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NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

28TH CONSTITUTIONAL REGULAR SESSION, 2007

BILL NO.: 14IND1

P.L. 2007-85

AN ACT

to amend the Postal Service Act, 1983 in order to restructure the administration of the Postal Service; and for matters related thereto.

BE IT ENATED BU THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

Section 1. **Short Title**

This Act may be cited as the Postal Service (Amendment) Act, 2007.

Section 2. **Amendments**

(1) Section 102(1) of the Postal Service Act, 1983 is hereby amended to read as follows:

§102. Interpretation.

In this Act:

- (a) “ Postmaster General” means the Postmaster Generals provided for by appointment under Section 108(1) of this Act;
- (b) “letter” includes a postcard, aerogram, air letter or letter card;
- (c) “mail bag” includes any form of container or covering in which postal articles in the course of transmission by post are conveyed, whether or not it contains any such article;
- (d) “Minister” means the Minister appointed by the President to be responsible for functions of the Minister, as specified under this Act;

- 1 (e) "postal article" includes a letter, packet or parcel, and any other
2 transmissible by mail, and includes a telegram being carried by mail;
- 3 (f) "postal authority" includes any duly constituted postal authority by the
4 Universal Postal Union;
- 5 (g) "postal officer" includes the Postmaster General and any person employed
6 in the operation of the Postal Service;
- 7 (h) "postmaster" means the officer in charge of a post office;
- 8 (i) "post office" includes:
- 9 (i) any place where postal articles are received, sorted or delivered;
- 10 (ii) any place used for postal purposes; and
- 11 (iii) any official mailbox or other receptacle provided by or with the
12 approval of the Postmaster General for the reception of postal
13 articles for transmission by mail:
- 14 (j) "the President" means the President of the Republic of the Marshall
15 Islands;
- 16 (k) "the Authority" means the Marshall Islands Postal Service Authority
17 established under Section 104 of this Act:
- 18 (l) "the Fund" means the Marshall Islands Postal Service Authority Fund
19 established under the Postal Service Fund (Amendment) Act, 2007.

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21 **(2)** Section 104 of the Postal Service Act, 1983 is hereby deleted and a new Section
22 104 is inserted to read as follows:

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§104. Marshall Islands Postal Service Authority

- (1) The Marshall Islands Postal Services Authority is hereby established.
- (2) The Authority –
 - (a) shall be a body corporate with perpetual succession a common seal;
 - (b) may enter into contracts and may sue or be sued in its own name;
 - (c) may acquire, hold, manage, charge and dispose of real, personal and mixed property;
 - (d) for the purposes of executing its functions, shall have all the powers, duties and responsibilities of a corporation.
- (3) Article VII of the Constitution shall not apply to or in relation to the Authority.

(3) Section 105 of the Postal Service Act, 1983 is hereby deleted and a new Section 105 is hereby inserted to read as follows:

§105. Board of Directors

- (1) Subject to this Act, and to the articles of incorporation and bylaws adopted by the Authority, the Authority shall be controlled and managed by a Board of Directors.
- (2) The Board may exercise and perform all powers and functions of the Authority under this Act.

- 1 (3) The Board shall consist of five (05) members. The Chairman and the four
2 (04) other members of the Board shall be appointed by the Cabinet.
- 3 (4) The term of office for all Board members, not including the Chairman,
4 shall be two years. The term of office for the Chairman shall be three
5 years. The Cabinet may renew the term of office for each member,
6 including the Chairman, for any number of terms.
- 7 (5) The Postmaster General appointed under Section 106B(1), shall be a
8 member ex officio and shall serve as the Secretary of the Board.
- 9 (6) Upon the expiration of the term of an appointed member, his or her rights
10 and powers of membership shall lapse and the Postmaster General shall
11 declare the vacancy and notify the Cabinet in writing of such vacancy.
12 Vacancies occurring before the expiration of a member's term shall be
13 filled in the same manner as the original appointment for the remainder of
14 the term of the vacancy.
- 15 (7) Notwithstanding Subsection (3), the Cabinet may remove any member
16 appointed under Subsection (1), and appoint a replacement member.
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- 18 (4) Section 106 of the Postal Service Act, 1983 is hereby deleted and a new Section
19 106 is hereby inserted to read as follows:
20 **§106. Meetings of the Board**

1 (1) The Board shall meet at such times and places in the Republic as may be
2 designated by the Chairman, provided that the Board shall meet at least
3 once every quarter.

4 (2) The quorum for a meeting of the Board shall be three (03) members.

5 (3) The Board shall adopt its own rules of procedure and regulations for
6 transactions of business and for carrying out the purposes of this Act.

7 (4) The Board may act notwithstanding any vacancy in membership, provided
8 that there is a quorum in accordance with Subsection (2).

9
10 (5) A new Section 106A is hereby inserted to read as follows:

11 **§106A. Independence of the Board**

12 The Board is to function as an independent entity. The Cabinet may, in writing,
13 issue directions to the Board with respect to policy matters, but shall not be
14 involved with the day-to-day workings of the Board.

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16 (6) A new Section 106B is hereby inserted to read as follows:

17 **§106B. Appointment of Postmaster General and Staff**

18 (1) Subject to any direction by the Cabinet, the Authority shall employ a full-
19 time Postmaster General of Postal Service, who shall possess such
20 qualifications as may be established by the Authority, and who shall be
21 responsible for the management and administration of the Authority.

1 (2) The Postmaster General may act for and on behalf of the Authority,
2 subject to any direction given by the Board.

3 (3) The Authority may employ a Deputy Postmaster General, who shall be
4 appointed in consultation with the Postmaster General.

5 (4) Except as provided in Subsection (3), the Authority may delegate to the
6 Postmaster General the power to employ such other employees,
7 consultants and advisers as he or she may deem necessary. Any person
8 employed under this Section shall be employed on such terms and
9 conditions approved by the Board and shall be exempt from Article VII of
10 the Constitution.

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12 (7) A new Section 106C is hereby inserted to read as follows:

13 **§106C. Annual Report**

14 (1) The responsible Minister, through the Cabinet, shall report to the Nitijela
15 on the Authority's activities and planned programs on an annual basis, and
16 may provide additional reports and information from time to time.

17
18 (8) A new Section 106D is hereby inserted to read as follows:

19 **§106D. Functions of the Authority**

20 (1) Unless otherwise provided in this Title, the Authority shall have the
21 following functions.

- 1 (a) developing and establishing procedures for the provisions of an
2 effective and efficient postal service for the Republic;
- 3 (b) developing strategic plans for the long term management and
4 operation of the postal service in the Republic;
- 5 (c) employ and train staff members who will contribute effectively to
6 the provision of an efficient postal service in the Republic;
- 7 (d) perform such other duties and functions as may necessary to carry
8 out the purposes and provisions of this Act.
- 9

10 (9) A new Section 106E is hereby inserted to read as follows:

11 **§106E. Compensation**

- 12 (1) Members of the Board shall be compensated at such rate as may be set by
13 the decision of the Authority when actually on the business of the
14 Authority.
- 15 (2) All members of the Board shall receive per diem and travel expenses at
16 established Government rates while on the business of the Authority.
- 17 (3) The Postmaster General shall receive remuneration for his or her services,
18 the amount of which shall be fixed by the Authority.
- 19

20 (10) A new Section 106F is hereby inserted to read as follows:

21 **§106F. Vesting of real, personal and mixed property**

1 As of the effective date of this Act, all real, personal and mixed property
2 of the Marshall Islands Postal Service, including without limitation all
3 monies lying in the Postal Service Fund created under Section 202 of the
4 Postal Service Act, 1985, vest absolutely in the Authority; and all assets
5 and liabilities, rights, duties, obligations and all contracts and agreements
6 of the Republic relating to the Postal Service as of the effective date of this
7 Act shall stand, and shall be transferred and vested in the Authority.

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9 (11) A new Section 106G is hereby inserted to read as follows:

10 **§106G. Funding and authorized investments**

11 (1) Revenue of the Authority shall not be treated as revenue of the
12 Government for the purposes of Article VIII of the Constitution.

13 (2) The Authority shall, at the discretion of the Board, invest any of its monies
14 in excess of the amount necessary for meeting the immediate requirements
15 of the Authority, to ensure the greatest return commensurate with sound
16 financial policies.

17 (3) Funding for the administration of the Authority shall be provided under
18 and in accordance with the Postal Service Fund Act, 1985 and may be
19 expended for the purposes set out under that Act and pursuant to
20 procedures adopted by the Board.

21
22 (12) Section 108 of the Postal Service Act, 1983 is hereby amended to read as follows:

1 **§108. General powers of the Postmaster General**

2 (1) While a Postal Agreement referred to in Section 142 of this Act is in
3 effect, the powers of the Postmaster General under this Section are subject
4 to:

5 (a) the provisions of that Agreement;

6 (b) the provisions of any treaty, convention, law, regulation or
7 procedure referred to in Section 142(2) of this Act; and

8 (c) any regulation made for the purposes of Section 140(3) of this Act.

9 (2) Subject to this Act the Postmaster General, in consultation with the Board,
10 may make such arrangements as he or she thinks proper for the operation
11 and development of postal services within the Republic, and in particular
12 may implement the provisions of any convention or agreement of the
13 Universal Postal Union not in conflict with the provisions of this Act or of
14 the regulations made under Section 140 of this Act.

15 (3) The Postmaster General, subject to the approval of the Board, may
16 establish post offices at such places as he or she thinks proper, and may
17 close any such post office.

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19 **(13)** Section 110 of the Postal Service Act, 1983 is hereby amended to read as follows:

20 **§110. Postage stamps.**

21 (1) The Postmaster General may:

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(16) Section 125 of the Postal Service Act, 1983 is hereby amended to read as follows:

§125. Dealing with prohibited articles.

If the Postmaster General or a postmaster has reason to suspect that any postal article contravenes the preceding provisions of this Part, he may cause it to be detained and opened, and if it is found to contravene those provisions, he shall cause it to be destroyed or otherwise deal with it as the Board directs.

(17) Section 126 of the Postal Service Act, 1983 is hereby amended to read as follows:

§126. Infringement of exclusive privilege.

(1) In this Section, “the exclusive privilege” means the exclusive privilege conferred on the Government of the Marshall Islands, acting through the Postal Service, by Section 107(1) of this Act.

(2) Any person who, without the authority of the Postmaster General:

- (a) sends, conveys or delivers otherwise than by mail a letter within the exclusive privilege;
- (b) performs any service incidental to conveying otherwise than by mail any letter within the exclusive privilege;
- (c) sends, or tenders or delivers to be sent, otherwise than by mail a letter within the exclusive privilege;
- (d) makes a collection of letters expected from the exclusive privilege for the purpose of sending them otherwise than by mail; or

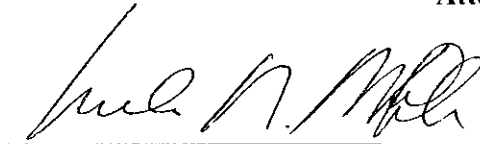
CERTIFICATE

I hereby certify:

- (1) That Nitijela Bill No: 141ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 4th day of April, 2007; and
- (2) That I am satisfied that Nitijela Bill No.: 141ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 16th day of May, 2007.

Attest:



Ruben R. Zackhras
Vice-Speaker
Nitijela of the Marshall Islands



Joe E. Riklon
Clerk
Nitijela of the Marshall Islands