

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

36TH CONSTITUTIONAL REGULAR SESSION, 2015

BILL NO.: 79

P.L. 2015-48

1
2 **AN ACT**
3

4 to amend Title 35 of the MIRC by inserting a new Chapter 5, to create the Protected Areas
5 Network for the purposes of conservation and management of natural resources in the Marshall
6 Islands.

7
8 **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL**
9 **ISLANDS:**

10 **PART I - PRELIMINARY**
11

12 **Section 501: Short Title.**

13 This Act shall be known and be cited as the Protected Areas Network (PAN) Act, 2015.
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15 **Section 502: Interpretation.**

16 In this Act unless the context otherwise requires:

17 (1) "Ecosystem" means a dynamic complex of plant, animal and micro-organism
18 communities and their non-living environment interacting as a functional unit;

19 (2) "Person" means any and all persons, natural or artificial foreign or domestic,
20 including any individual, association, firm, partnership, business, corporation, joint venture,
21 principal, agent, company or any other entity recognizable at law or equity, including (without
22 limitation) any foreign governmental entity and all political subdivisions, regions, districts,
23 municipalities, and public agencies thereof;

24 (3) "Protected" means maintained, intact, preserved, conserved, or otherwise
25 managed in a sustainable manner;

P.L. 2015-48

1 There shall be a nationwide Protected Areas Network of the Republic of the Marshall Islands
2 which shall consist of areas in the Republic that have been designated by the Ministry of
3 Resources and Development in the manner hereinafter provided. Each area included in the
4 Protected Areas Network will be eligible for assistance and support under this Act. The
5 Protected Areas Network shall be administered by the Ministry of Resources and Development
6 and managed by Local Resources Committees.

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8 **Section 504: Categories of Protected Areas.**

9 For the purpose of this Act, protected areas shall only be of two types:

10 (a) Type I – Subsistence only. This type of area is managed for subsistence use. Limited
11 commercial use (including aquaculture) may be made of species that are native to the area and of
12 high value if there are no associated environmental impacts on habitat quality in accordance with
13 guidelines produced by the PAN Office. .

14 (b) Type II – High level of protection. This type of area is subject to no-take or a very
15 low level of subsistence or special occasion activities with no commercial use.

16

17 **Section 505: Designation of Areas.**

18 The Ministry of Resources and Development in consultation with the LRC and local government
19 officials, may designate areas as Protected Areas. A notice on the designated area or areas shall
20 be published on the National Government's website. The notice shall be read on the radio
21 broadcasting from Majuro and copies of the notice shall be distributed or made available to the
22 persons of the area or atoll designated as protected area.

23

Section 506: Cancellation (Revocation) of Protected Areas

A Protected Area may only be revoked after a process of consultation and negotiation with the PAN Office and cannot occur until at least six months after a written request is received by the PAN Office. A range of alternative options to revocation such as changing the boundaries or the type of protected area must be considered by the LRC. A notice of revocation must be published on the National Government's website. The notice shall be read on the radio broadcasting from Majuro and copies of the notice shall be distributed or made available to the persons of the area or atoll where the revoked protected area is located.

PART III – PAN OFFICE**Section 507: Establishment of PAN Office**

(1) There is hereby established a PAN Office within the Ministry of Resources and Development that shall assist with the implementation of this Act pursuant to Section 510.

Section 508: Establishment of a Technical Advisory Committee

(1) There is hereby established a Technical Advisory Committee. This committee will be formed by the Coastal Advisory Management Council from its members. The function of the committee will be to review applications for funding from the PAN Fund and make recommendations to the PAN Office for funding up to the amount available for disbursement each year.

1 **Section 509: Powers and Duties of the National Government.**

2 The Republic, primarily through the PAN Office, shall have, among others, the following powers
3 and duties:

4 (1) Provide guidelines outlining criteria and standards that apply to areas that are eligible to be
5 included in the Protected Areas Network, to effect the purposes of this Act.

6 (2) Provide guidelines outlining the requirements for management plans for Protected Areas.

7 (3) Provide guidelines for the composition and duties of a Technical Advisory Committee to
8 advise the PAN Office on the allocation of funds to LRCs.

9 (4) Provide guidelines to the Technical Advisory Committee for determining what actions,
10 training, infrastructure and equipment are eligible for funding.

11 (5) Provide guidelines to the PANF Board and the Technical Advisory Committee on ranking of
12 applications for funding from the PAN Fund.

13 (6) Provide guidelines on the form and content of budgets and reports by the LRCs.

14 (7) Provide guidelines on commercial use within Type I Protected Areas including high value
15 species, acceptable type and extent of associated infrastructure, unacceptable environmental
16 impacts and unacceptable and acceptable practices.

17 (7) Enforce regulations and ordinances relating to Protected Areas, which shall have the full
18 force and effect of law, in cooperation with the LRCs and local government where relevant.

19 (8) Collect information and establish record keeping, monitoring, and reporting requirements as
20 necessary and appropriate to carry out the purposes of this Act.

21 (9) Provide or arrange technical assistance to the LRCs for management of their protected areas
22 including, but not limited to, assistance in surveying, monitoring, developing site
23 management plans, identifying and establishing sustainable use practices, conducting

1 scientific investigations, and educating the public about conservation and protected areas.

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4 **PART IV - ESTABLISHMENT OF LOCAL RESOURCES COMMITTEES**

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6 **Section 510: Establishment.**

7 (1) Each Protected Area, wherever practicable and where desired by the local community, is to
8 have a Local Resources Committee and shall establish as soon as possible.

9 (2) The Local Resources Committee is to consist of at least 4 members approved by the
10 community. The LRC shall elect a Chairperson, Vice-Chairperson and Secretary.

11
12 **Section 511: Functions of Local Resources Committee.**

13 (1) The Local Resources Committee shall:

14 (a) With the assistance of the PAN Office, the Lead Technical Agency and the Coastal
15 Management Advisory Council (CMAC), initiate and establish processes that lead to
16 the formulation and approval of a management plan and local government ordinances
17 related to compliance and enforcement of the management plan.

18 (b) With assistance from Lead Technical Agency, determine conditions and fees for any
19 licenses required under the management plan.

20 (c) Report the progress on the development of a Protected Area Management Plan to the
21 community and the local government council from time to time or when required.

22 (d) Develop an annual work plan to guide the yearly implementation of the plan's activities
23 and the achievement of its objectives.

P.L. 2015-48

1 (e) Make sure that the responsibilities of the community under the plan are properly
2 detailed and completed in a timely manner.

3 (f) Work closely with the Lead Technical Agency and follow up the Lead Technical
4 Agency's obligations under its responsibilities so that they are carried out in a timely
5 manner.

6 (g) Arrange and organize community workshops and gatherings as required under the
7 plan.

8 (h) Provide reports to the PAN Office as set out under relevant guidelines.
9

10 **Section 512: Powers and Duties of Local Resources Committee**

11 Each LRC shall have the following powers and duties:

12 (1) Nominate areas within the local jurisdiction that have been designated sanctuaries, protected
13 areas, or conservation areas under local or national law for inclusion in the Protected Areas
14 Network.

15 (2) Nominate, at the request of and with the written consent of a landowner or title holder, lands
16 for inclusion in the Protected Areas Network.

17 (3) Apply for financial aid and/or technical support in developing, managing, designating, or
18 nominating areas for inclusion in the Protected Areas Network.

19 (4) Develop management plans for such areas in consultation with the PAN Office.

20 (5) Manage areas within the Protected Areas Network.

21 (6) In collaboration with local government enforce compliance with the ordinance relating to the
22 protected area.

23 (7) Withdraw from participation in the Protected Areas Network according to the procedures

1 set out in Section 506.

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4 **PART V - PLANS OF MANAGEMENT**

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6 **Section 513: Preparation of plans of management.**

7 (1) Where no LRC exists, the PAN Office shall facilitate the preparation and development of a
8 plan of management for a protected area.

9 (2) Where a LRC exists the LRC shall be responsible for preparing a plan of management for the
10 area it is responsible for managing.

11 (3) Plans of management must take into account the guidelines established in the Reimaanlok
12 and the Reimaanlok Field Guide and any other guidelines produced by the PAN Office.

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14 **Section 514: Adoption, amendment and cancellation of plans of management.**

15 (1) The responsible authority must submit its plan of management to the PAN Office.

16 (2) After receiving a management plan the PAN Office must within three months of receiving
17 the plan provide comment (relating to whether the plan meets the requirements of relevant
18 guidelines) back to the responsible authority or adopt the plan.

19 (3) The PAN Office may, on the recommendation of the responsible authority:

20 (a) amend or alter a plan of management from time to time, or

21 (b) cancel a plan of management, or

22 (c) cancel a plan of management and substitute a new plan of management.

1 (4) When a plan of management is adopted, amended or canceled a notice to this effect must be
2 published on the National Government's website.

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4 **Section 515: Operations under plan of management.**

5 (1) If the PAN Office has adopted a plan of management for areas declared under this Act, it is
6 to be carried out and given effect to by the relevant Ministry or the LRC for the areas.

7 (2) Rules and regulations under the management plan are enforceable under this Act and may be
8 subject to penalties if violated.

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11 **PART VI – ESTABLISHMENT OF PAN FUND AND MANAGEMENT**

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13 **Section 516: Purpose and Scope.**

14 The government of the Republic of the Marshall Islands recognizes the need for outside funding
15 to fund the Protected Area Network. It is therefore the intent of the government to establish an
16 entity, which will administer, manage, invest and disburse funding from all sources, including
17 the Micronesian Conservation Trust, to operate the PAN and the PAN office related
18 responsibilities. This entity shall be independent and free from government influence and
19 perpetual in existence. This entity shall be known as the Protected Areas Network Fund
20 ("PANF") and shall act as the financial trustee for all money received for the PAN. The PANF,
21 as the financial trustee for the PAN, shall use all funds given to its administration for the sole
22 purpose of the continuing operation of the PAN. The Board of Directors of the PANF shall be
23 charged with receiving and managing funds generated or received through all sources of

P. L. 2015-48

1 financing and shall disburse such funds to the PAN sites and PAN office according to rules and
2 regulations established by the Board in consultation with the Technical Advisory Committee.
3 Those responsible for the administration and management of the PANF shall serve as financial
4 trustees of the PAN, with all legal responsibilities, liabilities and duties of a fiduciary.

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6 **Section 517: PANF: Creation, Relationship and Funds.**

7 (1) The Minister of Resources and Development shall identify three representatives and together
8 the three shall act as incorporators to establish the entity known as the Protected Areas Network
9 Fund ("PANF"). The PANF shall be established under all applicable laws of the Republic of the
10 Marshall Islands. The PANF shall not issue any stock or like instruments. The PANF, through a
11 Board of Directors, shall administer and manage all funds received for the sustainable operation
12 of the PAN and disburse these revenues to provide financial support for the administration of the
13 PAN system and the management and planning of individual protected areas. The Board shall
14 receive, manage, and disburse all funds generated through all sources according to the rules,
15 regulations and procedures established by the Board and in the Articles and By-Laws of the
16 PANF.

17 (2) Relationship of PAN and PANF. The PANF shall serve as the Finance Trustee entity for the
18 PAN. The PANF shall be limited to the administration, management, and investment of the
19 fund. The disbursement of funds for the continuing operation of the PAN shall be done through
20 the PANF on advice from the PAN office.

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23 **PART VII – ENFORCEMENT & PENALTIES**