

TITLE 43.

FOREIGN AFFAIRS, CITIZENSHIP AND IMMIGRATION

CHAPTER 1.

IMMIGRATION

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An Act to reform the law relating to immigration, and in particular to streamline the requirements for the issuance of visas and permits, to clarify procedures for the removal of persons who are in the Republic unlawfully, and to allow for more effective enforcement of immigration laws, and thereby secure the Republic's borders.

Commencement: December 5, 2006
Source P. L. 2006-62

PART I – PRELIMINARY

§101. Short title.

This Chapter may be cited as the Immigration Act 2006.

§102. Interpretation.

(1) In this Chapter, unless the context unless requires:

(a) “**Administrative error**” for the purposes of section 145, a visa is granted as a result of administrative error if:

(i) it is granted to a person who is exempt under this Chapter from the requirement to hold a visa; or

(ii) it is granted to a person to whom section 114 of this Chapter applies; or

(iii) the person granting it intended to grant a visa of some type other than the one that was actually granted; or

(iv) it is granted in contravention of any special direction, or any instruction of any kind referred to in section 110 of this Chapter; or

(v) it is granted for a period exceeding the period prescribed for visas of that type made under this Chapter.

(b) “**Approved airport**” for the purposes of section 112(2), means the Amata Kabua International Airport or USAKA airport;

(c) “**Approved port of entry**” means an approved port of entry under the Ports of Entry Act;

(d) “**Arrival hall**” means any building, place or vehicle at an approved port of entry, used for the processing of persons arriving in the Republic of the Marshall Islands;

(e) “**Border security**” means the security of the borders of the Republic and may include security against physical, medical, biological, chemical or other threats;

(f) “**Bribe**” means any money, valuable consideration, or any benefit, paid to or conferred on any person, whether directly or indirectly in order to influence that person in any matter relating to this Chapter or regulations made under it;

(g) “**Cabinet**” means the Cabinet of the Republic of the Marshall Islands;

(h) “**Certificate of Identity**” means a document (other than a passport) issued by the Government of any country to any person for the purposes of facilitating that person's entry into or exit from any country, being a document that purports to establish

the identity but not necessarily the nationality of that person and which confers on that person the right to enter a country the Government of which has issued the document; and includes any other document in a form approved for the purpose by the Minister;

(i) **“Craft”** means any form of aircraft, ship or other vehicle or vessel capable of being used to transport any person to or from the Republic from or to any country outside the Republic;

(j) **“Date of enactment”** means the effective date of this Chapter ;

(k) **“Dependent child”** in relation to any person, means an unmarried child under 18 years of age who is dependent on that person, that person being a parent or legal guardian;

(l) **“Deportation order”** means a deportation order made under section 156 of this Chapter , and for the purposes of serving or executing any such order, includes any electronically produced copy thereof;

(m) **“Director”** means Director of the Immigration Division;

(n) **“Designee”** means any person appointed or authorized by the Minister under section 109 to exercise functions or duties of the Minister or Director under this Chapter ;

(o) **“Entry permit”** means a permit issued under 143(1)(a) this Chapter ;

(p) **“Execute”** :

(i) in relation to a removal order means take the person to whom the order applies into custody and place that person on board a craft for the purpose of effecting that person’s removal from the Republic;

(ii) in relation to a deportation order, means take into custody the person to whom the order applies and place that person on board a craft for the purpose of effecting that person’s deportation from the Republic;

(q) **“Exemption”** means an exemption under section 113 of this Chapter from the

requirement to hold a visa or permit; and **“exempt”** has a corresponding meaning;

(r) **“Government”** means the Government of the Republic of the Marshall Islands;

(s) **“Government immigration policy”** means the policy of the Government in relation to visas and permits that has been reduced to writing and certified by the President and the Clerk of the Cabinet as Government immigration policy. Any such policy shall take effect from the date specified;

(t) **“Holder”** in relation to a visa or permit issued or granted under this Chapter , means the person in respect of whom the visa or permit is issued or granted; in relation to a passport, means the person to whom the passport belongs;

(u) **“Immigration officer”** in every part of this Chapter means the Director, Immigration officers, designated officers and any person exercising a power pursuant to a delegation of authority by the Minister or a warrant of designation;

(v) **“Issuing officer”** means an officer who has been conferred with the authority to issue visas or permits, or to conduct immigration clearance procedures at approved airports and ports of entry;

(w) **“Leave the Republic”** means, except in the circumstances specified in subsection (3) of this section, leave the Republic for a destination in another country:

(x) “**Minister**” means the Minister of Justice or any person appointed by the President to be responsible for the Immigration Division;

(y) “**Officers**” in relation to Part IV means the Captain, Fishing Master, Chief Engineer and First Officer of a vessel;

(z) “**Passport**” means a document that is issued by or on behalf of the Government of any country, being a document that purports to establish the identity and nationality of the holder and that recognizes the right of the holder to enter and reside in the country the Government of which has issued the document;

(aa) “**Person**” means an individual, firm, partnership, company or corporation, whether incorporated or unincorporated, where applicable;

(bb) “**President**” means the President of the Republic of the Marshall Islands;

(cc) “**Search warrant**” means a warrant obtained in accordance with section 125 of the Criminal Procedures Act;

(dd) “**Shipping agent**” means the agent who represents the ship owner or vessel company in the Republic;

(ee) “**Valid medical certificate**” means the original or certified copy of a medical certificate issued by a registered medical practitioner within the last six-month period. The medical certificate must be in English or otherwise be translated into English;

(ff) “**Valid passport**” means that the passport must be valid for a future period of at least 6 months;

(gg) “**Visa**” means a visa issued under section 130 of this Chapter .

(2) For the purposes of this Chapter , every period of time prescribed by any of the provisions of this Chapter for the making of an application or the lodging of an appeal shall be reckoned exclusive of any day that is a public holiday or a Government holiday.

(3) For the purposes of this Chapter , a person shall not have left the Republic if that person departed for another country on any craft and, before arriving in another country:

(a) was forced to return to the Republic by reason of any emergency affecting the craft; or

(b) returned to the Republic because of any other emergency or circumstances beyond that person’s control.

§103. Rights of citizens of the Republic protected.

(1) For the purposes of this Chapter , every citizen of the Republic has, by virtue of that citizenship, the right to be in the Republic at any time.

(2) Notwithstanding subsection (1), all citizens of the Republic shall upon entry or departure from the Republic, be subject to such procedures established by the Immigration Division under this Chapter or by regulations, necessary for recording the movements of citizens and maintaining border security.

(3) A citizen of the Republic shall not be liable to removal or deportation from the Republic under any circumstances.

PART II – ADMINISTRATIVE ARRANGEMENTS

§104. Establishment of the Immigration Division.

(1) There is hereby established within the Ministry of Justice, a Division to be known as the Immigration Division.

(2) A Director, appointed under section 107(1) shall be the head of the Division.

(3) The Division will be comprised of:

(a) Immigration officers, including a Deputy Director, appointed under section 105(1);

(b) designated officers under section 105(2); and

(c) administrative staff as required from time to time.

(4) Officers of the Division shall be accountable to the Director. The Director shall be accountable to the Attorney General.

(5) The Officers of the Division, the Director and the Attorney General shall be accountable and report to the Minister on all immigration matters as may required by the Minister.

§105. Appointment and designation of Immigration Officers.

(1) The Public Service Commission shall, in consultation with the Minister, appoint suitable persons to be Immigration Officers under the Chapter .

(2) The Minister may also designate persons employed in the Public Service (including members of the Police or Labor officers), to have some or all of the powers conferred on Immigration officers.

(3) Any person appointed under subsection (1) or designated under subsection (2) as an Immigration officer, shall be issued with a warrant signed by the Minister.

(4) The warrant shall state the powers conferred on that officer. Powers stated in the warrant may be revoked by the Minister, in writing at will.

(5) A designation continues in force until it is revoked, notwithstanding that the Minister by whom it was made may have ceased to hold office. The warrant shall continue to have effect as if made by the successor in office of that Minister.

§106. Functions of the Immigration Division.

(1) Without limiting the generality of powers vested in the Immigration Division by this Chapter , functions of Immigration officers shall include, but are not limited to:

(a) carrying out immigration clearance procedures at approved airports and docks;

(b) subject to powers conferred by a warrant of designation under section 105(4)

or by delegated authority under section 109, issuing visas and permits in accordance with the provisions of the Act;

(c) effectively implementing and enforcing shore pass procedures under Part IV;

(d) carrying out routine inspections of premises to ensure that:

(i) curfew hours under section 119(1) are being observed; and

(ii) persons are not in the Republic in contravention of their visas or permits;

(e) issuing citation notices pursuant to penalty provisions under the Act or regulations;

(f) liaising with the Attorney General's office, members of the Police, Labor

Division and other appropriate Government agencies for the effective implementation and enforcement of the Act and regulations;

(g) carrying out any other functions as necessary for the effective enforcement of the Act and regulations;

(2) Officers of the Division shall, at all times, comply with instructions of the Minister, Attorney General, Director or any other person to whom the Minister has delegated authority under section 109.

§107. Functions of the Director of Immigration.

(1) The Public Service Commission shall, in consultation the Minister, appoint a suitably qualified person as the Director of the Immigration Division.

(2) The Director, under the supervision of the Attorney General, shall be responsible for:

(a) overseeing the administration and management of the Division and its officers including the following;

(i) overseeing the recruitment, training and development of effective officers and

staff;

(ii) ensuring the timely processing and issuance of visas, permits and shore passes in accordance with the Chapter ;

(iii) ensuring that the Division keeps in safe storage, all passports, identification certificates and documents received in the course of their duties, and of their safe return to holders;

(iv) ensuring that officers of the Division carry out their functions in accordance with the Government's immigration policy in Part V;

(v) establishing performance output criteria and assessment guidelines for recommending the promotion of officers and staff to the Public Service Commission:

(b) approving and issuing visas and permits in accordance with the provisions of the Act;

(c) acting as the principal policy adviser to the Minister in formulating policy recommendations for adoption by the Cabinet under Part V;

(d) recommending legislative or regulatory changes to the Minister as appropriate, for the attainment of an effective and efficient Division;

(e) establishing and updating registers and files of the Division as required by the Act and regulations;

(f) acting as the point of contact for the Division and ensuring that the Division promptly responds to all official correspondences received;

(g) performing any other functions as directed by the Attorney General, Minister or the Public Service Commission from time to time.

(3) The Director may, by written instrument, delegate to any Immigration officer, powers and functions under the Act or regulations, subject to limitations, restrictions or conditions as the Director deems necessary. A delegation shall be revocable in writing, at will, and shall not prevent the exercise or performance of a power or function by the Director under the Act.

(4) In the administration and financial management of the Division, the Director shall

ensure that the Division is in strict compliance with the requirements of the Financial Management Act 1990, Procurement Code Act 1988 and other related regulations and policies of the Republic.

§108. Functions of the Minister.

(1) The Minister is charged with the following functions:

(a) approving the appointment of the Director and officers of the Division, after being consulted by the Public Service Commission:

(b) ensuring that the Division performs its functions in accordance with the Act and in furtherance of the immigration policy of the Government:

(c) ensuring effective coordination between the Division and:

(i) national enforcement agencies; and

(ii) international enforcement agencies pursuant to bilateral, regional and international agreements to which the Republic is a Party.

(d) providing policy advice to the President and the Cabinet on matters to be included in the Government's immigration policy, and in particular, issues of national or international interest that might have a bearing on the Government's immigration policy objectives;

(e) presenting the annual report of the Division to the Cabinet before 01 January each year.

§109. Delegation of Powers of Minister.

(1) The Minister may from time to time, by writing under the Minister's hand, delegate to the Attorney General or Director all or any of the powers conferred upon the Minister by this Act, except this power of delegation and the powers conferred by or in any of sections 107(1), 108(1)(a), 108(1)(c), 108(1)(e), 111(1), 193(1), 195(1) and 196(1).

(2) Any delegation may be made subject to such restrictions and conditions as the Minister thinks fit.

(3) Every such delegation shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Minister.

(4) A delegation of the Minister's powers shall continue in force until revoked, notwithstanding that the Minister by whom it was made has ceased to hold office, and shall continue to have effect as if made by the successor in office of the Minister.

§110. Matters concerning border security not covered by legislation.

(1) Where an issue arises concerning border security and there are no provisions under the Act to adequately deal with that issue, the Minister shall seek a Cabinet order on the matter.

(2) The Cabinet order shall be consistent with the objectives of this Chapter and with the Government's immigration policy applicable at the time.

§111. Minister may approve forms.

(1) The Minister may, from time to time, approve and issue all forms as the Minister considers necessary for the purposes of the Chapter .

(2) At the commencement of the Chapter , every document purporting to be in a form approved and issued by the Minister for the purposes of this Chapter shall be deemed to have been so approved and issued, unless the Minister certifies otherwise.

PART III – CONTROL OF ENTRY INTO THE REPUBLIC OF PERSONS ENTERING AT AIRPORTS

§112. Requirement to hold a visa or exemption to enter the Republic.

(1) Any person who is not a citizen of the Republic is not permitted to enter the Republic unless that person is:

- (a) the holder of a visa granted under this Chapter ; or
- (b) exempt from the requirement to hold a visa.

(2) Any person entering the Republic under this Part must enter at an approved airport.

(3) Any person who is in the Republic in contravention of subsections (1) and (2) is deemed for the purposes of this Chapter to be in the Republic unlawfully.

(4) A person issued with a valid visa shall be entitled to enter the Republic, and upon entry, shall be issued with an entry permit in accordance with procedures set out in Part VII.

(5) The fact that an application for a visa or permit has been made by or for any person does not, on the expiration date of that visa or permit:

- (a) render the person's presence in the Republic lawful; or
- (b) give the person the right to remain in the Republic while the application is considered; or
- (c) prevent removal procedures under this Chapter .

Exemption from requirement to hold a visa.

§113.

(1) The following persons shall be exempt from the requirement to hold a visa to enter the Republic, to such extent or subject to such conditions as specified by this Chapter or by regulations:

- (a) subject to section 133(3), a person who is for the time being entitled to any immunity from jurisdiction by or under the Diplomatic Privileges and Immunities Act 1988;
- (b) a person who is for the time being entitled to any immunity from jurisdiction by or under the International Organizations Immunities Act 1974, or is brought to the Republic by the Government of the Marshall Islands under any assistance program of the Government of the United States of America, or any other country under any similar program approved by the Minister;
- (c) a citizen of the United States;
- (d) a citizen of Palau or the Federated States of Micronesia;
- (e) United States contractor personnel and their official dependents;
- (f) a member of a visiting force including its civilian component, and the crew of any craft used to transport them to the Republic while members of that force are in the Republic at the request or with the consent of the Government;
- (g) a member of the crew or a passenger on any cruise ship or private vessel carrying passengers between any foreign place and the Republic, who will remain in the Republic for less than 7 days, commencing on the date on which the ship or vessel first arrives in the Republic;
- (h) a member of the crew of any commercial aircraft flying between any foreign

place and the Republic, who will remain in the Republic for less than 14 days, commencing on the date on which the aircraft first arrives in the Republic;

(i) a person who is under employment contract to enter into the service of the Government of the Republic of the Marshall Islands;

(j) a member of the official staff or household of any person referred to under subparagraph (a);

(k) the spouse or any dependent child of any person referred to under the foregoing subparagraphs (a) to (i).

(2) Except as otherwise directed by the Division, all exempt persons under subsections 1(a), 1(b), 1(c), 1(d) and 1(e), 1(i) and 1(k) must present the following documents before being issued with a permit to enter the Republic:

(a) a valid medical certificate showing clearance from HIV/Aids or tuberculosis or any other contagious disease as notified by the Ministry of Health from time to time;

(b) a police clearance showing that the person does not have any criminal conviction for an offence punishable by imprisonment for a term of 12 months or more.

(3) Notwithstanding the exemptions granted to persons in subsection (1), exempt persons will be subject to immigration clearance procedures upon arrival and departure from the Republic. Exempt persons shall be refused entry into the Republic if they are found to be ineligible for an entry permit under section 114 of the Chapter .

§114. Certain persons not eligible for a visa, permit or exemption.

(1) Unless specifically exempted in writing by the Attorney General, in such circumstances as may be prescribed by Regulations, no exemption shall apply and an entry permit shall not be granted to any person:

(a) who, at any time (whether before or after the commencement of this Chapter), has

been convicted of any offence punishable by a term of imprisonment of more than 12 months, or for an indeterminate period capable of running for more than 12 months; or

(b) against whom a Deportation Order is in force whether under this Chapter or any

other Act; or

(c) who has been removed or deported:

(i) from the Republic, at any time (whether before or after the commencement of this Chapter) or pursuant to any other enactment; or

(ii) from any other country, at any time (whether before or after the commencement of this Chapter); or

(d) who the Director or designee has proper reason to believe:

(i) has engaged in, or claimed responsibility for, or is likely to engage in an act of terrorism in the Republic or any other country; or

(ii) adheres to any organization or group of people that has engaged in, or has claimed responsibility for, or is likely to engage in an act of terrorism in the Republic or any other country; or

(iii) is unable to support himself, or to support his dependents whilst in the Republic; or

(iv) is of unsound mind, or is mentally defective, or is a chronic alcoholic,

or is addicted to the use of any narcotic drug; or

(v) is certified to be carrying a disease which would make it undesirable for medical reasons to admit such person into the Republic; or

(vi) is a prostitute, procurer or person living on the earnings of the prostitution of others; or

(vii) is a stowaway on any aircraft or ship or vessel, or other any mode of transportation that enabled such person to enter the Republic; or

(e) who fails to satisfy any other requirement as the Minister may impose in the public interest by Regulation, or in the case of national emergency, by special written instruction.

(2) Subsection (1)(a) shall apply whether the sentence is of immediate effect or is deferred or is suspended in whole or in part.

(3) Any visa or entry permit found to be issued in contravention of this Section shall be deemed to be void and of no effect for the purposes of this Chapter.

PART IV – CONTROL OF ENTRY INTO THE REPUBLIC OF PERSONS ENTERING AT DOCKS

Division 1. Procedures for fishing and commercial vessels.

§115. Immigration clearance upon entry into the Republic.

(1) At least 24 hours prior to entering the Republic, the ship's Captain or agent must notify the Immigration Division of :

(a) the expected time of arrival; and

(b) the crew list.

(2) Except as otherwise directed by the Division, every fishing or commercial vessel shall enter the Republic at the Uliga or Delap docks for immigration clearance.

(3) Upon entry, every Officer and crew member must present to the issuing officer a :

(a) seaman's book; or

(b) valid passport.

(4) The issuing officer, upon being satisfied that a person is:

(a) an Officer or member of the crew; and

(b) should not be denied entry under section 114 shall :

(i) scan; and

(ii) endorse the person's seaman's book or passport with an entry authorization.

(5) The issuing officer is authorized to retain all passports for further processing, provided however that all passports must be kept in safe storage and returned to the holder prior to or upon departure of the vessel.

§116. Procedures for the issuance of shore passes to the crew and passengers of fishing and commercial vessels

(1) In addition to the documents required under section 115(3), the Division may require all officers and members of the crew of a fishing or commercial vessel intending to go on land

while the vessel is at the dock, to present to the issuing officer upon arrival a valid medical certificate in order to obtain a general shore pass.

(2) If a valid medical certificate is required, the issuing officer, upon being satisfied that the medical certificate complies with the requirements of this Chapter, shall issue that crew member with a general shore pass.

(3) A general shore pass will entitle the holder to go on land outside curfew hours and will be valid for the period stated on the pass.

(4) The general shore pass shall be in the prescribed form.

§117. Procedure for crew requesting medical checks upon arrival.

(1) Upon arrival, and if requested by the Division, crew members may be granted temporary shore passes, in order to conduct medical checks in the Republic for obtaining valid medical certificates.

(2) Subject to all crew being cleared under section 115, the Captain will be provided with a letter from the Division listing the names of crew members cleared for medical checks.

(3) The issuing officer will provide those members listed with temporary shore passes.

(4) A temporary shore pass will entitle the holder to go on land without a medical clearance for the purposes of obtaining a medical certificate at the hospital.

(5) The temporary shore pass shall be in the prescribed form.

§118. Shore pass to be carried at all times.

(1) An officer or crew member on land must have in his or her possession a shore pass at all times.

(2) A person must show his or her shore pass to any enforcement officer who requests identification.

(3) A person who does not present a shore pass when requested by an enforcement officer shall be liable to a fine of \$100.00.

§119. Hours of curfew to be observed.

(1) Subject to subsection (4) of this section, all members of a fishing or commercial vessel, shall be prohibited from going on land between the curfew hours of 10.00pm to 6.00am each day, or at such other times as prescribed by the Minister from time to time.

(2) The curfew stated in subsection (1) shall not ordinarily apply to officers of the vessel, provided however that officers must still comply with the requirement to present a valid medical certificate at the time of arrival. For good reason, and if in the public interest, the Division may apply the curfew to officers of any vessel.

(3) A member of a crew may apply to the Director for an exemption from curfew upon presenting evidence that:

(a) his or her spouse or children are visiting the crew member in the Republic; or

(b) there has been a loss in the family, and it would be necessary for the crew member to remain on land for a period of time; or

(c) such other emergency which would make it necessary for the crew member to remain on land for a period of time.

(4) Except where a person has previously breached a condition of a shore pass, the issuing officer shall grant a temporary shore pass to:

(a) all officers who qualify under subsection (2);

(b) all crew members who qualify under subsection (3).

(5) A temporary shore pass issued under this section will entitle the holder to be on land during curfew hours and will be valid for the period stated in the pass.

(6) A temporary shore pass shall be in the prescribed form.

§120. Cases of Emergency.

(1) In the case of a medical emergency and a crew member does not hold a valid medical certificate, the shipping agent will notify the Director by phone or by fax and seek a temporary shore pass for the crew member.

(2) The Director or designee may authorize issuance of the shore pass over the phone, in which case, the crew member shall be allowed to go on land for medical treatment.

§121. Penalty provisions under this Part.

(1) The Minister shall by regulations promulgate fines not exceeding \$2,000 per offence for:

- (a) breach of curfew hours;
- (b) disorderly behaviour while officers or crew are on land; or
- (c) breach of provisions under this Part.

(2) All fines collected under this Part shall be collected and deposited in the Ministry of Justice Special Revenue Fund.

§122. Immigration clearance prior to departure from the Republic.

(1) Prior to departure of a vessel, the issuing officer must:

- (a) check the identity of each officer and crew member against the crew list;
- (b) endorse each passport with a departure authorization; and
- (c) return to every officer and crew member his or her passport.

(2) A vessel will not receive final clearance to leave the Republic until all fines or penalties are paid in full, in accordance with section 123(2) and (3).

§123. Liability of ship owner or agent for breach of provisions under this Part.

(1) The ship's agent shall be responsible for ensuring that all fishing and commercial vessels adhere to the requirements of this Part.

(2) The ship's owner or agent shall be liable to pay a fine of \$10,000 if all officers and crew members are not on board the vessel at the time of departure, or if it is later found that an officer or crew member alighted from the vessel after departure.

(3) The ship's agent shall be responsible for ensuring that all outstanding fines or fees incurred by the crew or vessel are paid in full, prior to that vessel being cleared for departure.

Division 2 - Procedures for cruise ships and privately-owned vessels

§124. Immigration clearance upon entry.

(1) At least 24 hours prior to entering the Republic, the Captain or agent of the vessel must notify the Immigration Division of:

- (a) the expected time of arrival; and
- (b) the crew and passenger list.

(2) Every cruise ship or private yacht or private vessel shall enter the Republic at the RRE Shoreline dock for immigration clearance.

(3) Upon entry, every officer, crew member or passenger intending to go on land must present to the issuing officer a valid passport.

(4) The issuing officer, upon being satisfied that a person should not be denied entry under section 114 shall:

(a) scan; and

(b) endorse the person's passport with an entry authorization.

(5) The Director is authorized to retain all passports for further processing, provided however that all passports must be kept in safe storage and returned to the holder prior to or upon departure of the vessel.

§125. Conditions for entry into the Republic.

Any person entering the Republic under section 124 will not be required to obtain a shore pass or be subject to a curfew, provided however that a person shall be:

(a) subject to the applicable laws of the Republic while on land; and

(b) subject to fees or fines promulgated by the Minister for the enforcement of provisions under this Part.

§126. Penalty provisions under this Part.

Officers, crew and passengers in breach of the provisions under this Part may be liable to payment of penalties and fines under section 121 of this Chapter .

§127. Immigration clearance prior to departure from the Republic.

(1) Upon departure, the issuing officer shall:

(a) check the identity of each person against the crew and passenger list; and

(b) endorse each person's passport with a departure authorization.

(2) The owner or shipping agent may be liable for penalties prescribed under this Chapter or regulations if all officers and crew members are not on board the vessel at the time of departure.

(3) A vessel will not receive final clearance to leave the Republic until all fines or penalties are paid in full, in accordance with section 128(2) and (3).

§128. Liability of ship owner or agent for breach of provisions under this Part.

(1) The vessel's agent shall be responsible for ensuring that all vessels adhere to the requirements of this Part.

(2) The vessel's owner or the shipping agent shall be liable to pay a fine of \$10,000 if all officers and crew members are not on board the vessel at the time of departure, or if it is later found that an officer or crew member alighted from the vessel after departure.

(3) The vessel's agent shall be responsible for ensuring that all outstanding fines or fees incurred by the crew or vessel are paid in full, prior to that vessel being cleared for departure.

PART V – GOVERNMENT IMMIGRATION POLICY

§129. Publication of Government Immigration Policy.

(1) The Cabinet shall from time to time, publish the Immigration policy or changes to the Immigration policy of the Government.

(2) Publication for the purposes of this section shall include, but is not restricted to, the inclusion of that policy in:

(a) the Government Gazette; or

(b) a document available to the public at the offices of the Immigration Division and Attorney General's office; or

(c) a newspaper or journal of general publication in Majuro.

(3) Government Immigration policy may include:

(a) general or specific objectives of the Government relating to immigration;

(b) criteria for the eligibility of persons for the issuance of visas or permits;

(c) indicators, attributes, or other relevant information that may or must be taken into account in assessing a person's eligibility for the grant of a visa or permit;

(d) matters relevant to balancing individual eligibility against the overall objectives of Government policy generally.

PART VI – TYPES OF VISAS**§130. Types of visas.**

(1) The following types of visas may be issued under this Chapter :

(a) residence visa (R-1);

(b) diplomatic visa (D-1);

(c) business visa (B-1);

(d) general visa (G-1);

(e) work visa (E-1);

(f) student visa (S-1);

(g) visitor's visa (V-1);

(h) transit visa (T-1);

(i) any other type of visa approved by the Minister and promulgated in regulations under this Chapter .

(2) The application procedure and criteria for the issuance of all visas shall be prescribed by regulations.

§131. Meaning and effect of visa.

(1) Every visa shall be valid for the period or until the date specified in it, and may be expressed to be effective for any number or an unlimited number of journeys to the Republic, within that period or before the specified date.

(2) Subject to a visa being revoked under section 145, a visa granted under this Chapter shall entitle the holder to be issued with an entry permit and to remain in the Republic for the duration of that permit.

(3) Except for visas issued under section 130(1)(a) and (1)(b), all visas must be obtained prior to entry in the Republic.

Residence visas.**§132.**

(1) Every person who:

(a) is the holder of a Certificate of Actual Residence that was issued prior to or following commencement of this Chapter ; or

(b) is a naturalized or registered citizen of the Republic but does not hold an RMI passport; or

(c) is an honorary citizen of the Republic but does not hold an RMI passport, may apply in the prescribed manner for a residence visa.

§133. Diplomatic visas.

(1) Every person who is outside the Republic and is a serving diplomat intending to visit or be stationed in the Republic is not required under the Act to obtain a visa prior to arrival.

(2) A person who nevertheless seeks to obtain a diplomatic visa prior to arrival shall, before proceeding to the Republic, apply in the prescribed manner for a diplomatic visa.

(3) A Diplomatic visa will be issued by the Division upon arrival, provided that the following documents have been received by the Division at least 48 hours prior to the arrival date:

(a) written notification from the Ministry of Foreign Affairs of Diplomat's name, arrival date, purpose and duration of visit; and

(b) a copy of the Diplomat's valid passport.

§134. Business visas.

Every person who is outside the Republic and intends to enter the Republic for the purposes of establishing, seeking to establish, or conducting trade with a business in the Republic, shall before proceeding to the Republic, apply in the prescribed manner for a business visa.

General visas.**§135.**

Every person who is outside the Republic and is the legal spouse or dependent child of a person who is legally working or stationed in the Republic, that person may, before proceeding to the Republic, apply in the prescribed manner for a general visa.

Work visas.**§136.**

(1) Every employer that is issued with a work permit under the Labor (Non-Resident Workers) Act 2006 in respect of a non-resident worker, shall, subject to the person's application being denied under section 114, be entitled to be issued with a work visa in respect of that employee.

(2) Subject to any restrictions prescribed by regulations, the Immigration Division will issue a work visa that is valid for the same duration as the work permit or not more than 21 calendar days longer than the duration of the permit.

Visitor's visas.**§137.**

(1) Every person who is outside the Republic and intends to enter the Republic as a tourist or a visitor shall, before proceeding to the Republic, apply in the prescribed manner for a visitor's visa.

(2) The Cabinet may, according to Government Immigration Policy applicable at the time, identify countries whose nationals may be granted visitor's visas upon arrival in the Republic. Countries approved by the Cabinet shall be listed in a Schedule to the regulations.

Student visas.

§138.

Every person who is outside the Republic and intends to enter the Republic for the purpose of studying at a school or academic institution shall, before proceeding to the Republic, apply for a student visa in the prescribed manner.

Transit visas.

§139.

Every person who is outside the Republic and intends to enter the Republic for the purpose of transit to another country shall, before proceeding to the Republic, apply in the prescribed manner for a transit visa.

§140. Currency of visas.

(1) The currency of visas issued under this Chapter shall be:

- (a) for a residence visa, a period of up to 5 years;
- (b) for a diplomatic visa, a period of up to 2 years;
- (c) for a business visa, a period of up to 2 years;
- (d) for a general visa, a period of up to 2 years;
- (e) for a work visa, a period of up to 2 years;
- (f) for a student visa, a period of up to 1 year;
- (g) for a visitor's visa, a period of up to 3 months;
- (h) for a transit visa, a period of up to 3 days;
- (i) for any other type of visa, the period prescribed by regulations.

(2) Every visa must indicate:

- (a) the name of the holder and date of birth;
- (b) the date on which it comes into effect; and
- (c) the date on which it will expire.

(3) Where a person is removed or deported from the Republic under this Chapter, a visa and any consequent permit that has been issued shall automatically be void.

§141. Grant of a visa or permit in accordance with provisions of the Act.

(1) No person is entitled as of right to a visa or permit and any question whether or not to:

- (a) grant;
- (b) impose any condition;
- (c) vary;
- (d) cancel or revoke;

a visa is a matter for the decision of the Director or designee in accordance with the provisions of this Chapter.

(2) Where an application for a visa is denied:

- (a) the Director shall provide in writing, reasons for that decision; and
- (b) the applicant may appeal the decision to the Attorney General in the manner

prescribed by section 170 of this Chapter .

§142. Requirement of bond.

(1) The Cabinet may, in accordance with Government Immigration policy applicable at the time, identify countries whose nationals may be required to pay a bond as a pre-condition to the issuance of a visa. Countries approved by the Cabinet shall be listed in a Schedule to the regulations.

(2) Notwithstanding subsection (1), a bond may be imposed as a pre-condition to the issuance of a visa if the Director or designee determines that:

(a) there is a risk that the applicant will remain in the Republic after the expiry of the visa ; and

(b) the imposition of the bond is necessary to manage that risk.

(3) The value of all bonds imposed shall be approved by the Cabinet and listed in a Schedule to the regulations. The value of bonds shall be determined according to the projected cost of deportation of a person from the Republic to their country of origin.

(4) If a bond has been paid in respect of a non-resident worker under the Labor (Non-Resident) Workers Act 2005, an additional bond will not be required under subsection (1) or (2) of this section.

PART VII – TYPES OF PERMITS

§143. Types of Permits.

(1) The following types of permits may be issued under this Chapter -

(a) entry permit; and

(b) any other type of permit approved by the Minister and promulgated in regulations under this Chapter .

§144. Meaning and effect of permit.

(1) Subject to the requirements of this Chapter , a person :

(a) holding a valid visa shall be entitled to be issued with an entry permit upon entry into the Republic within the duration of that visa;

(b) exempted from the requirement to obtain a visa shall be entitled to be issued with an entry permit upon entry into the Republic.

(2) An entry permit must be issued and endorsed on a person's passport upon arrival to indicate the date of entry and duration of that person's stay in the Republic and shall only be valid for one entry.

PART VIII – REVOCATION OF VISAS AND PERMITS

Revocation due to an administrative error.

§145.

(1) Where a visa is granted to any person as a result of administrative error, that visa and any consequent permit may be revoked at any time, and every such revocation shall take effect immediately.

(2) Where a visa is revoked and the same person is within the arrival hall, then, unless some other is granted under this Chapter , the person shall be required to leave the Republic

immediately.

(3) A revocation under this section shall be made by an appropriate mark on the person's passport or certificate of identity.

Revocation in general.

§146.

(1) Where a person is granted with a visa or permit and that person subsequently breaches a condition of that visa or permit, the Director or designee may revoke the visa or permit by service of a notice of revocation.

(2) A notice of revocation shall:

(a) state the reason for the revocation;

(b) specify the date by which the holder must leave the Republic.

(3) The holder of a permit that has been revoked under this section must leave the Republic before the date specified in the notice, or be liable to removal under Part IX.

(4) A notice of revocation shall be in the prescribed form.

PART IX – REMOVAL OF PERSONS UNLAWFULLY IN THE REPUBLIC

§147. Holder of visa or permit not to remain in the Republic after expiry

Every person to whom a visa or permit is granted under this Chapter or under the Labor (Non-Resident Workers) Act 2006 and who is in the Republic after the expiry of that visa or permit, shall deemed to be in the Republic unlawfully.

Every person who is in the Republic for any period of time after having entered without a visa, and does not qualify for an exemption, shall be deemed to be in the Republic unlawfully.

§148. Liability for removal

(1) Any person who is in the Republic unlawfully pursuant to Section 147 of this Chapter, may be the subject of a removal order provided that:

(a) the person has been unlawfully in the Republic:

(i) for a period of more than 14 consecutive days after the expiry of that visa or permit;

(ii) an appeal under section 171 has been determined against the person, and the person is still in the Republic 7 days after the decision has been notified to the person; or

(b) the person is in the Republic while a previously executed removal order is still in force; or

(c) the person is in the Republic after having entered without a visa and does not qualify for an exemption.

(2) A removal order may include a person's legal spouse or dependent child.

(3) A removal order shall inform the subject person that he or she must voluntarily depart from the Republic within 14 calendar days from the date of service of the order.

(4) Any person unlawfully in the Republic under subsection (1)(a)(i) may, within 14 days of being served of a removal order, appeal that order under section 171. Failure to file an appeal shall result in the person named in the order being removed from the Republic according to the procedures set out in the Act.

(5) Nothing in this Part shall be construed as preventing voluntary departure from the Republic at any time before or after the removal order is made and served.

§149. Content and effect of removal order.

- (1) A removal order must be signed by the Attorney General.
- (2) Every removal order shall state:
 - (a) the provision pursuant to which it is made; and
 - (b) the ground or grounds on which it is made; and
 - (c) shall include notice of the right to appeal pursuant to section 148(4) and conferred by section 171, and the manner in which that right is to be exercised.
- (3) If after 14 days following service of the removal order and the subject has not voluntarily departed from the Republic or filed an appeal of the order pursuant to section 148(4), the Division shall be authorized to take into custody or confine in a suitable place the person named in the order and to proceed to execute the order in accordance with section 153.
- (4) A removal order shall be in the prescribed form.

Service of removal order.**§150.**

- (1) A removal order may be served by an Immigration officer on the person named in the order, either by personal service or by post to the person's last known address.
- (2) Where service is to be effected personally, the removal order may be served on any day at any reasonable time of day or night.
- (3) Service shall be deemed to have been effected if the removal order is served on the person's agent, employer or lawyer.

Currency of removal order once served.**§151.**

A removal order shall remain in force from the time at which it is served, and shall, unless it is cancelled, remain in force until the person named in the order leaves or is removed from the Republic.

§152. Cancellation of a removal order.

- (1) In accordance with section 171(2)(a), the Attorney General may, in writing while the person named in the removal order is still in the Republic, cancel a removal order.
- (2) The notice of cancellation shall be served by an Immigration officer on the person.
- (3) The notice shall serve as a direction to any person who may be detaining the person in custody to release the person immediately.
- (4) A notice of cancellation of a removal order shall be in the prescribed form.

Execution of removal order.**§153.**

- (1) Any Immigration officer may arrest and detain a person:
 - (a) on whom a removal order has been properly served;
 - (b) the person named in the order has remained in the Republic after the date specified in the removal order in accordance with this section;
 - (c) the person named in the order has not filed an appeal pursuant to section 148(4).
- (2) A person arrested under this section may be detained for up to 24 hours without further authority than this section, pending the placement of that person on a craft that is leaving the Republic.

(3) Once the person has been placed on a craft, a member of the Police may make appropriate arrangements to ensure that the person does not leave the craft, and may continue to detain the person on board the craft for that purpose.

(4) No order made under section 149 shall be defeated by reason of the fact that such person has, whether prior or subsequent to the order being issued –

(a) contracted a marriage with a citizen of the Republic; or

(b) had a child with a citizen of the Republic; or

(c) made an application to the High Court under Article XI of the Constitution of the Republic of the Marshall Islands or other enactment for registration as a citizen of the Republic.

(5) Where an unmarried person who is under 18 years of age is to be removed from the Republic otherwise than in the company of a parent or guardian, the Director must ensure that all reasonable efforts are made to contact a parent or guardian of the person and to agree on suitable traveling arrangements for the person to be removed.

Release or extended detention if craft unavailable.

§154.

(1) Where a person is arrested and detained in accordance with a removal order and it becomes apparent that:

(a) no craft will be available within the 24 hour period specified section 153(2);

or

(b) it is not practicable for the person to be placed on a craft within the 24 hour period; or

(c) for some other reason the person is unable to leave the Republic within the 24 hour period;

then, unless the person is released, the Director must arrange for the person to be brought before a High Court Judge for the purpose of obtaining a warrant for further detention.

(2) A warrant for further detention authorizes the detention of the person named in it for a period of 14 days, or such shorter period as the Judge thinks necessary to enable the execution of the removal order.

(3) A Judge may issue a warrant for further detention on the application by or on behalf of the Director Immigration Officer if satisfied on the balance of probabilities that the person in custody is likely to abscond or is unlikely to voluntarily board the next available craft.

Form of custody.

§155.

(1) Every person who is placed in custody under section 153(2) or 154(2) and is to be detained overnight, is to be detained:

(a) in the case of an unmarried person who is under 18 years of age, in any residence or other premises approved by the Minister; or

(b) in any other case, at a police station or premises approved by the Minister.

PART X – DEPORTATION OF PERSONS FOLLOWING CONVICTION

§156. Deportation following conviction.

(1) The Attorney General may order the deportation from the Republic of any person who is convicted of an offence for which the Court has power to impose imprisonment for a term of 12 months or more, committed at any time when that person was:

- (a) in the Republic unlawfully; or
- (b) in the Republic and the holder of a valid visa or permit; or
- (c) in the Republic but was exempt under this Chapter from the requirement to hold a visa or permit.

(2) Nothing in this section shall prevent the Division from instituting deportation proceedings against any person who persistently commits misdemeanors in the Republic, which in the Division's opinion threatens public safety and order.

§157. Content and effect of deportation order.

- (1) A deportation order shall be signed by the Attorney General.
- (2) The order shall authorize any Immigration officer to take into custody the person named in the order and to proceed to execute the order in accordance with section 161.
- (3) Every deportation order shall state:
 - (a) the provision pursuant to which it is made; and
 - (b) the ground or grounds on which it is made; and
 - (c) shall include notice of the right to appeal conferred by section 171 and the manner in which that right is to be exercised.
- (4) A deportation order shall be in the prescribed form.

§158. Service of deportation order.

- (1) A deportation order shall be served on the person named in the order by personal service only.
- (2) Service shall be deemed to have been effected if the deportation order is served on the person's agent, employer or lawyer.
- (3) The deportation order may be served on any day at any reasonable time of day or night.

§159. Currency of deportation order once served.

A deportation order shall remain in force from the time at which it is served, and will, unless it is revoked, remain in force until the person named in the order leaves or is deported from the Republic.

§160. Revocation of a deportation order.

- (1) Pursuant to section 171(2)(a), the Attorney General may in writing, while a person is still in the Republic, cancel a deportation order.
- (2) The notice of cancellation shall be served by an Immigration officer on the person named in the order.
- (3) The notice shall serve as a direction to any person who may be detaining the person in custody to release the person immediately.
- (4) A notice of cancellation of a deportation order shall be in the prescribed form.

§161. Execution of a deportation order.

Any person in respect of whom a deportation order has been served may be arrested without a warrant at any time by any member of the Police and placed in custody.

- (2) Every person who is arrested and placed in custody under sections 157(2), 161(1), 162(2)(b), or 163(2) is to be detained:

(a) in the case of an unmarried person who is under 18 years of age, in any residence or other premises approved by the Minister; or

(b) in any other case, at a police station.

(3) No order made under section 157 shall be defeated by reason of the fact that such person has, whether prior or subsequent to the order being issued:

(a) contracted a marriage with a citizen of the Republic; or

(b) had a child with a citizen of the Republic; or

(c) made an application to the High Court under Article XI of the Constitution of the Republic of the Marshall Islands or other enactment for registration as a citizen of the Republic.

§162. Powers of the Court in relation to a person in custody.

(1) Every person who is arrested under section 161(1) shall be brought before a High Court Judge within 24 hours of the arrest, to determine whether that person should be detained or released from custody pending deportation from the Republic.

(2) Where any person is brought before a Judge under subsection (1), the following provisions shall apply:

(a) if satisfied on the balance of probabilities that the person is not the person named in the deportation order, the Judge shall order that the person be released from custody forthwith; or

(b) if the Judge is satisfied on a balance of probabilities that the person is likely to abscond, the Judge may issue a warrant of commitment for the detention of that person in custody; or

(c) if the Judge is satisfied on a balance of probabilities that the person is unlikely to abscond, the Judge shall order that the person be released in accordance with section 163 of this Chapter .

(3) A warrant of commitment shall be in the prescribed form.

§163. Conditions on release.

(1) Any person who is released from custody under section 161(2)(c) shall be issued with a notice specifying:

(a) the address at which the person is to reside;

(b) any reporting requirements;

(c) any other conditions the Judge may consider necessary.

(2) A breach of any condition specified in the notice shall nullify the order for release, following which the person shall be arrested by any member of the police without warrant and placed in custody.

(3) A notice under this section shall be in the prescribed form.

§164. Release or extended detention if craft unavailable.

(1) When a craft becomes available to take any person to whom this Part applies from the Republic, a member of the Police shall escort that person to the approved airport or dock and ensure that the person is placed on the craft and detained there until the craft leaves the Republic.

If for any reason the craft ceases to be available to take the person from the Republic or is likely to be delayed beyond the period named in a warrant of commitment, the person shall be brought

before a High Court Judge for necessary modifications to the warrant of commitment or conditions of release previously issued.

§165. Deported or removed persons not allowed re-entry.

(1) The Director shall be responsible for establishing and maintaining the registers and files of the Division. Details of all persons that have been deported from the Republic shall be entered into the registers and files of the Immigration Division.

(2) Any person that has been deported or removed from the Republic under this Chapter shall not be allowed to re-enter the Republic.

PART XI – PROCEDURES RELATING TO LOST PASSPORTS AND OTHER RELATED MATTERS

§166. Provisions relating to lost passports.

(1) Where a person has entered the Republic and subsequently loses his or her passport, that person shall report this to the Division immediately.

(2) The Division shall, as far as it is practicable, assist a person under subsection (1) to obtain a new passport.

(3) The fact that a person has reported a lost passport to the Division does not render his or her stay in the Republic lawful. Subject to subsection (4), a person who has lost a passport and :

(a) at the time of reporting the matter to the Division has already overstayed his or her permit; or

(b) after the time of reporting, subsequently overstays his or her permit;
may nevertheless be subject to removal or deportation proceedings under the Chapter .

(4) If a passport is lost by the Division it shall be the responsibility of the Division to ensure that the passport is replaced or in the case where replacement is not practicably possible, that the passport holder is issued with the appropriate identification document to enable that person to return to his or her point of origin.

§167. Provisions relating to persons without financial means to return.

If, at the expiration date of a visa or permit, the holder claims that he or she does not have the financial means to leave the Republic, the Director may authorize the arrest of the person pending his or her appearance in Court in accordance with section 168(1).

§168. Powers of the Court in relation to a person in custody.

(1) Every person who is arrested under section 167(1) shall be placed in police custody and be brought before a High Court Judge within 24 hours of the arrest, to determine the manner in which that person can be removed from the Republic.

(2) Where any person is brought before a Judge under subsection (1), the following provisions shall apply:

(a) if satisfied on the balance of probabilities that the person has the financial means to pay for a ticket out of the Republic immediately, the Judge shall order that :

(i) the person be released from custody forthwith;

(ii) the person immediately purchase a valid ticket out of the Republic;

and

(iii) the person must leave the Republic by or before a certain date;

(b) if satisfied on a balance of probabilities that the person cannot pay for a ticket out of the Republic immediately, but will be able to provide weekly or bi-weekly payments towards the required amount, the Judge shall order that:

(i) the person be released from custody forthwith;

(ii) the person make weekly or bi-weekly payments to the Court for the required amount;

(iii) the person report to the Police station at specified times; and

(iv) the person must leave the Republic by or before a certain date;

(c) if satisfied on a balance of probabilities that the person is likely to abscond, or that the person will not be able to make contributions under subsection 2(b), the Judge may:

(i) issue a warrant of commitment for the detention of that person in custody until such time that the Division is able to remove that person from the Republic; or

(ii) taking into account the circumstances of the case, making any other order as the Judge deems appropriate.

(3) Any person who fails to comply with the order of a Judge under sections 2(a), 2(b) and 2(c)(ii), shall be immediately arrested and within 24 hours of the arrest, be taken before a High Court Judge. The Judge shall consider the reasons for the non-compliance, and make such order as the Judge deems necessary, to facilitate the person's removal from the Republic.

PART XII – PERSONS MARRIED TO CITIZENS OF THE REPUBLIC

§169. Persons who are married and have children with citizens of the Republic.

(1) Except as otherwise provided under subsection (2), a non-citizen who enters the Republic and subsequently marries and has children with a citizen of the Republic may be subject to removal or deportation proceedings at the expiration of his or her visa or permit.

(2) A non-citizen under subsection (1) who intends to lawfully remain in the Republic shall, not later than 14 days before the date of expiration of his or her visa or permit, provide the following documentation to the Division:

(a) marriage license showing marriage has been valid for more than three years;

and,

(b) birth certificate of any children from the marriage; and

(c) evidence of filing to apply citizenship of the Republic, if such application is still being considered at the time his or her visa or permit expires; and

(d) any other supporting documents as may be required by the Division.

(3) If the documentation complies with the requirements of this section, the Director shall review the decision as to whether or not to issue or extend the non-citizen's visa or permit and whether or not to initiate removal or deportation proceedings. Such a review shall take favorable consideration of the non-citizen's marital and parental status, subject to other requirements of the Act.

PART XIII - APPEALS

§170. Appeals in general.

(1) Any person who wishes to appeal a decision, other than for removal or deportation, made under this Chapter may appeal, in writing, to the Attorney General within 14 calendar

days of being informed of that decision.

(2) Upon receipt of an application for an appeal under subsection (1), the Attorney General may:

- (a) overturn the decision and make a new one; or
- (b) request that the Director reconsider the decision in the light of any findings that the Attorney General has made as to the appeal; or
- (c) dismiss the application and uphold the original decision.

(3) A decision by the Attorney General shall be issued within 14 calendar days of the application being lodged.

(4) A decision by the Attorney General may be appealed to the High Court, provided it is filed within 14 calendar days of the decision being notified to the appellant.

(5) The fact that an appeal pursuant to this section has been filed by any person, unless otherwise ordered by the High Court, does not:

- (a) render the person's presence in the Republic lawful; or
- (b) give the person the right to remain in the Republic while the appeal is considered; or
- (c) prevent removal procedures under this Chapter .

§171. Appeals against removal or deportation.

(1) Any person who has been served with a removal order under section 148(1)(a)(i), may appeal, to the High Court, provided it is filed within 14 calendar days of the order being served.

(2) Any person who has been served with a deportation order, may appeal, to the High Court, provided it is filed within 14 calendar days of the order being served.

(3) The fact that an appeal pursuant to this section has been filed by any person, unless otherwise ordered by the High Court, does not:

- (a) render the person's presence in the Republic lawful; or
- (b) give the person the right to remain in the Republic while the appeal is considered; or
- (c) prevent removal procedures under this Chapter .

§172. Withdrawal of appeals.

(1) A person may at any time withdraw an appeal under sections 170 and 171 by filing a written notice to the Attorney General, whereupon the Attorney General shall notify the Director and the Minister that the appeal has been withdrawn.

(2) If an appeal has been withdrawn under subsection (1), the original removal or deportation order shall continue to have effect and the provisions under Parts IX and X shall continue to apply.

PART XIV – OFFENCES AND PENALTIES

§173. Unlawfully being in the Republic.

Any person found to be unlawfully in the Republic pursuant to section 147, and any other applicable section of the Act, is guilty of an offence and is liable to imprisonment for a term not exceeding 5 years, a fine not exceeding \$10,000 or both.

§174. Knowingly making a false statement.

Any person who makes any statement, written or otherwise, to an officer exercising a function under this Chapter , knowing that it is false, is guilty of an offence and is liable to imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000 or both.

§175. Knowingly using or providing a forged, false or misleading document.

Any person who uses, produces, supplies or surrenders any document to an officer exercising a function under this Chapter , knowing that it is forged, false or misleading is guilty of an offence and is liable to imprisonment for a term not exceeding 5 years, a fine not exceeding \$7,000 or both.

§176. Obstructing an Immigration officer in the execution of his duties.

Any person who threatens, assaults, intentionally obstructs or hinders an officer in the exercise of a function, power or duty under this Chapter is guilty of an offence and is liable to imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000, or both.

§177. Failure to surrender any document or supply information.

Any person who without reasonable excuse, fails to produce or surrender any document or refuses to supply any information when required to do so by an officer exercising a function under this Chapter , is guilty of an offence and is liable to imprisonment for a term not exceeding 2 years, a fine not exceeding \$3,000 or both.

§178. Offence to offer bribe.

Any person who offers, gives or agrees to give any bribe to any person while executing a function under this Chapter , with the intent to influence that person in respect of any act or omission by that person in his or her official capacity, is guilty of an offence and is liable to imprisonment for a term not exceeding 5 years, a fine not exceeding \$10,000 or both.

§179. Offence to accept bribe.

Any person who obtains, attempts to obtain, accepts or agrees to accept, any bribe for himself or any other person, in respect of any act done or omitted by him in his official capacity, is guilty of an offence and is liable to imprisonment for a term not exceeding 5 years, a fine not exceeding \$10,000 or both.

§180. Aiding and abetting.

- (1) Any person who aids, abets, incites, counsels, or procures any other person to
 - (a) enter the Republic without a visa or permit; or
 - (b) breach any condition of a permit; or
 - (c) obtain a permit fraudulently,

is guilty of an offence and is liable to imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000 or both.

- (2) Any person who brings any other person into the Republic, having reasonable grounds to know that the entry of that other person would be in contravention of any provision of this Chapter , or Regulation made thereunder, is guilty of an offence and is liable to imprisonment a for term not exceeding 5 years, a fine not exceeding \$10,000 or both.

§181. General penalties.

(1) Every person who commits an offence for which no penalty is provided other than in this subsection, shall be liable to imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000, or both.

(2) The Minister may prescribe under regulations, regulatory offences and fines which may be additional to the offences prescribed under this Part.

§182. Initiation of legal proceedings.

(1) A prosecution for an offence against this Chapter or regulations shall be upon the information of the Attorney General or some other person authorized for that purpose.

(2) In any proceedings relating to any matter under this Chapter, a certificate signed by the Attorney General or Minister containing a statement in relation to any person to the effect that:

(a) the person holds or does not hold a visa or permit; or

(b) any permit granted to the person was granted for a specified period or purpose; or

(c) the person is or was at any material time, exempt from the requirement to hold a permit; or

(d) the person, or any permit or other document was or was not the subject of a special direction given under the Chapter; or

(e) for the purpose of obtaining a visa or permit, the person made any statement or supplied any information that was false or misleading in any material respect, or produced or surrendered to the Director or an Immigration officer any passport, certificate of identity or other document that was forged or obtained fraudulently; or

(f) the person has, or has not, left the Republic at any particular time or during any particular period;

shall, in the absence of proof to the contrary, be deemed to be proof of the truth of the content of the certificate.

(3) In any legal proceedings relating to any matter under this Chapter:

(a) a document purporting to be a special direction given under this Chapter shall be conclusive evidence of the fact that such a special direction was given:

(b) a document purporting to be a Deportation or Removal order issued under this Chapter shall be conclusive evidence of the fact that such an order was made in respect of the person named and on the date specified in the document:

(c) a certificate signed by the Minister stating that a particular place is or was an official port of entry or arrival hall shall be sufficient evidence of that fact.

§183. Service of Notices.

(1) Where under any of the provisions of this Chapter, any notice or other document is to be served on any person, or that person's agent, employer or lawyer, the document shall be deemed to have been served:

(a) immediately if served personally; or

(b) within seven days if the document was sent by post.

PART XV – FUNCTIONS AND POWERS OF IMMIGRATION OFFICERS

§184. General powers of an immigration officer to question and detain.

(1) Where an Immigration officer has good cause to suspect that any person has or is committing an offence against this Chapter, the officer shall be authorized to ask preliminary questions and to obtain that person's:

- (a) name and address;
- (b) passport or certificate of identity;
- (c) documentary or other evidence as to the person's identity;
- (d) permit or visa;
- (e) photograph.

(2) If a person refuses or fails to comply with any requirement of an officer under subsection (1), the officer may arrest and detain a person at a Police station for a period of up to 24 hours until proper documentation and details of that person's identity are provided.

(3) Where a person who is arrested and detained under subsection (2) fails to provide proper documentation within 24 hours, the Director shall request that the Attorney General initiate legal proceedings as appropriate.

§185. Powers of inspection, search and arrest.

(1) Where an Immigration officer believes on reasonable grounds that the information contained on any register or list kept by any person on any premise might lead to the apprehension of any persons who are in the Republic unlawfully, and there is no adequate time to obtain a search warrant for reason that such person may flee with the information, the officer may enter the premises and require any person to produce any part of that register, list or record.

(2) Where an Immigration officer believes on reasonable grounds that a person is in the Republic unlawfully and is hiding or living or is at a particular premise, vessel or craft, and there is no adequate time to obtain a search warrant for reason that such person may flee, the officer may enter and search the premises.

(3) Where an Immigration officer believes on reasonable grounds that a person has committed or is committing an offence under the Chapter or regulations, the officer may arrest and detain the person in custody for a period of up to 24 hours for the purposes of investigating the alleged offence.

(4) If an Immigration officer exercises a right to search any premise or arrest any person without a search warrant under this section, the officer must forward a written report within 24 hours to the Director of the Immigration Division, providing reasons for not having first obtained a warrant and appending documents or other evidence as appropriate.

§186. Power to enter and board ships, vessels or aircraft.

(1) Notwithstanding any other enactment to the contrary, the Director or any Immigration Officer in the exercise of a function or duty under this Chapter, shall be authorized to:

- (a) enter and board any ship, vessel or aircraft in the Republic;
- (b) detain, question and examine any person on any ship, vessel or aircraft in the Republic;
- (c) require the production of documents by any person on any ship, vessel or aircraft in the Republic.

§187. Power to enter or access airports, docks and other approved ports of entry.

(1) Notwithstanding any other enactment to the contrary, the Director, Immigration

Officers and any other officer holding a valid warrant of designation or instrument of delegation issued by the Minister, shall be authorized to enter or access any premise, area, building or facility at any airport, dock or other place in the Republic which is an approved port of entry.

(2) For the purposes of subsection (1), authorization to enter or access may mean in person or by vehicular or other transport.

§188. Complaints against officers performing functions under the Act.

(1) Any person wishing to make a complaint in relation to any officer exercising functions or duties under this Chapter shall make that complaint, in writing, to the Attorney General.

(2) The Attorney General may request the Public Service Commission to discipline, or initiate proceedings necessary under the Public Service Regulations against any officer, upon being presented with evidence that the officer:

- (a) accepted a bribe; or
- (b) induced any person to pay a sum of money not prescribed by this Chapter, in relation to any function or duty performed by that or any other officer; or
- (c) assisted any person to obtain or extend a visa, permit or other document unlawfully; or
- (d) altered any record or register or any information required under the Chapter unlawfully.

PART XVI – TRANSITIONAL PROVISIONS

§189. Persons unlawfully in the Republic of the Marshall Islands as at date of enactment

(1) This section applies to any person who is in the Republic without a visa or permit or who has overstayed that visa or permit before the date of enactment and in respect of whom no Deportation Order or Notice to Depart has been issued under the Immigration and Emigration Act 1986.

(2) Any person who is in the Republic unlawfully as at the date of enactment shall apply in the prescribed manner for a valid visa or permit. Applications must be submitted within a specified period to be determined by the Attorney General and notified by the Division.

(3) Where the application for a visa or permit is granted, that person may continue remain in the Republic for the period of validity. If the application is denied, the person must leave the Republic immediately, or face removal or deportation proceedings under this Chapter .

§190. Deportation orders in effect as at the date of enactment.

(1) This section applies to any person who is in the Republic, and has been issued with a Deportation Order or Notice to Depart under the Immigration and Emigration Act 1986.

(2) Any person who has been served with a Deportation Order or Notice to Depart before the date of enactment must leave the Republic immediately, or face removal or deportation proceedings under this Chapter .

PART XVII – IMMIGRATION (BOND) FUND

§191. Administration of this Part.

(1) This Part of the Chapter shall be jointly administered by the Attorney General's Office, Immigration Division and the Ministry of Finance.

(2) In this Part unless the context otherwise requires: "**Immigration (Bond) Account**" means the bank account held by the Ministry of Finance and administered by the Attorney General, Director of Immigration and the Secretary of the Ministry of Finance under section 192(2).

§192. Immigration (Bond) Fund.

(1) There is hereby established a special revenue fund to be known as the Immigration (Bond) Fund, which shall comprise of the sum of all bonds paid or forfeited under the Chapter and regulations.

(2) All bonds must be paid in cash to the Ministry of Finance and deposited in the Immigration (Bond) Account. Any interest earned may be used to cover the cost of administering the bond system, and any surplus must be retained in the Immigration (Bond) Account.

(3) The Immigration (Bond) Account shall be applied for the purposes of funding the removal or deportation of any person who has:

(a) unlawfully remained in the Republic after his or her visa or permit has expired: or

(b) breached the conditions of his or her visa or permit: or

(c) been convicted of any offence under this Chapter .

(4) A bond must only be used for the removal or deportation of the person in respect of whom the bond attaches, and not any other person.

(5) The officers administering the Immigration (Bond) Account shall, no later than 1 October each year, provide the Minister with a report setting out:

(a) the amount collected in bonds in the preceding year; and

(b) the total accumulated amount in the Immigration (Bond) Account; and

(c) how the Immigration (Bond) Fund Account was applied in the preceding year; and

(d) the balance remaining in the Immigration (Bond) Account.

(6) The Minister shall present this report to the Nitijela within 14 days of its receipt.

§193. Minister to prescribe bonds.

The Minister shall, with the approval of Cabinet, prescribe the amount of any bond to be paid as a pre-condition to the issuance of a visa under this Chapter .

§194. Payment and refund of bonds.

(1) Every person who is required to pay a bond, must pay in the manner prescribed by regulations under this Chapter .

(2) Where a person leaves the Republic before the expiry of a visa, that person may apply for the bond to be refunded or to be retained in the Immigration (Bond) Account for the purpose of obtaining a further visa.

(3) Any person who intends to apply for a refund of a bond must apply for a refund in the prescribed manner within 12 months, or forfeit the bond to the Government.

(4) Any person who is entitled to a refund of a bond shall be paid within 30 calendar days of the written request and all required documentation being received by the Director.

§195. Minister to prescribe fees.

(1) The Minister shall, by regulations made under this Chapter , prescribe fees in relation to any matter, appeal or service under or arising from this Chapter .

(2) All fees prescribed and collected under this Chapter must be paid to the Ministry of Finance and deposited into the Ministry of Justice Special Revenue Fund.

§196. Other charges.

(1) The Minister may, from time to time, prescribe fees for the following administrative matters:

(a) a telephone information service for which each caller pays according to their usage or on some averaged basis;

(b) the cost of mailing information;

(c) the cost of written material, unless required by regulations to be provided free of charge;

(d) access to any website operated by the Ministry;

(e) supply of forms to a person, where it is apparent that the forms are not for personal use.

(2) Other charges prescribed under this Chapter must be paid to the Ministry of Finance and deposited into the Ministry of Justice Special Revenue Fund.

§197. Fees and charges non-refundable.

(1) All fees and charges under the Chapter and regulations shall be non-refundable.

(2) All monies received under or pursuant to the Act and regulations shall be subject to the provisions of the Financial Management Act 1990 and related regulations and policies of the Republic.

PART XVIII – MISCELLANEOUS PROVISIONS**§198. Relationship between this Act and the Labor (Non-Resident Workers) Act 2006.**

(1) The Labor (Non-Resident Workers) Act 2006 shall govern the issuance, extension and revocation of work permits. All matters arising from or relating to work permits shall be governed by the provisions of that Act.

(2) This Act shall govern the issuance, extension and revocation of work visas. All matters arising from or relating to work visas shall be governed by the provisions of this Act.

§199. Regulations.

The Minister shall, with the approval of Cabinet, promulgate regulations as necessary to give effect to the provisions of this Chapter , for all or any of the following purposes:

(a) prescribing matters of procedure in relation to any application under this Chapter ;

(b) prescribing conditions attached to visas and permits;

(c) prescribing fees and bonds in respect of any matters under this Chapter ;

(d) prescribing forms for the purposes of this Chapter ;

- (e) prescribing Government immigration policy;
- (f) prescribing regulatory offences and penalties;
- (g) providing for such other matters as is contemplated by or necessary for giving full effect to the provisions of the Act and for its due administration.

§100. Repeal.

The Immigration and Emigration Act 1986 (Title 43, MIRC Chapter 1) is hereby repealed.

§101. Effective date.

This Chapter shall take effect upon certification in accordance with Article IV Section 21 of the Constitution and in accordance with the Rules of Procedures of the Nitijela.

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