

**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS**

**36<sup>TH</sup> CONSTITUTIONAL REGULAR SESSION, 2015**

**BILL NO.: 70ND1**

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**AN ACT**

to provide for a Constitutional Convention, prescribing its powers, duties and functions and for matters connected therewith.

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

**PART I - PRELIMINARY**

**Section 1. Short Title**

This Act may be cited as the Constitutional Convention Act, 2015.

**Section 2. Interpretation.**

In this Act, unless the context otherwise requires:

- (a) "Committee" means the Pre-Convention Committee established under this Act;
- (b) "Convention" means the Constitutional Convention established herein;
- (c) "Speaker" means the Speaker of the Nitijela;
- (d) "President" means the President of the Constitutional Convention.

**Section 3. Intent.**

(1) Whereas the Nitijela is tasked with the responsibility at least once every ten years to report on the advisability of amending the Constitution or calling or holding a referendum on the

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1 question of calling or holding a Constitutional Convention, and that a Special Committee  
2 appointed by the Speaker of the Nitijela pursuant to Nitijela Resolution No.3 of 2013;

3 (2) Whereas the Special Committee had compiled a report on the advisability of  
4 amending certain parts of the Constitution, and presented to the Nitijela, and on January 20, 2014  
5 adopted the report;

6 (3) Whereas all proposals, including those referenced under the Nitijela Special  
7 Committee 2013 Report are reproduced in the document attached herewith as Schedule 1; and

8 (4) Now therefore, it is the duty of the Nitijela in accordance with Article XII Sections 1,  
9 2 and 4 of the Constitution to provide for the holding of a Constitutional Convention as follows.

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11 **PART II – CONSTITUTIONAL CONVENTION**

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13 **Section 4. The Convention.**

14 There is hereby created in accordance with Article XII Sections 1, 2 and 4 of the  
15 Constitution a convention to be known as the Marshall Islands Constitutional Convention and  
16 referred hereinafter as “the Constitutional Convention”.

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18 **Section 5. Members .**

19 The Constitutional Convention shall consist of 45 members of who shall be elected as follows:

20 (1) Thirty three (33) members to be elecjjted from the electoral districts in the same  
21 manner as provided in Article IV Section 2 of the Constitution, as follows:

22 (a) Majuro shall be represented by five (5) members;

- 1 (b) Kwajalein shall be represented by three members;
- 2 (c) Ailinglaplap shall be represented by two members;
- 3 (d) Arno shall be represented by two members;
- 4 (e) Jaluit shall be represented by two members;
- 5 (f) Mili shall be represented by one member;
- 6 (g) Ebon shall be represented by one member;
- 7 (h) Lib shall be represented by one member;
- 8 (i) Namdrik shall be represented by one member;
- 9 (j) Maloelap shall be represented by one member;
- 10 (k) Wotje shall be represented by one member;
- 11 (l) Likiep shall be represented by one member;
- 12 (m) Ailuk shall be represented by one member;
- 13 (n) Aur shall be represented by one member;
- 14 (o) Namu shall be represented by one member;
- 15 (p) Wotho shall be represented by one member;
- 16 (q) Enewetak and Ujelang shall be represented by one member;
- 17 (r) Kili Bikini Ejit shall be represented by one member;
- 18 (s) Rongelap shall be represented by one member;
- 19 (t) Mejit shall be represented by one member;
- 20 (u) Utrik shall be represented by one member;
- 21 (v) Lae shall be represented by one member;
- 22 (w) Ujae shall be represented by one member;
- 23 (x) Jabat shall be represented by one member.

1 (2) Narikrik, Erikub, Jemo, Taka, Bikar, Bokak, Rongrik and Ailinginae shall each be  
2 included in the electoral district with which it is most closely associated, pursuant to custom and  
3 traditional practice;

4 (3) In addition to subsection (1) above, twelve (12) other members who are of Iroij  
5 descent shall be represented by four (4) Iroijs and or Leroijs, elected in the following manner:

6 (a) Railik Chain (excluding Ujelang and Enewetak) shall be represented by four  
7 (4) Iroijs and/or Leroijs, elected in the following manner:

8 (i) one Iroij or Leroij from the domain (mojen) of Laelang Kabua;

9 (ii) one Iroij or Leroij from the domain (mojen) of Jeimata Kabua;

10 (iii) one Iroij or Leroij from the domain (mojen) of Loeak;

11 (iv) one Iroij or Leroij from the domain (mojen) of Litokwa;

12 (b) Ujelang and Enewetak shall be represented by one Iroij or Leroij;

13 (c) Mili shall be represented by one Iroij or Leroij;

14 (d) Arno shall be represented by one Iroij or Leroij;

15 (e) Mejit shall be represented by one Iroij or Leroij;

16 (f) Majuro shall be represented by one Iroij or Leroij;

17 (g) Airok Maloelap shall be represented by one Iroij or Leroij;

18 (h) Aur, Wotje, Utrik, Maloelap and Ailuk shall all be represented by one Iroij or

19 Leroij;

20 (i) Likiep shall be represented by one Owner;

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22 Section 6. **Qualification.**

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1           The qualifications to become a member of the Constitutional Convention shall be the  
2 same as those required to qualify as a member of the Nitijela, as set out under Article IV Section  
3 4 of the Constitution.

4  
5 **Section 7.     Elections.**

6           (1) The election of members to the Constitutional Convention shall be governed by the  
7 provisions of the Elections and Referenda Act, 1981 and the provisions of such Act shall apply  
8 mutatis mutandis to the conduct of such elections.

9           (2) All persons who are qualified to vote pursuant to the Constitution and the Elections  
10 and Referenda Act, 1981 shall be eligible to vote at this election.

11           (3) The elections anticipated herein shall be conducted within a reasonable time from the  
12 passage of this Act.

13  
14 **Section 8.     Vacancies.**

15           Notwithstanding the provisions of the Elections and Referenda Act 1981, in the event of  
16 a vacancy occurring during the course of the Constitutional Convention, such vacancy shall be  
17 filled by the candidate who polled the next highest number of votes.

18  
19 **Section 9.     Pre-Convention Committee.**

20           (1) There is hereby established a Pre-Convention Committee which shall consist of seven  
21 (7) members as follows:

22                   (a) the Speaker of the Nitijela or his designee, who shall also serve as chairman of  
23 the Committee;

1 (b) six (6) other members appointed by the Speaker.

2 (2) The Pre-Convention Committee shall act as the Coordinating Committee and shall  
3 ensure accommodation, Convention administrative facilities and staff are organized for the  
4 proper commencement and functioning of the Convention.

5 (3) The Committee may be assisted by the staff of the Nitijela as and when the Chairman  
6 deems it necessary.

7

8 **Section 10. Session of the Convention.**

9 The Convention shall convene in Majuro within one month of the date of the election of  
10 the members and shall remain in session for a period of not more than thirty (30) sitting days.  
11 The term "sitting days" as used herein shall have the same meaning as defined under the Rules of  
12 the Procedures of the Nitijela.

13

14 **Section 11. President of the Convention.**

15 (1) The Speaker shall preside over the initial meeting of the Constitutional Convention to  
16 elect the President of the Convention from amongst the membership of the Convention and shall  
17 thereafter vacate the Chair in favor of the President of the Convention.

18 (2) The President of the Convention shall preside over all sessions of the Convention and  
19 ensure the proper conduct of the meetings of the Convention.

20 (3) In the event that the President is temporary unable to perform his duties, he or she  
21 may designate from amongst the membership of the Convention, another member to perform  
22 such functions until such time that he or she is able to assume responsibility.

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1 **Section 12.     **Procedures of the Convention.****

2           The Convention may adopt its own rules of procedure. The Convention may refer to the  
3 Rules of Procedures of the Nitijela for guidance, or in the case where a matter is not provided for  
4 in its own rules.

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6 **Section 13.     **Duties of the Convention.****

7           (1) The Convention shall consider all proposals adopted by the Nitijela pursuant to this  
8 Act, as per Schedule 1 of this Act.

9           (2) The Convention shall not consider or adopt amendments that are not related to or  
10 inconsistent with, the proposals referred to it for consideration by the Nitijela pursuant to Article  
11 XII, Section 4(3) of the Constitution.

12           (3) Upon the completion of the duties of the Convention, the President of the Convention  
13 shall forthwith, notify the Speaker of the amendments or proposals it has adopted for submission  
14 to a referendum.

15  
16 **Section 14.     **Powers of the Convention.****

17           (1) The Convention shall have the following powers:

18                   (a) the power to procure and receive all evidence, written or oral and to examine  
19 witnesses;

20                   (b) the power to issue subpoenas requiring the attendance of witnesses or the  
21 productions of books, documents or any other items of interest related to the work of the  
22 Convention;

23                   (c) the power to require that witnesses be sworn under oath or affirmation;

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1 (d) the power to administer or cause to be administered an Oath or Affirmation.

2 (2) The Convention may request information from any government department and it  
3 shall be the duty of a government department to produce such information, except where in the  
4 opinion of the Head of the Department such information is considered confidential in the  
5 interests of National Security.

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7 **PART III – GENERAL PROVISIONS**

8  
9 **Section 15. Issues of Subpoenas.**

10 (1) Every subpoena issued by the Convention shall be issued under the hand of the  
11 President of the Convention or such other member authorized by the President and shall be  
12 executed or served by the Department of Public Safety.

13 (2) Every person served with a subpoena to appear before the Convention or to produce  
14 books, documents or other items of interest related to the work of the Convention shall appear  
15 before the Convention for such purposes promptly at the time and place specified in the  
16 subpoena.

17 **Section 16. Contempt.**

18 (1) Any person who, without justification cause:

19 (a) fails to obey a subpoena issued under this Act,

20 (b) refuses to be sworn or affirmed for the purposes of the Convention,

21 shall be liable for contempt.

22 (2) The President of the Convention shall have the authority to refer the matter to the  
23 Office of the Attorney-General for prosecution.



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2 Section 17.    **Staff of the Convention.**

3            The Convention may employ such staff or consultant as it may deem necessary for the  
4 proper functioning of the Convention.

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6 Section 18.    **Compensation.**

7            (1) Members of the Convention who are employees of the Public Service Commission  
8 shall be entitled to leave with pay.

9            (2) All members of the Convention shall be entitled to a sitting allowance at the Rates of  
10 seventy-five dollars (\$75.00) per sitting day.

11           (3) Members of the Convention who are residents of Ebeye and other Outer islands shall  
12 be entitled to the necessary travel expenses and per diem at the standard government rate for  
13 Majuro Atoll, in addition to the sitting allowance.

14           (4) Staff of the Convention who are employees of the Public Service shall be entitled to  
15 leave with pay, while staff who are not employees of the Public Service shall be entitled to  
16 remuneration as determined by the Convention at such rates compatible with the salary rates in  
17 the Public Service Commission.

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19 Section 19.    **Appropriation.**

20           (1) A Fund in the initial amount of eight hundred thousand dollars (\$800,000.00) shall be  
21 appropriated to defray expenses incurred in the elections to the Convention, the administration of  
22 the Convention, the allowances, fees and per diem of the members and staff of the Convention  
23 and any other cost related to the work of the Convention.

1           (2) The Fund shall be appropriated as the direct charge on the General Fund.

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3   Section 20.    **Administration of Funds.**

4           (1) The funds allocated for the purposes of this Act, shall be determined by the President  
5 of the Convention jointly with the Secretary of Finance strictly for the purposes of this Act. The  
6 President of the Convention shall ensure that all receipts, invoices and any other records of  
7 expenditures of such funds are maintained.

8           (2) The funds so allocated shall remain available until the work of the Convention has  
9 been concluded. Any balance remaining un-expended shall be transferred to the General Fund.

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11   Section 21.    **Effective Date**

12           This Act shall take effect in accordance with the Constitution and the Rules of Procedures  
13 of the Nitijela.

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**SCHEDULE 1**  
**(Section 3(3))**

**SUMMARY OF PROPOSALS**

**I: PROPOSALS THAT MAY BE EFFECTED BY NITIJELA INITIATIVE AND REFERENDUM**

1. Proposal No. SC1 - Article XI, Section 2(1)(b), Citizenship by Registration: this subsection be amended to add the further requirement that a person applying for citizenship pursuant to this provision be married to the Marshallese spouse of the child upon whom citizenship is based;
2. Proposal No. SC2 - Article XI, Section 2(1)(c) be clarified by defining the term “interest of justice” to relate only to issue of descent and in not to extend beyond the 7<sup>th</sup> generation on descendants. This clarification can be defined under Article XIV, Section 1.

**II; PROPOSALS THAT REQUIRE NITIJELA INITIATIVE, CONSTITUTIONAL CONVENTION AND REFERENDUM**

1. Proposal No. SC3 - Article V, Section 2, Composition of the Cabinet: To amend Article V, Section 2 by the inclusion of a Vice-President as a member of the Cabinet.
2. Proposal No. SC4 – Article V, Section 3, The President: To amend this Section to provide for the direct election of the President by the people, rather than by the Nitijelā, and to provide for the added qualification that a candidate to the Presidency be a natural born citizen and for other matters connected therewith.
3. Proposal No. SC5 - Article V, Creation of Office of the Vice President: To amend Article V to provide for the creation of an office of Vice President, the direct election by the people of the Vice President, the qualifications thereto which shall include the proviso that a candidate to the Vice-Presidency be a natural born citizen, the duties and functions of said office and other matters pertaining thereto.
4. Proposal No. SC6 - Article V, Section 7, Vote of No Confidence in the Cabinet: To amend this Section by the removal of the provisions relating to removal of Cabinet and the President by motion for and vote of no confidence and the substitution thereof with