

CHAPTER 5.

RULES OF CONSTRUCTION OF STATUTES REGARDING THE CABINET AND PUBLIC SERVICE

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An Act to provide for the better interpretation and application of statutes, in relation to the Cabinet and the Public Service.[Section numbering style modified to conform to format of the Code (Rev2003)]

Commencement: February 7, 1983

Source: P.L. 1983-12

PART I - PRELIMINARY

§501. Short Title.

This Chapter may be cited as the “Interpretation (Executive Government) Act 1983”. [P. L. 1983-12, §1.]

§502. Application of this Chapter .

This Chapter applies to any act or subordinate instrument made before or after the effective date of this Chapter . [P.L.1983-12, §2.]

PART II-INTERPRETATION OF STATUTES

§503. Interpretation of general applications.

In any Act or subordinate instrument, unless the context requires otherwise:

(a) “Department” means a Department or office of government, other than a public corporation or other statutory authority to which Article VII of the Constitution of the Marshall Islands applies by virtue of Section 1(3) of that Article;

(b) “the Department” means the Department for which the Minister is responsible and, where there are two (2) or more such Departments, the one that is specified by the Minister for the purpose;

(c) “member of the Public Service” means an officer, employee or member of the Public Service appointed under Article VII of the Constitution of the Marshall Islands, but does not include a member or employee of a public corporation or statutory authority to which Article VII, Section 1(3) of the Constitution applies, nor a person referred to in Subsection (4) of that Section;

(d) “Minister” means a member of the Cabinet (including the President in his capacity of having primary responsibility for any Department or function of government by virtue of Article V, Section 5 of the Constitution of the Marshall Islands);

(e) “the Minister” means the Minister responsible for the administration of the Chapter , or of the Act under which the subordinate instrument was made, as the case may be, and includes another Minister discharging, under Article V, Section 6(4) of the Constitution of the Marshall Islands, the responsibilities of the Minister primarily responsible, as described in Section 504(3) of this Chapter ;

(f) “Secretary” means the head of a Department (including the Attorney-General in his capacity as head of a Department referred to in Article VII, Section 3(2) of the Constitution of the Marshall Islands);

(g) “the Secretary” means the Secretary of the Department. [P.L. 1983-12, §3.]

PART III - PROVISIONS RELATING TO THE CABINET

Division I - General

§504. The allocation of portfolios.

(1) In accordance with Article V, Section 5 of the Constitution of the Marshall Islands:

(a) the President shall, as soon as practicable after taking office, by writing signed by him allocate among the members of the Cabinet (including himself if he so desires) the portfolios specified in Subsection (1) of that Section and such other portfolios as may be necessary or desirable for giving to a member of the Cabinet the primary responsibility for any Department or function of government; and

(b) the President has the primary responsibility for any Department or function of government with respect to which no allocation of a portfolio is for the time being in force.

(2) In accordance with Article V Section 6(1) of the Constitution of the Marshall Islands, the President may, at any time, by instrument signed by him, allocate any portfolio with respect to which no allocation is in force, or may reallocate any portfolio.

(3) In accordance with Article V, Section 6(4) of the Constitution of the Marshall Islands, whenever it appears to the President that any other member of the Cabinet will, by reason of illness or absence from the Republic or from the seat of government, be temporarily unable to discharge the responsibilities of any portfolio allocated to him, he may, by writing signed by him, direct any other Minister to discharge the responsibilities of that portfolio, until the member of the Cabinet to whom that portfolio has been allocated is again able to discharge those responsibilities.

(4) Responsibility for any Department or function of government includes responsibility for

the administration of any law relating to the functions of that Department, or to that function, as the case may be.

(5) Where by any provisions of the Constitution of the Marshall Islands or any other law, the Attorney-General, the Auditor-General, the Public Service Commission, the judiciary, or any other person or authority is said to be independent or not subject to direction, the possession of responsibility for any function of government that relates to, affects or is affected by the person or authority does not confer power to act in contravention of that provision.

(6) Where a portfolio is allocated or reallocated, a Minister is directed, under Article V, Section 6(4) of the Constitution of the Marshall Islands, to discharge the responsibilities of a portfolio, the Clerk of the Cabinet shall cause notice of the allocation, reallocation or direction to be published in the Government Gazette. [P.L. 1983-12, §4.]

§505. Change of title of portfolio.

(1) When the title of a portfolio is changed, a reference in any law to the Minister holding the portfolio under its former title shall be read as a reference to the Minister holding the portfolio under its new title.

(2) When the title of a portfolio is changed, the Clerk of the Cabinet shall cause notice of the change to be published in the Government Gazette. [P.L.1983-12, §5.]

§506. Reference to Ministers.

Where in any Act or subordinate instrument a reference is made to a Minister by the title of his portfolio, and the Department or function of government to which the reference relates becomes the primary responsibility of the holder of some other portfolio, the reference shall be read as a reference to the holder of that other portfolio. [P.L. 1983-12, §6.]

§507. Governmental Organization Order.

(1) The Clerk of the Cabinet shall from time to time, with the approval of the President, publish a list showing the portfolios in existence, and the Department and functions of government for which the holder of each portfolio is primarily responsible; and in relation to each law, the portfolios with which responsibility for its administration, or for the administration of any provision of it, rests, and shall similarly bring the list up to date from time to time.

(2) A list published under Subsection (1) of this Section may be cited as a Governmental Organization Order. [P.L. 1983-12, §7.]

§508. Validity of acts of Ministers, etc.

(1) Subject to Subsection (2) of this Section, no act of a Minister is open to challenge on the ground that he was not empowered to do the act, if some other Minister, or any Minister, was so empowered.

(2) Subsection (1) of this Section does not apply to:

(a) the performance of any function that is specifically, conferred by the Constitution of the Marshall Islands on the President or on a particular member of the Cabinet; or

(b) the performance of a function by virtue of a delegation under Section 509 of this Chapter .

(3) The question, whether any procedures prescribed (otherwise than by the Constitution of the Marshall Islands) for the Cabinet have been complied with or are being complied with, is non-justiciable. [P.L. 1983-12, §8.]

Division 2 - Devolution of Power

§ 509. Delegation by Cabinet.

(1) As provided for by Article V, Section 1(2) of the Constitution of the Marshall Islands, the Cabinet may, by written order, delegate to individual members or to other officers responsible to the Cabinet elements of its executive authority.

(2) In accordance with Article V, Section 1(2) of the Constitution of the Marshall Islands, no such delegation shall have the effect of diminishing the responsibility of the Cabinet and of each of its members to the Nitijela for the direction and implementation of executive authority.

(3) A delegation under this Section is revocable, in writing, at will, and no such delegation prevents the performance of a function by the Cabinet. [P.L. 1983-12, §9.]

§510. Delegation by Ministers.

(1) Subject to Subsections (2) and (3) of this Section, a Minister may by written order, delegate to a member of the Public Service all or any of his functions under any Act.

(2) Subsection (1) of this Section does not apply to:

(a) any function vested in the Minister by the Constitution of the Marshall Islands;

(b) any function the delegation of which is expressly prohibited by law; or

(c) unless expressly authorized by the Cabinet, any function delegated to the Minister under Section 509 of this Chapter .

(3) In accordance with Article V, Section 1(2) of the Constitution of the Marshall Islands no delegation under Subsection (1) of this Section has the effect of diminishing the responsibility of the Minister to the Nitijela for the direction and implementation of executive authority.

(4) A delegation under this Section is revocable, in writing, at will, and no such delegation prevents the performance of a function by the Minister. [P.L. 1983-12, §10.]

PART IV - PROVISIONS RELATING TO THE PUBLIC SERVICE

§511. Reallocation of functions.

(1) Where in any Act or subordinate instrument there is a reference to a member of the Public Service by office:

(a) the Minister may, if the office is in a Department for which he is responsible, by written notice alter the reference to a reference to another office in that Department; and

(b) in any case, the Cabinet may, by written order, alter the reference to a reference to another office.

(2) When the functions of an office are altered, or an office is abolished, the Public Service Commission may, by written notice, declare that any reference in any Act or subordinate instrument to that office shall be read as a reference to whichever other office is appropriate.

(3) A notice or order under this Section shall be published in the Government Gazette. [P.L. 1983-12, §11.]

§512. Change of title of office.

(1) When the title of an office is changed, a reference in any law to the office under its former title shall be read as a reference to it under its new title.

(2) When the title of an office is changed, the Public Service Commission shall cause notice of the change to be published in the Government Gazette. [P.L. 1983-12, §12.]

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