (a) a set of budget estimates of revenue and expenditure; and
- (b) an Appropriation Ordinance to make appropriations for expenditure, and may introduce additional supplementary estimates and Supplementary Appropriation Ordinances.

(2) Subject to any Local Government Administrative Memoranda issued under Section 41(1)(a) of the same Act, Appropriation Ordinances and Supplementary Appropriations Ordinances shall follow the general form of Central Government Appropriation Bills and Supplementary Appropriation Bills under Article VIII, Sections 6 and 8 of the Constitution of the Marshall Islands.

(3) Subject to any Local Government Financial Memoranda issued under Section 41(2) of the Local Government Act 1980, an Ordinance of the local government may make provision for anticipated and re-programmed expenditure and a Contingencies Fund.

(4) Nothing in this section prevents appropriations for specific purposes being included in an Ordinance of the local government other than an Appropriation Ordinance or a Supplementary Appropriation Ordinance.

(5) Appropriations lapse at the end of the financial year to which they respectively relate, unless, in relation to any particular head of appropriation, an Ordinance of the local government provides otherwise.

#### SECTION 30. LOANS

The local government shall not accept loans, grant charges against its future revenue, or incur indebtedness chargeable to future revenue otherwise than in accordance with Section 50 of the Local Government Act 1980.

SECTION 31. Accounts

(1) The Executive Committee shall cause to be kept full and proper accounts and records of revenue and expenditure of the local government, assets of or under the control of the local government and liabilities of the local government.

(2) The accounts and record shall comply with -

(a) any Local Government Financial Memoranda issued under Section 41(2) of the Local Government Act 1980; and

(b) subject to such memoranda, any directions of the Auditor-General; and

(c) subject to such memoranda and directions, any Ordinance of the local government

(3) The Executive Committee shall, as soon as practicable after the end of a financial year, lay before the Council accounts relating to all revenues and expenditures of the local government for that financial year, together with any report of the audit of the accounts under Section 32.

SECTION 32. Audit

(1) In addition to the audit provided for by Section 35 of the Local Government Act 1980, the Auditor-General or a person authorized by him may at any time audit the accounts and records of the local government, and any accounts laid or to be laid before the Council under Section 31(3).

(2) The Auditor-General or authorized person shall report to the Council and to the Minister of the Government of the Marshall Islands responsible for local government matters on the audit and shall, in his report, draw attention to any irregularities in the accounts and records, or in the accounts, as the case may be.

(3) For the purpose of an audit under Subsection (1), the Auditor-General or authorized person has the powers and rights referred to in Article VIII, Section 15 of the Constitution of the Marshall Islands.

SECTION 33. Financial Memoranda

Subject to this Constitution, all persons concerned with the financial administration of the local government shall comply with any Local Government Financial Memoranda issued under Section 41(2) of the Local Government Act 1980.

PART VII. - STAFF

SECTION 34. Employment of Staff

(1) The Mayor, on behalf of the local government, may appoint a Clerk of the local government, and such other officers and employees as he considers necessary for the effective operation of the local government.

(2) the local government is the employer of the Clerk and the other officers and employees.

(3) The terms and conditions of appointment and employment of the Clerk and the other officers and employees shall be determined by or under an Ordinance of the local government, and in the absence of such an Ordinance are, with the necessary modifications, those of members of the Public Service holding equivalent positions, for which purpose any reference in any Central Government law to -

(a) the Chief Secretary or a department head shall be read as a reference to the Clerk; or

(b) the Public Service Commission shall be read as reference to the Executive Committee.

SECTION 35. Seconded, etc., public servants

Subject to any arrangements made under Section 16(3) of the Local Government Act 1980, and to anything to the contrary in any Ordinance of the local government, a member of the Public Service who is seconded to the local government in accordance with that section, or whose services are made available to the local government in accordance with that section, shall be deemed to be an officer of the local government for the purposes of any Ordinance of the local government other than an Ordinance prescribing terms and conditions of employment by the local government.

PART VIII. AMENDMENT OF THE CONSTITUTION

SECTION 36. Method of amendment

(1) This Constitution may be amended by Ordinance of the Local government approved on two occasions not more than 30 days apart by a 2/3 majority of the total membership of the Council, or a shorter period of time set by the Minister of the Government of the Marshall Islands responsible for local government matters for appropriate cause.

(2) If the Minister of the Government of the Marshall Islands responsible for local government matters recommends to the local government amendments to this Constitution, the Council shall consider those amendments, but need not adopt them, with or without modification.

PART IX. -- MISCELLANEOUS

SECTION 37. Central Government recommendations as to Ordinances, etc.

If the Minister of the Government of the Marshall Islands responsible for local government matters recommends to the local government that an Ordinance be made, amended or repealed, the Mayor shall cause the recommendation to be presented to the Council together with the

comments of the Executive Committee on it.

SECTION 38. Advise as to validity of Ordinance, etc.

(1) The Mayor may, and shall if so directed by the Council, request the Minister of the Government of the Marshall Islands responsible for local government matters for a report by the Attorney-General on the validity of an Ordinance or proposed Ordinance of the local government, or of any action or proposed action by the local government.

SECTION 39. Vacancies

The validity of any thing done by the Council or the Executive Committee or, subject to any Ordinance of the local government and to the Rules of Procedures of the Council, of a committee of the Council is not affected by any vacancy in its membership, provided that the number necessary to form a quorum for a meeting remains.

SECTION 40. Service

Where any document or thing is to be given to, served on or communicated to a local government at a time when-

(a) there is a vacancy in the office of the Mayor or the Mayor is absent or incapacitated; and

(b) there is no person appointed under Section 18, it is sufficient if it is addressed to the Clerk of the local government.

SECTION 41. Effective date

This Constitution shall be effective on a date fixed by the

Committee of the Executive Council on the

SECTION 38. Administrative Expenses

The Commission may and shall be authorized by the Governor to request the Director of the Department of the Treasury to appropriate for the Commission such sums of money as may be necessary for the maintenance of the Commission in the performance of its duties. The Commission shall be reimbursed for any amount expended by it for the purpose of carrying out its duties.

SECTION 39. Reports

The Commission shall file with the Council on the Executive and Legislative Branches of the State a report of its activities and a statement of its expenditures for each year. The report shall be filed with the Council on the Executive and Legislative Branches of the State on or before the first day of January following the expiration of the term of the Commission.

SECTION 40. Seal

The Commission shall have a seal which shall be designed by the Commission and shall be in the form of a shield. The seal shall be used by the Commission in all its official communications. The seal shall be in the form of a shield and shall contain the following: A shield with a scale of justice, a sword, and a book. The shield shall be surrounded by the words 'COMMISSION ON THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE STATE'.