

CHAPTER 17.**ETHICS IN GOVERNMENT****Arrangement of Sections**

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An Act to provide for a comprehensive code of ethics for government officials and employees, and to establish the Government Ethics Board to oversee compliance therewith.

Commencement: September 21, 1993
 Source: P.L. 1993-63

PART I - PRELIMINARY**§1701. Short title.**

This Chapter may be cited as the Ethics in Government Act of 1993. [P.L. 1993-63, §1.]

§1702. Policy.

(1) The Nitijela of the Republic of the Marshall Islands declares and recognizes the right of the people to a responsible and an ethical government and the obligation of the government to take every step reasonable and necessary to conduct government in accord with a comprehensive code of ethics, consistent with Article II, Section 16 of the Constitution.

(2) The Nitijela of the Republic of the Marshall Islands further declares and recognizes that it is the policy of the Government, in recognition of its constitutional obligation to the people, to govern in such manner as to foster public confidence in the integrity of the Government, and that public service is a public trust, requiring public officials and Government employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(3) Such policy of ethical governance is most effectively implemented by prescribing essential standards and guidelines of ethical conduct for officers and employees of the Government. [P.L. 1993-63, §2.]

§1703. Interpretations.

In this Chapter, unless the context requires otherwise:

(1) “employee” means any employee of the Government, and includes any person who holds a commission of appointment, as a consultant or otherwise.

(2) "Government" means any national or local governmental branch, agency, commission, board, authority, or government wholly-owned or controlled corporation thereunder.

(3) "public official" means any person elected pursuant to the Elections and Referenda Act 1980, as amended, and who is then in office. [P.L. 1993-63, §3.]

PART II- PRINCIPLES OF ETHICAL CONDUCT

§1704. Fundamental Principles.

To ensure that every citizen can have complete confidence in the integrity of the Government, each public official and Government employee shall respect and adhere to the fundamental principles of ethical conduct set forth below and to those which may be specified in regulations promulgated under this Chapter by the Government Ethics Board. Failure to so adhere shall result in a breach of ethical standards and, in addition, may constitute an offense under the Criminal Code, as amended, or otherwise.

(1) A public official or Government employee shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing official business with, or conducting activities regulated by such official's or Government employee's agency or department, or whose interests may be substantially affected by the performance or nonperformance of duties;

(2) A public official or Government employee shall not accept, as a public official or Government employee, any gifts or other items of monetary value from any person wherein the total value of such item or items over the course of one year is in excess of \$100 and wherein such acceptance is not related to any particular official action or business and is not related to any activities regulated by such official's or employee's agency or department and whose interests will not be substantially affected by the performance or nonperformance of duties:

(3) Any gift or other item received as a public official or Government employee shall be reported to Cabinet within thirty (30) days following receipt of such gift or other item;

(4) Public officials and Government employees shall put forth honest effort in the performance of their duties;

(5) Public officials and Government employees shall not use public office for private gain;

(6) Public officials and Government employees shall give due disclosure of any conflict of interest such official or employee has or may have in the performance of his or her duties and recuse himself or herself of any involvement on the matter in his or her capacity as such an official or employee;

(7) Public officials and Government employees shall not use or take advantage of public office to commit any illegal acts;

(8) Public officials and Government employees shall not violate the laws of the Republic or regulations promulgated thereunder;

(9) Public officials and Government employees shall protect and conserve government property and shall not use it for other than authorized government activities;

(10) Public officials and Government employees shall not engage in outside employment or activities that conflict with official government duties and responsibilities;

(11) Public officials and Government employees shall satisfy in good faith their obligation

as citizens; and

(12) Public officials and Government employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this Chapter or in any regulations promulgated hereunder. [P.L. 1993-63, §4.]

PART III - PENALTIES

§1705. Criminal Penalties.

To the extent that violations of the ethical standards set forth in this Chapter constitute crimes under the Criminal Code or otherwise, they shall be punishable as provided therein. Such penalties shall be in addition to the civil and administrative remedies set forth in Section 1706 of this Chapter. [P.L. 1993-63, §5.]

§1706. Civil and Administrative Remedies.

(1) Civil and administrative remedies against public officials and Government employees which are in existence on the effective date of this Chapter shall not be impaired.

(2) In addition to existing remedies for breach of the ethical standards set forth in this Chapter or regulations promulgated hereunder, the Government Ethics Board may impose any one or more of the following:

- (a) oral or written warnings or reprimands;
- (b) suspension with or without pay for specific periods of time;
- (c) termination of employment; and
- (d) civil penalties in any amount, not to exceed \$5,000 for each breach or violation.

which shall be enforceable in a court of law.

(3) Notwithstanding the provisions of Subsection (2) of this Section, if the breaching party is a Member of the Cabinet or any other Member of the Nitijela, the Government Ethics Board shall consult with the President as to the appropriate course of action.

(4) The vote of each member of the Government Ethics Board is confidential among the members of the Board and such confidentiality may not be waived by any member.

(5) Any action by the Government Ethics Board shall be in writing and published to the employee and the Cabinet. Any actions taken against a public official shall also be publicly disclosed.

(6) The President shall retain the power to veto any action of the Government Ethics Board with respect to any Member of the Nitijela, other than the President, prior to action by the Board and shall have the power to nullify any such action within thirty (30) days following the decision of the Board.

(7) The Nitijela shall retain the power to veto any action of the Government Ethics Board with respect to the President at any time prior to action by the Board and shall have the power to nullify any such action before the last sitting day of the Nitijela during its next full regular session immediately following the date of the decision of the Board.

(8) In the event there is an allegation brought under this Chapter against any member of the Government Ethics Board, that member shall be disqualified from taking any part in the consideration of such allegation. That member's seat on the Board shall be filled by the remaining

members on the Board in consultation with the President.

(9) The value of anything received by a public official or Government employee in breach of the ethical standards set forth in this Chapter or in any regulations promulgated hereunder shall be recoverable by the Government.

(10) All procedures under this Section shall be in accordance with due process requirements and existing law. In addition, notice and an opportunity for a hearing shall be provided prior to imposition of any suspension or termination of employment. [P.L. 1993-63, §6.]

PART IV-GOVERNMENT ETHICS BOARD

§1707. Government Ethics Board.

(1) There is hereby created a Government Ethics Board to oversee general compliance with this Chapter, consisting of three (3) members which shall include the Attorney-General, the Auditor-General and the Chief Secretary or his or her respective designee.

(2) The Government Ethics Board shall promulgate regulations to implement this Chapter in accordance with the relevant provisions of the Administrative Procedure Act. Without limiting the generality of Subsection (2), the Government Ethics Board may make regulations for the purposes of this Chapter to specify additional ethical restrictions and requirements for public officials and Government employees, which may include the following:

(a) restrictions on former public officials and Government employees from acting in connection with matters in which they participated or which were under their official responsibility, while public officials or Government employees;

(b) restrictions on former Members of the Nitijela from appearing before and attempting to influence the votes or other actions of current Members of the Nitijela which may affect the private interests of such former Members:

(c) restrictions on public official or Government employee conflict of interest;

(d) requirements of annual financial disclosure by public officials: and

(e) all matters incidental to or connected with the matters or subjects referred to in this Subsection.

(3) On written request of a public official or Government employee, the Government Ethics Board may render written advisory opinions regarding the appropriateness of the course of conduct to be followed in proposed transactions and such other matters as provided for in this Chapter.

(4) In connection with the discharge of its duties under this Chapter, the Government Ethics Board shall have the following powers of inquiry:

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as it may deem necessary or desirable to procure or examine;

(b) to require the evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which is required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Government Ethics Board an oath or affirmation to every such witness:

(c) to summon any person residing in the Republic to attend any meeting of the Government Ethics Board to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other

thing in his possession;

(d) notwithstanding any of the provisions of the rules of evidence in force, to admit any evidence, whether oral or written, which might be inadmissible in civil or criminal proceedings; and

(e) to exclude the public and/or the press from the inquiry or any part thereof.

(5) The Government Ethics Board shall work closely with, and provide all necessary assistance to, the Office of Attorney-General in connection with all matters under its investigation which may constitute criminal offenses under the Criminal Code, as amended, or otherwise. [P.L. 1993-63, §7.]

§1708. Appeal of Decisions.

A decision of the Government Ethics Board under Section 1706 of this Chapter, shall be reviewable in accordance with the Administrative Procedure Act. [P.L. 1993-63, §8.]

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