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An Act to establish the Marshall Islands Visitors Authority to promote the development of tourism in the Republic. [The *Tourism Act, 1991* repealed by PL2004-2]

Commencement: 15 April 1997
 Source: P. L. 1997-43
 P. L. 2006-64

§1401. Short Title.

This Chapter shall be known and be cited as the “Marshall Islands Visitors Authority Act 1997.” [P.L. 1997-43, §1.]

§1402. Interpretation.

As used in this Chapter, unless the context otherwise requires:

(a) “Authority” means the Marshall Islands Visitors Authority established under Section 1403 of this Chapter;

(b) “Board” means the Board of Directors of the Authority established under Section 1405 of this Chapter;

(c) “Fund” means the Republic of the Marshall Islands Visitors Authority fund established under Section 1411 of this Chapter;

(d) “Minister” means the Minister having responsibility for tourism;

(e) “Ministerial Secretary” means the Ministerial Secretary having responsibility for tourism;

(f) “Person” means the National Government, a Local Government or other political subdivision of the Republic or any other sovereign state, or any agency, department or ministry thereof; any public or private corporation, other occupant of property; or any individual, acting individually, or as part of a group;

(g) “Secretary” means the person elected or appointed by the Board;

(h) “Tourists” include any visitor to the Republic;

(i) “Tourist accommodation” includes, without limitation, a hotel, motel, inn, and hostel,

guest house, or other commercial establishment offering lodging and occasionally meals to the general public;

(j) "Tourist attraction" means an operation providing a facility or service in an organized format, with guide or other organized arrangement, principally to meet tourists' interests in exchange for money or other valuable consideration including but not limited to tour excursions, scuba-diving operations, bird parks, and cultural center;

(k) "Tourist facility" means an operation providing a facility or service without an organized format, available for hire or other patronage by tourists in exchange for money or other valuable consideration, including but not limited to land and marine transportation used for non-scheduled or irregular tourist cruises, recreational fishing or diving trips; and

(l) "Tourist feature" means any natural or man-made feature, phenomenon, or activity which is deemed by the Authority to be attractive to visitors to the Republic, whether or not the feature is active, dormant, inoperative, commercially-operated or otherwise. [P.L. 1997-43, §2.]

PART II- THE MARSHALL ISLANDS VISITORS AUTHORITY

§1403. Authority established.

The Marshall Islands Visitors Authority (hereinafter, "the Authority") is hereby established. [P.L. 1997-43, §3.]

§1404. Incorporation of the Authority.

The Authority:

(a) is a body corporate with perpetual succession;

(b) shall have a seal;

(c) may enter into contracts;

(d) may acquire, hold, manage, charge, and dispose of real, personal, and mixed property;

(e) may sue and be sued in its corporate name;

(f) for the purposes of its functions, has all the powers, functions, duties and responsibilities of a corporation; and

(g) may open one or more bank accounts in its own name.

(2) To the extent that the provisions of the Associations Law (18 MIRC, Chapter 1A) are not inconsistent with this Chapter, they shall apply to the Authority and its activities. [P.L. 1997-43, §4.]

§1405. Board of Directors.

(1) The Authority shall be governed by a Board of Directors, which shall consist of eight (8) members, seven voting and one nonvoting. The following shall be the seven (7) voting members:

(a) the Secretary responsible for tourism or the Secretary's designee from within that ministry, who shall be a member ex-officio;

(b) the Secretary responsible for cultural affairs or the Secretary's designee from within that ministry, who shall be a member ex officio,

(c) two (2) members appointed by the Marshall Islands Tourism Association (MITA),

(d) one (1) member appointed by the Majuro Chamber of Commerce; and

(e) one (1) member appointed by the Marshalls Charter Boats Association.

(2) The Board shall have one nonvoting member, who shall be the General Manager of the Authority pursuant to Section 1407 of this Chapter.

(3) The organizations appointing a member to the Board may, if they so desire, appoint a substitute member to represent the respective organization in the absence of the appointed member.

(4) Vacancies in the membership of the Board shall be filled in the same manner as the original appointment.

(5) The general term of service of each member of the Board shall be two (2) years. However,

the initial term of two (2) of the three (3) members from the Marshall Islands Tourism Authority and the representative from the Marshalls Charter Boats Association shall be one year followed by terms of two (2) years. Each member shall be eligible for reappointment.

(6) A member of the Board other than a member appointed because of his/her position in the public service may be removed from membership of the Board for good cause, by a majority vote of the members of the Board. A public service member of the Board may be removed by the Minister for good cause. A member may resign from the Board by written notice to the General Manager. Such resignation shall take effect from the day the General Manager receives the letter of resignation.

(7) Members of the Board who are not employees of MIVA or employees of the Government or a corporation wholly or substantially owned by the Government shall be paid a sitting allowance at such rate as shall be determined by the Authority. [P.L. 1997-43, §5.]

§1406. By-laws and procedures.

Subject to this Chapter and any other law, the Board shall determine its own by-laws, which shall provide for the number of meetings per year to be held by the board; the quorum at and the conduct of meetings of the Board; the appointment and duties of a Secretary of the Board; and any other matters relating to the Board and the operations and procedures of the Board which it deems appropriate. [P.L. 1997-43, §6.]

§1407. General Manager and staff.

(1) The authority shall hire a General Manager who shall be a nonvoting member ex officio of the Board of Directors, and who shall report on operational matters directly to the Chairman of the Board.

(2) The General Manager shall be responsible for the daily operations and affairs of the Authority, the administration of its budget, and for supervision of other employees of the Authority.

(3) The General Manager may hire such additional staff as may be necessary to carry out the responsibilities of the Authority.

(4) The General Manager and other staff of the Authority shall be compensated as determined by the Board. [P.L. 1997-43, §7.]

§1408. Objectives of the Authority.

The objectives of the Authority shall be:

(a) develop and promote the natural, scenic, cultural, historical, and recreation attractions of the Republic of the Marshall Islands in ways that will:

(i) create an economically sound tourism resource;

(ii) foster preservation and improvement of these assets and prevent and avoid their degradation and pollution;

(iii) provide substantial net economic return to the people of the Republic and, to the extent feasible, equitable distribution of economic and social benefits throughout the country; and

(iv) maintain strong, active control by the government and the Marshallese people over the nature, quality, and magnitude of tourism development and the use of land and water resources;

(b) develop popular support for tourism development on a nationwide basis through fostering public understanding and appreciation of tourism and its economic contribution;

(c) foster an understanding by tourists of the unique and sensitive character of the Republic's culture and values;

(d) encourage cooperation and coordination between the Government and private sectors in tourism development;

(e) control the expansion of tourism development to a rate in accord at all times with other elements of this tourism policy;

(f) ensure that tourist activities are in keeping with the social, economic and physical needs

and aspirations of the Marshallese people;

(g) develop the tourist industry in such a manner as to provide new job opportunities and steady employment for the Marshallese people, and provide opportunities to enable them to obtain job training and education that will allow for upward mobility within the tourist industry; and

(h) ensure that all national and Local Government agencies and instrumentalities undertake activities consistent with and in support of this policy. [P.L. 1997-43, §8.]

§1409. Functions of the Authority.

The Authority shall have the following functions:

(a) to implement the objectives stated in Section 1408 of this Chapter; and to promote and encourage the development of those tourism accommodations, attractions, facilities and features which are consistent with those objectives;

(b) to recommend standards in the construction, equipping and operation, as appropriate, of restaurants and tourism accommodations, attractions, facilities and features;

(c) to promote travel by the public to and within the Republic of the Marshall Islands;

(d) to establish, maintain, develop and operate publicity, public relations and information services in respect to travel to and within the Republic of the Marshall Islands;

(e) to provide services and amenities for tourists and the public and to promote such services and amenities;

(f) to coordinate and facilitate tourism training programs through liaison with private sector, government agencies and other instrumentalities and tourism training resource centers;

(g) to conduct inquiries into any matters at the request, or with the approval, of the Minister, and make recommendations to the Minister as to desirable public policies and programs necessary to achieve and realize the policy declared in this Chapter;

(h) to encourage and promote the participation of foreign investment in the development of tourism in the Republic of the Marshall Islands in a manner consistent with the objectives of the Authority;

(i) to recommend to the appropriate authorities efficient facilitation and monitoring procedures with respect to entry and exit of visitors to the Republic of the Marshall Islands;

(j) to promote the manufacture of local handicrafts and artifacts and help prescribe and establish standards of quality;

(k) to provide liaison and coordination between government and private agencies and business in the promotion and development of the tourism industry in the Republic;

(l) to establish tourist information centers to assist visitors to optimize the use of tourist related facilities;

(m) to assist and advise in the establishment of tourism related industries;

(n) to advise on appropriate land zoning and building regulations for tourist related developments;

(o) to promote clean-up, planting, and beautification programs;

(p) to study and survey tourist needs and facilities;

(q) to identify potential sites for future tourist development and promote them;

(r) to recommend and request acquisition of sites suitable for tourist accommodations, attractions, facilities and features;

(s) to employ technical services and any other staff it may require to effectively promote the functions of the Authority;

(t) to obtain membership in any regional or international tourist organization which will effectively promote the functions of the Authority;

(u) to monitor the impact of tourism development and activities on the social, economic and physical environment of the residents of the Republic, and to bring major tourism impact issues to the attention of the Minister and other appropriate public officials with recommendations to address negative or undesirable effects and community concern; and

(v) to take any other steps as may be necessary to carry out its responsibilities. [P.L. 1997-43,

§9.]

§1410. Powers of the Authority.

(1) The Authority shall have, in addition to any other power conferred by this Chapter and any other law, all powers, rights, privileges and immunities that are necessary or convenient for the effective performance of its functions.

(2) Without limiting the generality of subsection (1) of this Section, but subject to this Chapter and any other law, the Authority may:

(a) for the purpose of promoting and encouraging tourism to and within the Republic, act in association with any person or body of persons that may be engaged, concerned or interested in promotion of tourist traffic from overseas and within the Republic and contribute to the expenses involved in any such combination or association;

(b) engage in, or arrange for, publicity for the Republic by any appropriate means of communication, with particular reference to its tourist attractions and facilities;

(c) induce and assist travel agents, transport operators, and other appropriate bodies, or persons engaged in any publicity medium, to encourage people in other countries to visit the Republic;

(d) produce, or cause to be produced, and sell or distribute magazines, pamphlets, and other publications and advertising matter relating to tourism in the Republic;

(e) organize demonstrations of local culture and entertainment in the Republic or elsewhere;

(f) collect information in relation to any relevant matter to publish, disseminate or supply, with or without charge, any such information or the results of, or conclusions drawn from the Authority's consideration of any such information;

(g) identify and recommend to appropriate authorities areas, land or marine features, wildlife, and marine species, physical constructions, services, historical and sociological practices and any other feature, or aspect of Marshallese life which may be registered or otherwise declared as tourism features or attractions, and make appropriate rules and regulations as to the management and conservation of such features of attractions following upon such registration or declaration;

(h) for the purpose of protecting the standard existence and intrinsic nature of declared tourism features and attractions within the Republic, act in combination or association with any person or body of persons that may be engaged, concerned, interested, or charged with specific responsibility for protection of that feature or attraction and contribute to the expenses involved in such actions;

(i) identify and recommend to appropriate authorities areas of land and marine features within the Republic which may be declared tourist features or special conservation areas and the standards of tourist accommodations, attractions or facilities which may be erected within those areas;

(j) report to the Minister regarding necessary changes in legislation or regulations affecting tourist development in the Republic;

(k) seek and accept gifts, loans and other contributions or indebtedness, by way of cash and assistance in kind, for the promotion of tourism in the Republic;

(l) work with the private sector in the promotion of the Republic as a holiday destination;

(m) encourage, assist and facilitate the training of Marshallese to work in the tourist sector;

(n) in accordance with Article X, Section 1(2) of the Constitution, in cooperation with other appropriate government agencies or instrumentalities, purchase, own, lease, rent, sell, mortgage, pledge, or in any other manner deal in and with property, real, personal or mixed, excluding any land of the National Government, a Local Government, or any agency or instrumentality of a National or Local Government, as may be necessary and convenient to

carry out its functions;

(o) arrange or contract for the erection, construction, maintenance, operation, management or provision of tourist accommodations, attractions or facilities on any land acquired by the Authority; sell or lease such land either with or subject to the erection or license such tourist accommodations, attractions or facilities on such terms as the Authority may decide either in combination or otherwise with any person or group of persons as the Authority may decide;

(p) conduct, maintain, and improve all property controlled or administered by it or established or acquired by it under this Chapter;

(q) subject to the provisions of the Marshall Islands Administrative Procedure Act 1979 (6 MIRC 1), and any other law, set and collect such charges as it determines from time to time for the use of any accommodations, services, works, buildings, recreation grounds, equipment, apparatus, attractions, amenities, or facilities, which are provided, maintained, controlled or operated by the Authority or any other person or persons whether corporate or unincorporated;

(r) contract for the execution or provision by any person of any work of services authorized by this or any other Act to be executed or provided by the Authority in such manner and on, and subject to, such terms and conditions as the Authority thinks fit; and

(s) subject to this Chapter and any other law, do anything incidental to the exercise of the foregoing powers and such other things as the Authority may from time to time determine to be necessary.

(3) The authority shall, subject to this Chapter and any other law, not compete with or duplicate the working of any other authority or agency of the Government of the Republic, or any public corporation or statutory authority, except with the approval of the Cabinet. [P.L. 1997-43, §10.]

PART III - FINANCE

§1411. The Marshall Islands Visitors Authority Fund.

(1) There is hereby established a fund which shall be referred to as the Republic of the Marshall Islands Visitors Authority Fund (hereinafter "the Fund").

(2) The Fund shall be a fund other than the Marshall Islands General Fund within the meaning and for the purposes of Article VIII, Section 3 of the Constitution of the Republic of the Marshall Islands.

(3) There shall be paid into the fund:

(a) any money appropriated by the Nitijela for the purposes of this Chapter;

(b) any money or any property, real or personal, including gifts, loans, grants, advances, contributions and any other assistance which may be received, granted, given, bequeathed, devised, endowed, or in any manner received from any source for the purposes of this Chapter;

(c) any money received pursuant to any permits, licenses or any other fee authorized by this Chapter or regulations promulgated hereunder; and

(d) any other money or property payable by or under any other law into the Fund.

(4) Money may be paid out of the Fund for the purpose of promoting the development of tourism in the Republic and for all other purposes of the Authority as provided for in this Chapter and regulations adopted hereunder.

(5) Where any money is borrowed or any advance, grant, contribution, gift or other assistance is received for a specific purpose or subject to any condition, it may be expended or used only for that purpose or subject to those conditions.

(6) No money shall be withdrawn from the Fund except with authority of the General Manager and the Chairman of the Board or another Board member designated by the Chairman, who shall satisfy themselves that the withdrawal is made in accordance with this Chapter and any other applicable law.

(7) A delegation under Article VII, Section 5 (1) of the Constitution of the Republic of the Marshall Islands, to expend money out of the Fund is given to the General Manager and the Chairman of the Board or another Board member designated by the Chairman.

(8) The General Manager shall submit a budget of revenues and expenditures with respect to each financial year, and any proposed revisions to that budget, to the Board for review and approval. [P.L. 1997-43, §11.]

§1412. Accounts and records.

(1) The General Manager shall open a bank account or accounts with a bank approved by the Board for such purpose.

(2) The General Manager shall maintain proper accounts and records, to the satisfaction of the Board, of:

- (a) the Marshall Islands Visitors Authority Fund;
- (b) the disposition of money out of the Fund; and
- (c) the property and financial transactions of the Authority generally.

(3) The accounts to be laid before the Nitijela by the Minister of Finance under Article VIII, Section 5(4) of the Constitution of the Republic of the Marshall Islands, shall include accounts relating to the Authority.

(4) The accounts and records referred to in Subsections (1) and (2) of this Section shall be audited by the Auditor-General or any recognized accountancy firm.

(5) Before the end of the month of December each year, the Authority shall submit to the Minister a report of the work of the Authority including its property and financial transaction during the previous financial year.

(6) The Minister shall cause the report and financial statements of the Authority and his own comments to be laid first before the Cabinet and then before the Nitijela within fifteen (15) days after their receipt by him, or if the Nitijela is not in session, within fifteen (15) days after the commencement of the next session of the Nitijela.

(7) Notwithstanding any of the other provisions of this Section, the Minister may at any time require the Authority to submit to him a report in such for and as to such matters as he thinks necessary. [P.L. 1997-43, §12.]

§1413. Taxation.

(1) Except as provided under Subsection (2) herein, the income, property and transactions of the Authority shall not be subject to any tax, rate, charge or impost under any other law.

(2) All goods imported by the Authority are subject to tax under the Import Duties Act, 1989.

[P.L. 1997-43, §13.][Amended by P.L. 2006-64].

PART IV - MISCELLANEOUS

§1414. Legal proceedings.

The Authority may sue and be sued in its corporate name, provided that it shall be subject to suit only in the manner provided for suits against the Republic of the Marshall Islands; and provided further that any liability incurred by the Authority shall not be a liability of the Republic or any subdivision thereof. The Chairman of the Board, or the General Manager, or their designees, may accept service of process on behalf of the Authority. The Attorney-General shall represent the Authority in legal proceedings to the extent that such representation does not represent an actual or potential conflict of interest. [P.L. 1997-43, §14.]

§1415. Application of Article VII of the Constitution.

Article VII of the Constitution (Public Service) shall not apply to or in relation to the Authority. [P.L. 1997-43, §15.]

§1416. Rules and Regulations.

The Minister or the Minister's designee shall, in accordance with the Marshall Islands Administrative Procedure Act 1979 (6 MIRC 1), adopt such rules and regulations as are deemed necessary to give effect to this Chapter, which shall have the force and effect of law. [P.L. 1997-43, §16.]

§1417. Transition.

(1) All acts, transactions, matter, and things done, determined, or entered into by the tourism office in the Ministry of Resources and Development shall be deemed to have been done, determined, and entered into by the Authority.

(2) All assets, liabilities, rights, and obligations of the tourism office in the Ministry of Resources and Development existing immediately before the effective date of this Chapter are transferred to and are assets, liabilities, rights and obligations of the Authority. [P.L. 1997-43, §17.]

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