

## REPUBLIC OF THE MARSHALL ISLANDS

The Republic of the Marshall Islands is an island nation in the Western Pacific with a total land area of 181.3 sq km. It is made up of a double chain of coral atolls comprising 34 islands and 870 reefs lying between 5° North and 15° North and 162° East and 173° East. 24 of the atolls are inhabited and the total population is 45,000 (1992). Until 1986 the Marshall Islands was a United Nations Trust Territory administered by the United States. On 21 October of that year the two countries entered into a Compact of Free Association under which the Marshall Islands formally took over responsibility for its affairs, including external relations. The US retains control over defence policy and provides financial support. On 3 November 1986 the US with the approval of the Marshall Islands declared the UN Trusteeship terminated.

The head of state and the head of the executive is the President who is elected by the *Nijijela*, which is the legislature. The *Nijijela* of 33 elected members from 24 electoral districts. Under the Constitution it has a general law making power. The Council of 12 *Iroij* (traditional chiefs) is selected according to custom and may request reconsideration of any laws affecting law or land tenure. The people of each populated atoll, or of an island that does not form part of an atoll, are entitled to their own system of local government. The authority of these local governments extends to the area within the atoll and to the area of sea to a distance of five miles measured from the territorial sea baseline.

### Limits of National Jurisdiction

The marine zones of the Marshall Islands had a number of legislative bases prior to the Marine Zones (Declaration) Act 1984. Principal among these was the Marshall Islands Marine Resources Jurisdiction Act 1978. This Act was repealed in 1988. The Marine Zones (Declaration) Act provides that all waters landward of “the baseline” form internal waters and it defines “the baseline”. It also authorises the Cabinet, with the approval of the *Nijijela*, to declare archipelagic baseline, though no such declaration has been made. It establishes a 12 nautical mile territorial sea, a 24 nautical mile contiguous zone for enforcement purposes and an exclusive economic zone, the outer limits of which are all measured from the defined baselines. The total area of the exclusive economic zone is 2.13 million sq km. The Act also defines the legal character of these zones. The principal Act regulating fisheries, the Marshall Islands Marine Resources Authority Act 1988, applies to ‘fishery waters’ which are defined to include internal waters, the territorial sea, the EEZ and any other waters over which the government has jurisdiction.

The Marshall Islands shares boundaries with Federated States of Micronesia, Kiribati, Nauru and the USA in respect of Wake Island. As yet no maritime boundary agreements have been concluded.

### Fisheries Legislation

The national legislation controlling fishing by both domestic and foreign vessels is the Marshall Islands Marine Resources Authority Act 1988. This Act establishes the Marshall Islands Marine Resource Authority. The powers and duties of the Authority are comprehensive in relation to management of fisheries and other marine resource matters (for example, under the Act it controls the exploration and exploitation of the non-living resources of the seabed as well as fisheries). They include the implementation of an exclusive economic zone management programme, the negotiation and conclusion of foreign fishing agreements (subject to the approval of Cabinet) and the rebate of fees for the purpose of promoting fisheries development and the power to make regulations. Regulations may be made with respect to the conservation, management and protection of fish and other aquatic organisms, the pollution of fishery waters and generally for carrying out the principles enshrined in the Act.

## MAR (ii)

Any agreement relating to the allocation of fishing rights to foreign vessels must include a provision under which the foreign state or the relevant organisation takes responsibility for compliance by its vessels with the terms and conditions of the agreement. Regulations made under the Act set out the terms and conditions of foreign fishing agreements to which substantial agreement must be sought. These include recognition of the Marshall Islands' rights over its marine zones and the maintenance of a bond or letter of credit of US\$500,000 per vessel licence application in a bank in the capital of Majuro.

### **Licensing Requirements**

There are two forms of licences under which a foreign vessel may undertake commercial fishing in the fishery waters of the Marshall Islands. The first is a regional licence issued by a competent regional organisation or agency of which the Marshall Islands is a member. These include regional licences issued to U.S. vessels by the Administrator under the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America. The second is a foreign fishing licence issued by the Authority. This form of licence is issued for commercial fishing, test fishing and fishing by locally-based foreign fishing vessels. A licence may be denied on a number of grounds including a lack of good standing on the Regional Register maintained by the Forum Fisheries Agency. A licence will cease to be valid on any change of flag or ownership of the vessel described in the licence. No fishing vessel is permitted to fish within the jurisdiction of a Local Government area without a licence issued by the Local Government Council. That jurisdiction is described above and it extends to five nautical miles from the territorial sea baseline. The Regulations set out the minimum requirements for a foreign fishing agreement required of any person that desires to enter into a Licence Agreement with a Local Government Authority.

The Authority may also issue licences to foreign vessels for research, survey and recreational purposes. It also licenses local fishing vessels and fish processing establishments.

### **Conservation**

The Marshall Islands Marine Resources Authority Act 1988 prohibits the use of explosives, poison or other noxious substances for the purpose of catching fish. (A similar prohibition is to be found in the Marine Resources Act, which forms Chapter 1 of Title 33 of the Marshall Islands Revised Code). The possession of prohibited fishing gear is also an offence. The Act was amended in 1989 to include driftnets within the fishing gear which is prohibited. This is in accordance with the provisions of the Wellington Convention which the Marshall Islands has signed, but not ratified. As noted earlier Regulations may be made by the Authority with respect to the conservation and protection of fish. The Marine Mammals Protection Act 1990 establishes measure for the protection of marine mammals including the placing of safety panels in tuna purse seine nets. Under the National Environmental Protection Act 1984, the Environmental Protection Authority may recommend a system of rational utilisation including regulation of the harvesting and marketing of threatened species.

### **Regional and International Agreements relating to fisheries**

The Marshall Islands is a member of the Forum Fisheries Agency and the South Pacific Commission. It has signed and ratified the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region and has signed the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific Region. It acceded to the 1982 Convention on the Law of the Sea on 9 August 1991. Marshall islands. is a party to the Nauru Agreement concerning Cooperation in the Management of Fisheries of Common Interest, the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America and the Palau Arrangement. It is also a signatory to the Arrangement for the Management of the Western Pacific Purse Seine Fishery and the Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish.

**Acts and Subsidiary Legislation of the Marshall Islands  
Reproduced in this Compendium**

**Note:** The following laws, other than regulations, form part of the 1988 loose leaf edition of *The Marshall Islands Revised Code* which is the subject of regular updates.

<u>PUBLIC LAWS</u>	Page
<u>Marshall Islands Revised Code</u>	
<u>Title 33 - Marine Resources</u>	MAR 01
Chapter 1 Marine Resources Act	
Chapter 2 Marine Zones (Declaration) Act 1984	MAR 03
Chapter 3 Marine Resources (Trochus) Act 1983	MAR 08
Chapter 4 Marshall Islands Marine Resources Authority Act 1988	MAR 10
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**TITLE 33.**

**MARINE RESOURCES**

**CHAPTER 1.**

**MARINE RESOURCES ACT**

**ARRANGEMENT OF SECTIONS**

Section	Section
1. Short title	5. Control of <i>pinctada margaritifera</i> (black-lip moth-of-pearl oyster shell).
2. Fishing with explosives, poisons, chemicals, etc.	6. Penalties for violation of Chapter.
3. Limitations on taking of turtles.	
4. Control of sponges	

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An Act to regulate fishing and protect endangered species in the Republic and for matters connected therewith.

Source: TTC 1966  
45 TTC 1970  
COM P.L. 4C-35 (1972)  
COM P.L. 4C-57 (1972)  
45 TTC 1980

**§ 1. Short title.**

This Chapter may be cited as the "Marine Resources Act."

**§ 2. Fishing with explosives, poisons, chemicals, etc.**

(1) Except as provided in Subsection (3) of this Section, no person shall knowingly catch any fish or other marine life by means of explosives, poisons, chemicals or other substances which kill fish or marine life, nor shall any person knowingly possess or sell any fish or any-other marine life caught by means of explosives, poisons, chemicals, or other substances which kill fish or marine life. The terms "poisons", "chemicals", or "substances" include but are not limited to hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing ratenone, tephrosin or plant material from *Barrington asiatica*, *coculus ferran- dianus*, *hura crepitans*, *piscidia erythrina*, *tephrosia purpurea*, and *wikstremia*.

(2) Except as provided in Subsection (3) of this Section, no person shall knowingly place or cause to be placed, in any waters of the Republic, explosives, poisons, chemicals, or other substances with the intent to kill fish or other marine life.

(3) The provisions of Subsections(1) and (2) of this Section shall not apply where the Minister in charge of marine resources:

- (a) has granted written permission to use the means prohibited in Subsections (1) and (2) of this Section, or
- (b) has determined that the

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- (i) purpose of obtaining the fish or other marine life is to avoid the waste or loss of such fish or marine life; and
- (ii) consumption or sale of fish or other marine life caught by any means the use of which is prohibited in Subsections (1) and (2) of this Section is not harmful or hazardous to health and human life.

(4) Nothing in this Section shall be construed to prevent any person from catching any fish or other marine life by the use of local roots, nuts, or plants which have the effect of stupefying but which do not kill fish or other marine life.

(5) Any person who violates any of the provisions of this Section shall, upon conviction thereof, be fined not less than \$100 or more than \$2,000, or imprisoned for not less than six (6) months or more than two (2) years, or both. [TTC 1966, § 780; 45 TTC 1970, § 1; COM P. L. 4C-35, §§ 1-5 (1972); 45 TTC 1980, § 1, modified. See also, Marshall Islands Marine Resources Authority Act 1988, P.L. 1988-12. § 38.]

**§ 3. Limitations on taking of turtles.**

(1) No hawksbill turtles or sea turtles shall be taken or intentionally killed while on shore, nor shall their eggs be taken.

(2) No hawksbill turtle shall be taken or killed except whose shell is at least twenty-seven (27) inches when measured over the top of the carapace shell lengthwise; no green turtle shall be taken or killed except whose shell is at least thirty-four (34) inches when measured over the top of the carapace shell lengthwise.

(3) No sea turtle of any size shall be taken or killed from the first day of June to the thirty-first day of August inclusive, nor from the first day of December to the thirty-first day of January inclusive.

(4) Notwithstanding any provisions of this Section to the contrary, taking of sea turtles and their eggs shall be allowed for scientific purposes when specifically authorized by the Cabinet. [TTC 1966, § 781; 45 TTC 1970, § 2; COM P.L. 4C-57, §§ 1-3 (1972); 45 TTC 1980, § 2, modified.]

**§ 4. Control of sponges.**

No sponges artificially planted or cultivated shall be taken or molested, except by permission of the Cabinet. [TTC 1966, § 782; 45 TTC 1970, § 3; 45 TTC 1980, § 3, modified.]

**§ 5. Control of *pinctada margaritifera* (black-lip mother-of-pearl oyster shell).**

No *pinctada margaritifera*, commonly known as black-lip mother-of-pearl oyster shell, shall be taken from the first day of August to the thirty-first day of December inclusive; provided, that at no time may any such shell be taken which is less than four (4) inches in minimum diameter as measured across the nacre; and provided further, that such shells, of any size, may be taken at any time for scientific purposes when specifically authorized by the Cabinet. [TTC 1966, § 783; 45 TTC 1970, § 4; COM P. L. 4C-57, § 4 (1972); 45 TTC 1980, § 4, modified..]

**§ 6. Penalties for violation of Chapter.**

A person violating any of the provisions of this Chapter for which a different penalty is not otherwise provided shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$100 or to a term of imprisonment not exceeding six (6) months, or both. [TTC 1966, § 4 §§ 774 and 784; 45 TTC 1970, § 5; COM P. L. 4C-35, 8 6 (1972); 45 TTC 1980, 0 5, modified.]

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Note: Section 1 was added to conform this Act to the format of this Revised Code.

**CHAPTER 2  
MARINE ZONES**

**ARRANGEMENT OF SECTIONS**

Section		Section
	<b>PART 1 - PRELIMINARY</b>	
1.	Short title	7. The territorial sea.
2.	Interpretation	8. The executive economic zone.
3.	References to rules of international law.	9. The contiguous zone
4.	Application of this Act.	10. Legal character of marine zones, etc.
	<b>PART II - THE MARINE ZONES</b>	11. Rights of other states in marine zones.
5.	Internal waters	12. General regulations as to the exclusive economic zone
6.	Archipelagic waters	13. Charts, publicity, etc.
		14. Evidentiary provisions.

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An Act to make provisions with respect to the internal waters, the archipelagic waters, the territorial sea, the exclusive economic zone, and the contiguous zone of the Republic.

Commencement: September 13, 1984  
Source: P.L. 1984-25

**PART 1 - PRELIMINARY**

**§ 1. Short title.**

This Act may be cited as the "Marine Zones (Declaration) Act 1984". [P.L. 1984-25, § 1.]

**§ 2. Interpretation.**

(1) In this Act:

- (a) "the baseline of the Marshall Islands" means the low water line of the seaward side of the reef fringing the coast of any part of the Marshall Islands or bounding any lagoon waters adjacent to any part of that coast, or, where a reef is not present, the low water line of the coast itself;
- (b) "conservation and management" includes all rules, regulations, methods and measures that:
  - (i) are required to build, restore or maintain, or are useful in building, restoring or maintaining, any fishery resources or the marine environment;
  - (ii) are designed to ensure that:
    - (A) supply of food and other products may be taken, and recreational benefits obtained, on a continuing basis;
    - (B) irreversible or long-term ill effects on fishery resources or the marine environment are avoided; and
    - (C) there will be a multiplicity of options available with respect to uses of those resources;
- (c) "fishery resource" means any fishery, stock of fish, species of fish or habitat of fish;

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- (d) “low tide elevation” means a naturally formed area of land that is surrounded by and is above water at mean low water spring tides, but is submerged at mean high water spring tides;
  - (e) “the low water line”, in relation to any area, means the line of low water at mean low water spring
  - (f) “the median line” means a line every point of which is equidistant from the nearest point on:
    - (i) The baseline from which the territorial sea of the Republic is measured; and
    - (ii) the corresponding baseline of any other country;
  - (g) “the Minister” means the Minister in charge of the subject matter of this Act;
  - (h) “nautical mile” means an international nautical mile of 1,852 meters.

(2) For the purposes of this Act, permanent harbor works that form an integral part of a harbor system shall be regarded as forming part of the coast, but this subsection does not apply to offshore installations or artificial islands. [*P.L. 1984-25, § 2.*]

**§ 3. References to rules of international law.**

Where in the Act it is provided that anything shall be done by the Government of the Marshall Islands or by the Cabinet, or any law or order shall be made, or any other thing shall be done, in accordance with the rules of international law, the questions, whether it was so done or made, is non-justiciable. [*P.L. 1984-25, § 3.*]

**§ 4. Application of this Act.**

The provisions of this Act shall be read subject to the provisions of any treaty or other international obligation which is finally accepted by or on behalf of the Republic and approved by the Nitijela by resolution, for the purposes of this Act. [*P.L. 1984-25, § 4.*]

**PART II - THE MARINE ZONES**

**§ 5. Internal waters.**

(1) For the purposes of any law of the Republic, the internal waters of the Republic are all waters on the landward side on the baseline from which the breadth of the territorial seal is measured, and where closing lines are drawn in accordance with Subsection (2) of this Section, the waters inland of those lines to the extent that they are outside that baseline.

(2) The Cabinet may, in accordance with the rules of international law, declare, by reference to physical features marked on official charts or to lists of geographical coordinates specifying the geodetic data, the points between which closing lines are to be drawn for purposes of determining the outer limits of the internal waters of the Republic, in the case of the mouths of or entrances to lagoons. [*P.L. 1984-25, § 5.*]

**§ 6. Archipelagic waters.**

(1) For the purposes of any law of the Republic, the archipelagic waters of the Republic comprise all areas of sea contained within the baselines established under Subsection (2) of this Section.

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**CHAPTER 2. MARINE ZONES**

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(2) The Cabinet may, in accordance with the rules of international law, and with the approval of the Nitijela signified by resolution, declare, by reference to physical features marked on official charts or to lists or geographical coordinates specifying the geodetic data, the points between which straight baselines are to be drawn for the purpose of determining the outer limits of the archipelagic waters of the Republic and the inner limits of the territorial sea. [*P.L. 1984-25, § 6.*]

**§ 7. The territorial sea.**

(1) Subject to Subsection (2) of this Section, for the purpose of any law of the Republic the territorial sea of the Republic is that part of the sea within twelve (12) nautical miles from the baseline of the Marshall Islands.

(2) Where archipelagic baselines are drawn under Section 6(2) of this Act the breadth of the territorial sea shall be measured from those baselines, to the extent to which they are outside the outer limits of the internal waters of the Republic. [*P.L. 1984-25, § 7.*]

**§ 8. The exclusive economic zone.**

(1) Subject to the succeeding provisions of this Section, for the purposes of any law of the Republic the exclusive economic zone of the Republic comprises those parts of the sea having as their inner limits the outer limits of the territorial sea, and as their outer limits a line drawn 200 nautical miles seaward from the baselines from which the breadth of the territorial sea is measured.

(2) The Cabinet may, in accordance with the rules of international law, declare, by reference to physical features marked on official charts or to lists of geographical coordinates specifying the geodetic data, points between which straight baselines are to be drawn for determining the outer limits of the exclusive economic zone.

(3) Where baselines are drawn in accordance with Subsection (2) of this Section, the breadth of the exclusive economic zone shall be measured from those baselines.

(4) Where the median line is less than 200 nautical miles from the line from which the breadth of the territorial sea is to be measured, the outer limits of the exclusive economic zone extend only to the median line.

(5) The Cabinet may, by order, for the purpose of implementing any international agreement or the award of any international body, or otherwise, declare that the outer limits of the exclusive economic zone of the Republic are such as are specified in the order. [*P.L. 1984-25, § 8.*]

**§ 9. The contiguous zone.**

For the purposes of any law of the Republic the contiguous zone of the Republic comprises that part of the sea within twenty-four (24) nautical miles seaward from the baseline from which the breadth of the territorial sea is measured [*P.L. 1984-25, § 9.*]

**§ 10. Legal character of marine zones, etc.**

(1) The sovereignty of the Republic extends beyond its land territory and internal waters, and its archipelagic waters over its territorial sea, and to the airspace over them and the seabed and subsoil under them, and the resources contained therein.

(2) Within the exclusive economic zone the Republic has sovereign rights:



- (a) for the purpose of exploring and exploiting conserving and managing the natural resources whether living or nonliving, of the seabed and the subsoil under the seabed, and the waters over the seabed; and
  - (b) with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the waters, current and winds.
- (3) Within the exclusive economic zone the Republic has such other rights as are conferred or recognized by international law.
- (4) Within the contiguous zone, the Republic has all rights necessary to prevent infringement of its customs, fiscal, immigration and health laws and regulations within the territory or the territorial sea of the Republic, and to punish any such infringement; and all relevant laws of the Republic extend to the contiguous zone accordingly.
- (5) The sovereignty and rights of the Republic under this Section shall be exercised in accordance with the rules of international law. [*P.L. 1984-25, § 10.*]

**§ 11. Rights of other states in marine zones.**

- (1) Subject to the succeeding provisions of this Section, ships and aircraft of all states have, in accordance with the rules of international law, the right of free passage through and over the territorial sea and the archipelagic waters of the Republic.
- (2) The Cabinet may, in accordance with the rules of international law, by order:
- (a) designate sea-lanes and air routes, suitable for the continuous and expeditious passage of foreign ships and aircraft, through and over the archipelagic waters and the adjacent territorial sea; and
  - (b) prescribed traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in such sea-lanes.
- (3) The sea-lanes and air routes designated under Subsection (2) of this Section all ships and aircraft may, in accordance with the rules of international law, enjoy the rights of navigation and overflight, in their normal modes, for the purpose of continuous, expeditious and unobstructed transit through and over the archipelagic waters and the adjacent territorial sea, from one part of the exclusive economic zone to another part of it.
- (4) Until sea-lanes and air routes are prescribed under Subsection (2) of this Section, the rights of navigation and overflight referred to in Subsection (3) of this Section may be exercised through and over all routes normally used for international navigation and overflight.
- (5) The rights of navigation and overflight referred to in Subsections (3) and (4) of this Section are subject to all laws of the Republic made in accordance with the rules of international law.
- (6) Subject to this and any other Act and to the rules of international law, all states and their nationals shall enjoy in the exclusive economic zone the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and all other internationally lawful uses to the sea related to those freedoms, compatible with the rules of international law.

**§ 12. General regulations as to the exclusive economic zone.**

Where no other provision is made by or under any other Act for the purpose, the Cabinet may make regulations, which shall be in accordance with the rules of international law, for all or any of the following purposes:

- (a) regulating the conduct of scientific research within the exclusive economic zone;

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- (b) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from waters, currents and winds, and for other economic purposes;
- (c) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone, including requirements for the establishment of safety zones around such islands, installations and structures;
- (d) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone; and
- (e) providing for such other matters as are necessary or expedient to give effect to the rights and obligations of the Republic in relation to the exclusive economic zone, or as the necessary to give full effect to the provisions of this Act. [*P.L. 1984-25, § 12.*]

**§ 13. Charts, publicity, etc.**

(1) The Minister shall cause all closing lines, baselines and other lines drawn for the purposes of this Act, for determining the limits of the internal waters, the archipelagic waters, the territorial sea, the exclusive economic zone and the contiguous zone for the Republic to be clearly indicated on charts of a scale or scale or scales adequate for them to be readily determined, and shall give adequate publicity to them.

(2) A question, whether adequate publicity has been given to any matter under Subsection (1) of this Section, is non-justiciable.

(3) A copy of each chart referred to in Subsection (1) of this Section shall be deposited with the Secretary General of the United Nations and the Secretary-General of the South Pacific Commission. [*P.L. 1984-25, § 13.*]

**§ 14. Evidentiary provisions.**

In any proceeding before a court or person acting judicially, a certificate (purporting to be signed by the Minister stating that any specific nautical chart of any area is a chart to which Section 13 of this Act applies) that is held by the Minister, is evidence of the matters stated in the certificate, and the chart is evidence of the matters set out in it. [*P.L. 1984-25, § 14.*]

## CHAPTER 3.

### HARVESTING OF TROCHUS

#### ARRANGEMENT OF SECTIONS

Section	5. Open season.
1. Short title	6. Permitted taking of trochus in open season
2. Interpretation.	7. Removal for replanting, etc
3. Application of this Act.	8. Enforcement
4. Regulation of harvesting of trochus	

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An Act to regulate the harvesting of trochus, and for related purposes.

Commencement: February 11, 1983

Source: P.L. 1983-15

**§ 1. Short title.**

This Act may be cited as the “Marine Resources (Trochus) Act 1983”. [P.L. 1983-15, § 1.]

**§ 2. Interpretation.**

In this Act:

- (a) “open season”, in relation to any part of the waters to which this Act applies by virtue of Section 3 of this Act, means an open season declared under Section 5 of this Act in relation to that area;
- (b) “Minister” means the Minister of Resources and Development;
- (c) “trochus” means *trochus niloticus*, *trochus maximus*, *tectus niloticus* or *tectus maximus*. [p.l. 1983-15, §

**§ 3. Application of this Act.**

This Act applies to the internal waters and the territorial waters of the Republic. [P.L. 1983-15, § 3.]

**§ 4. Regulation of harvesting of trochus.**

Except as permitted by or under this Act, the taking or harvesting of trochus, or any intentional or reckless interference with the growth of trochus, in the waters to which this Act applies is prohibited. [P.L. 1983-15, § 4,]

**§ 5. Open season.**

(1) The Cabinet may from time to time declare, in relation to any part of the waters to which this Act applies, an open season of trochus.

(2) A declaration under Subsection (1) of this Section shall be published in the *Government Gazette* and in such other ways as the Cabinet or the Minister directs.

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(3) An open season with respect to any part of the waters to which this Act applies shall not exceed three (3) months in any period of twelve (12) months. *[P.L. 1983-15, § 5.]*

**§ 6. Permitted taking of trochus in open season.**

(1) The taking or harvesting of trochus is permitted in an open season only:

(a) by a citizen of the Republic living in an area in which he has , in accordance with customary law, a right to fish; or

(b) under a fishing license issued under the Marshall Islands Marine Resources Authority Act 1988 that specifically authorizes the taking of trochus.

(2) Subsection (1) of this Section does not extend to the taking or harvesting of trochus whose shell is less than three (3) inches in diameter at the based. *[P.L. 1983-15, § 6, modified.]*

**§ 7. Removal for replanting, etc.**

(1) The Minister may, at any time, grant to any person a permit to remove and transport trochus from an area for the purpose of its introduction or propagation in any other area.

(2) If the Cabinet determines that any underwater operations, or proposed underwater operations, that will or may interfere with a trochus bed are in the public interest, it may grant a permit for the removal and transplanting of the bed at the expense of the person conducting or desiring to conduct the underwater operations.

(3) A permit under this Section shall be in writing, and may be made subject to such conditions as the Minister or the Cabinet, as the case may be, thinks proper.

(4) A permit under this Section takes effect notwithstanding anything in the Marshall Islands Marine Resources Authority Act 1988. *[P.L. 1983-15, § 7, modified.]*

**§ 8. Enforcement.**

Any contravention of or failure to comply with the provisions of this Act or of a permit under Section 7 of this Act may be dealt with, and the same consequences ensue, as if it were a contravention of or failure to comply with the provisions of the Marshall Islands Marine Resources Authority Act 1988. *[P.L. 1983-15, § 8.]*

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Note: The Marine Resources Jurisdiction Act 1978 *[P.L. 25-1 (1978); P.L. 1979-4; P.L. 1987-17]* was repealed by the Marshall Islands Marine Resources Authority Act 1988 (P.L. 1988-12). Accordingly, references to that Act were substituted by reference to the Marshall Islands Marine Resources Authority Act 1988 by the Commissioner.

CHAPTER 4.

**MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**

**ARRANGEMENT OF SECTIONS**

Section	Section	
<b>PART I - PRELIMINARY</b>		
1. Short title.	30. Marshall Islands Marine Resources Authority Fund.	
2. Interpretation.	31. Payments into the Fund.	
<b>PART II - MARSHALL ISLANDS MARINE RESOURCES AUTHORITY</b>		
3. Marshall Islands Marine Resources Authority	32. Payments out of the Fund.	
4. Management of the Authority	33. Exemption from tax.	
5. Board of Directors.	34. Restriction on borrowing.	
6. Cabinet's directions to the Board.	35. Accounts.	
7. Meetings of the Board.	<b>PART VI - VIOLATIONS AND PENALTIES</b>	
8. Director and staff.	36. Violations and penalties.	
9. Employment of public servants.	37. Operating without a license.	
10. Annual report.	38. Use of explosives.	
11. Powers and duties of the Authority	39. Possession of prohibited fishing gear.	
12. Power to make regulations.	40. Civil penalties.	
13. Compensation of members.	41. Criminal penalties	
<b>PART III - FOREIGN FISHING</b>		
14. Foreign fishing.	42. Forfeitures and seizures.	
15. Foreign fishing licenses.	43. Sale of fish.	
16. Application for licenses.	44. Proceeds of sale.	
17. Revocation, suspension and variation of licenses.	45. Presumptions.	
18. Period of validity.	46. Jurisdiction of courts.	
19. Foreign fishing agreements.	47. Compounding of offenses.	
20. Regional foreign fishing agreements.	48. Disposal of seized goods.	
21. Compliance with foreign fishing agreement.	<b>PART VII - OBSERVERS AND ENFORCEMENT OFFICERS</b>	
22. Stowage of gear.	49. Authorized observers.	
<b>PART IV - ACTIVITIES OTHER THAN FOREIGN FISHING</b>		
23. Development of local fisheries.	50. Authorized officers.	
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An Act to establish a Marshall Islands Marine Resources Authority and to provide for exploration, exploitation, regulations, corporation and management of marine resources and for matters connected therewith or incidental thereto.

Commencement: March 28, 1988  
Source: P.L. 1988-12  
P.L. 1988-14  
P.L. 1989-56

**TITLE 33. MARINE ZONES**

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**PART I - PRELIMINARY**

**§ 1 Short title**

This Act may be cited as the “Marshall Islands Marine Resources Authority Act 1988” [*P.L. 1988-12, § 1.*]

**§ 2. Interpretation.**

In this Act:

- (a) “atoll” means a circular or oval coral reef forming a geographic and ecologic unit crowded by at least one island;
- (b) “authorized observer” means any person approved by the Authority to act as an observer on foreign fishing vessels, including any regional observer, as may be authorized by the Authority in accordance with this Act;
- (c) “authorized officer” means any officer authorized to enforce the provisions of this Act, including Exclusive Economic Zone management authorities, nationals of other Pacific Island States and regional Pacific surveillance and enforcement officers as may be authorized in accordance with this Act;
- (d) “Director” means the Director of the Marshall Islands Marine Resources Authority;
- (e) “fish” includes shellfish, crustaceans, marine animals and the eggs, span, spat, and juvenile stages of fish, shellfish, crustaceans, and marine animals;
- (f) “fish” aggregating device” means any man-made or partly man-made floating device, whether anchored or not, intended for the purpose of aggregating fish, and includes any natural floating object on which device has been placed to facilitate its location;
- (g) “fishery waters” means the waters of the territorial sea of the Republic and of the Exclusive Economic Zone and internal waters, including lagoons, as defined in the Marine Zones (Declaration) Act 1984, and any other waters, over which the Government of the Republic has jurisdiction;
- (h) “fishing” means:
  - (i) the searching for, catching, taking or harvesting of fish or other aquatic organism;
  - (ii) the attempted searching for, catching, taking, or harvesting of fish or other aquatic organism;
  - (iii) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish or other aquatic organism;
  - (iv) pacing, searching for or recovering fish aggregating devices or associated equipment such as radio beacons;
  - (v) any operations at sea in support of, or in preparation for, any activity described in this Paragraph;
  - (vi) aircraft use relating to any activity described in this Paragraph;
- (i) “fishing gear” means any equipment, implement or other things that can be used in the act of fishing, including any fishing net, rope, line, float, trap, hook, winch, boat or helicopter;
- (j) “fishing vessel” or “ vessel” means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type that is normally used for the purpose of fishing or related activities;

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**CHAPTER 4. MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**


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- (k) “foreign fishing agreement” means a bilateral or multilateral agreement providing for fishing rights to foreign fishing vessels in accordance with the requirements of this Act;
- (l) “foreign fishing vessel” means any fishing vessel other than a local fishing vessel;
- (m) “Fund” means the Marshall Islands Marine Resources Authority Fund established in accordance with this Act;
- (n) “license” means a license issued in accordance with this Act;
- (o) “living resource” includes any finfish, mollusk, crustacean, coral, holothurian (beche-de-mer) or other echinoder, and turtle and their young and eggs and all other forms of marine animal and plant life other than marine birds;
- (p) “local fishing vessel” means a fishing vessel:
  - (i) registered in the Republic of the Marshall Islands; and
  - (ii) wholly owned and controlled, or chartered by;
    - (A) the Government of the Republic of the Marshall Islands;
    - (B) a public corporation established under the laws of the Republic of the Marshall Islands; or
    - (C) any citizen of or person permanently domiciled in the Republic of the Marshall Islands;
- (q) “locally based foreign fishing vessel” means any foreign fishing vessel based in the Republic and certified as a locally based foreign fishing vessel by the Authority;
- (r) “Minister” means the Minister of Resources and Development;
- (s) “operator” means any person who is in charge of, directs or controls a vessel, including the owner, charterer or master;
- (t) “region” means an area of the Pacific that is approved in writing by the Minister of Foreign Affairs as a Region for the purposes of this Act, and “regional” has a corresponding meaning;
- (u) “regional organization” and “competent regional agency” mean an organisation or agency to which the Republic is a party;
- (v) “related activities” in relation to fishing means:
  - (i) transshipping fish or other aquatic organisms to or from any vessel;
  - (ii) storing, processing or transporting fish or other aquatic organisms taken from fishery waters;
  - (iii) refueling or supplying fishing vessels or performing other activities in support of fishing operations; or
  - (iv) attempting or preparing to do any of the above;
- (w) “test fishing operations” means any fishing operations undertaken over a limited period of time as may be authorized by the Director for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of fishery operations based in the Republic or in the region;
- (x) “the Authority” means the Marshall Islands Marine Resources Authority established in accordance with this Act. [*P.L. 1988-12, § 2,*]

**PART II - MARSHALL ISLANDS  
MARINE RESOURCES AUTHORITY**

**§ 3. Marshall Islands Marine Resources Authority.**

(1) There is hereby established a Marshall Islands Marine Resources Authority, hereinafter the “Authority”.

**TITLE 33. MARINE RESOURCES**

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(2) The Authority shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its own name.

(3) Article VII of the Constitution shall not apply to or in relation to the Authority. [P.L. 1988-12 § 3.]

**§ 4. Management of the Authority.**

The powers and functions of the Authority shall be vested in and exercised by a Board of Directors, hereinafter the "Board", which shall consist of five members. [P.L. 1988-12, § 4.]

**§ 5. Board of Directors.**

(1) The Board shall consist of the following members:

- (a) three (3) members *ex officio* consisting of the Minister of Resources and Development, the Minister of Foreign Affairs and the Minister of the Interior and Outer Islands Affairs; and
- (b) two (2) other members appointed by the President.

(2) The Minister of Resources and Development shall function as Chairman of the Board. The Authority may delegate any or all of its powers and duties to the Chairman.

(3) The term of office of the member appointed under Subsection 1(b) of this Section shall be two (2) years.

(4) The Board may act notwithstanding any vacancy in membership, provided that there is a quorum in accordance with this Act.

(5) Notwithstanding the provisions of Subsection (3) of this Section, the President may with the concurrence of the Cabinet, remove any member appointed under Subsection 1(b) of this Section. [P.L. 1988-12, § 5.]

**§ 6. Cabinet's directions to the Board.**

The Cabinet may give to the Board in writing general or special directions with respect to policy matters, and the Board shall give effect to such directions. [P.L. 1988-12, § 6.]

**§ 7. Meetings of the Board.**

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

(2) The Board shall adopt its own rules of procedure for transaction of business and for carrying out the purposes of this Act.

(3) The quorum for a meeting of the Board shall be three (3) members. [P.L. 1988-12, § 7.]

**§ 8. Director and staff**

(1) Subject to any direction by the Cabinet, the Authority shall employ a Director of Marine Resources, hereinafter the "Director", who shall be in charge of and responsible for the management and administration of the Authority.

(2) The Director may act for and on behalf of the Authority subject to any direction the Board may give.

(3) The Authority may delegate to the Chairman the power to employ such other employees, consultants and advisers as he may deem necessary. The employees, consultants and advisers employed under this Section shall be exempt from Article VII of the Constitution. [P.L. 1988-12, § 8.]



**CHAPTER 4. MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**

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**§ 9. Employment of public servants.**

At the request of the Minister, the Public Service Commission may make the services of members of the Public Service available to the Authority on such terms and conditions as the Commission may determine. [*P.L. 1988-12, § 9.*]

**§ 10. Annual report.**

The Authority shall report through the Minister to the Nitijela on its activities and planned programs on an annual basis and shall provide such additional reports and information from time to time as may be necessary. [*P.L. 1988-12, § 10.*]

**§ 11. Powers and duties of the Authority.**

- (1) The Authority shall have the following powers and duties:
  - (a) to conserve, manage and control the exploration and exploitation of all living and nonliving resources in the Fishery Waters, seabed, and subsoil thereunder, in accordance with the principles and provisions of this Act;
  - (b) to establish and implement an Exclusive Economic Zone Management program in accordance with this Act;
  - (c) to issue fishing licenses in accordance with the provisions of this Act and any regulations made under this Act;
  - (d) to issue licenses for the exploration and exploitation of the seabed and subsoil of the Fishery Waters;
  - (e) to negotiate and conclude foreign fishing agreements provided that no agreement shall be finally accepted without the approval of the Cabinet;
  - (f) to rebate, in accordance with regulations established by the Authority, all or a portion of a fee collected pursuant to this Act from any joint fishing venture established in accordance with law, if in the opinion of the Authority the rebate will promote fishery developments;
  - (g) to participate in the planning and execution of programs related to fisheries of fishing, or the exploration or exploitation of the nonliving resources of the Fishery Waters, seabed, or subsoil thereunder, in which the Government of the Marshall Islands or any agency or instrumentality thereof has a proprietary interest, direct or indirect, by way of stock ownership, partnership, joint venture or otherwise;
  - (h) to seek technical assistance for the determination of the Fishery Waters boundaries;
  - (i) to subject the budget and a report regarding the expenditure of its funds to the Nitijela on an annual basis;
  - (j) No appoint authorized enforcement officers and observers in accordance with this Act; and
  - (k) to do such other things so as to give effect to the principles and provisions of this Act, and to carry out its powers and duties.
- (2) The Authority may delegate any of its powers and duties to the Director in writing. [*P.L. 1988-12, § 11.*]

**TITLE 33. MARINE RESOURCES**

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**§ 12. Power to make regulations.**

(1) Subject to the provisions of this Act, the Authority may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, and in particular, but without restricting the generality of the foregoing, may make regulations:

- (a) respecting the conservation, management and protection of fish and other aquatic organisms in the Fishery Waters;
- (b) respecting the catching, loading, landing, handling, transporting, possession and disposal of fish;
- (c) respecting the operation of fishing vessels or any other vessel which may enter the Fishery Waters for any purpose which falls within the jurisdiction of this Act;
- (d) respecting the use of fishing gear and equipment;
- (e) respecting the issue, suspension and cancellation of licenses;
- (f) respecting the terms and conditions under which a license may be issued;
- (g) respecting the pollution of the Fishery Waters;
- (h) respecting the appointment of authorized officers and observers;
- (i) respecting the export of fish or any part thereof from the Republic;
- (j) respecting the conditions and procedures to be observed by foreign fishing vessels while within the Fishery Waters;
- (k) respecting the transiting of foreign fishing vessels through the Fishery Waters, and the manner in which fishing gear is to be stowed, by both licensed and unlicensed fishing vessels;
- (l) prescribing procedures to be followed by the operators of foreign and local fishing vessels to facilitate boarding and inspection by authorized officers;
- (m) respecting rewards to be paid to any person providing information the operations of foreign fishing vessels leading to a conviction or compounding or other similar determination of an offense under this Act;
- (n) respecting the licensing and control of fish aggregating devices; and
- (o) prescribing the powers and duties of persons engaged in the administration or enforcement of this Act and proving for the carrying out of those powers and duties.

(2) The regulations made under Subsection (1) of this Section, shall become effective only upon approval of the same by the Cabinet (*P.L. 1988-12, § 12.*)

**§ 13. Compensation of members.**

(1) Members of the Board appointed under Section 5(1)(b) of this Act shall be compensated at the rate of \$35 per day for attending meetings of the Board, provided that a member of the Authority who is a member of the Public Service shall not be entitled to receive any compensation.

(2) Notwithstanding Subsection (1) of this Section, all members of the Authority shall receive per diem and travel expenses while on the business of the Authority. [*P.L. 1988-12, § 13.*]

**PART III - FOREIGN FISHING**

**§ 14. Foreign fishing.**

(1) The provisions of this Act relating to foreign fishing shall not apply to or in relation to any fishing referred to in Section 24 of this Act.

**CHAPTER 4. MAESHALL ISLANDS MARINE RESOURCES AUTHORITY**

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(2) The Authority may enter into bilateral or multilateral foreign fishing agreements with other States and associations or organizations representing foreign fishing vessel owners or charterers, providing or the allocation of fishing rights to vessels from those States, associations or organizations.

(3) Any agreement entered into under this Section shall include a provision establishing the responsibility of the foreign State, association or organization to take all measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in the Fishery Waters. *[P.L. 1988-12, § 14.]*

**§ 15. Foreign fishing licenses**

(1) The Authority may, on receipt of an application for a foreign fishing license, issue a license authorizing a foreign fishing vessel to enter the Fishery Waters for the purposes of:

- (a) fishing or related activities;
- (b) to provision, service, repair or maintain any other foreign fishing vessel while at sea;
- (c) fishing for purposes of marine scientific research; and
- (d) effecting repairs at a port within the jurisdiction of the Republic.

(2) No foreign fishing vessel shall fish in the Fishery Waters unless a valid foreign fishing license or regional license has been issued in accordance with this Act and any regulations made under this Act.

(3) No foreign fishing vessel shall fish within the jurisdiction of any Local Government Area without a license issued by the appropriate Local Government Council. Such jurisdiction extends with respect to each Council, to the sea and seabed of the internal waters of the atoll or island and to the surrounding sea and seabed to a distance of five nautical miles from the baselines from which the territorial sea of that atoll or island is measured.

(4) Subject to Subsection (3) of this Section and except for locally based foreign fishing vessels as may be authorized by the Authority, it shall be a condition of licensing that no foreign fishing vessel shall fish in the territorial sea or within a radius of two nautical miles of any FAD which that vessel has not set.

(5) The Authority may attach to any foreign fishing vessel license such special conditions as it may require by in writing, including:

- (a) the type and method of fishing or related activity authorized;
- (b) the areas within which such fishing or related activities are authorized; and
- (c) the target, species and amount of fish authorized to be taken, including any restriction or by-catch.

(6) The Authority may, from time to time, where it satisfied that it is expedient for the proper management of fisheries, vary special conditions attached to any foreign fishing license.

(7) Foreign fishing licenses shall only be issued in accordance with a foreign fishing agreement concluded in accordance with this Act.

(8) The provisions of Subsection (4) of this Sections shall not apply to a license with respect of:

- (a) test fishing; and
- (b) a locally based foreign fishing vessel.

(9) The Director may exercise any of the powers and duties given to the Authority on behalf of the Authority under this Section, subject to any direction the Board may give. *[P.L. 1988-12, § 15.]*

**TITLE 33. MARINE RESOURCES**

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**§ 16. Application for licenses.**

(1) Application shall be made, in the prescribed form, to the Director or a competent regional agency or other body, person or State authorized to issue a regional license.

(2) The application shall contain such information as may be required by regulations promulgated by the Authority, except with respect to a regional license, and such other information the Director considers necessary to clarify or complete the details furnished by the applicant.

(3) The Authority may determine by regulations a registration fee which shall be paid with respect to every application.

(4) The Director may approve an application made in accordance with the requirements of this Act and any applicable foreign fishing agreement, on such terms and conditions as he deems appropriate.

(5) A license may be denied:

- (a) where the vessel with respect to which an application is made does not have good standing on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency;
- (b) where the application is not in accordance with the requirements of this Act;
- (c) where the owner or charterer is the subject of proceedings under the bankruptcy laws of any jurisdiction and reasonable financial assurances have not been provided;
- (d) where there has been a failure to satisfy a judgment or other determination for a breach of this Act or a foreign fishing agreement by the operator of the vessel with respect to which application for a license has been made, until such time as the judgement or other determination is satisfied;
- (e) where an operator of the vessel has contravened, or the vessel has been used for contravention of a foreign fishing agreement, or has committed an offense against the laws of the Republic; or
- (f) where the Authority determines that the issuance of a license would not be in the best interests of the Republic.

(6) Every license shall:

- (a) apply only the foreign fishing vessel described therein and where applicable to the crew of the vessel, unless the Authority, by written permission, otherwise authorizes or unless a foreign fishing agreement otherwise provides;
- (b) be valid only for the period specified therein; and
- (c) cease to be valid on any change in the flag State registry or ownership of the vessel described in the license.

(7) Every license shall be kept on board the foreign fishing vessel described in the license which that vessel is in the Fishery Waters and shall be produced at the request of an authorized officer at his request. Prior to the receipt of the license, the correct citation of the license number shall satisfy this requirement. *[P.L. 1988-12, § 16.]*

**§ 17. Revocation, suspension and variation of licenses.**

If any foreign vessel for which a license has been issued or the operator or any crew member thereof has contravened this Act or if any penalty has not been or is overdue, the Authority may:

- (a) revoke or suspend such license at its discretion; or
- (b) impose additional conditions and restrictions on the license holder. *P.L. 1988-12, § 17.]*

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**§ 18. Period of validity.**

Every foreign fishing license shall be valid for a period of twelve (12) months from the date of issue, unless previously terminated, revoked or suspended, except that the term of validity of a foreign fishing license shall not extend beyond the term of validity of the applicable foreign fishing agreement. *[P.L. 1988-12, § 18.]*

**§ 19. Foreign fishing agreements.**

The Authority may, by regulation, determine terms and conditions of foreign fishing agreements to which substantial agreement should be sought. *[P.L. 1988-12, § 19.]*

**§ 20. Regional foreign fishing agreements**

(1) The Authority may enter into arrangements or agreements with other States in the region, or any competent regional organization or agency, providing for:

- (a) the harmonization of licensing procedures and conditions with respect to foreign fishing vessels and the maintenance of a regional register of foreign fishing vessels;
- (b) the issuance of fishing licenses with respect to foreign fishing vessels by any State, competent regional organization or agency, body, or person;
- (c) the recognition of regional licenses, certificates of access, or other such documents which may be issued in accordance with Paragraph (b) of this Subsection, subject to such conditions as maybe specified in the agreement, arrangement or authorization and to such additional conditions as the Authority may specify from time to time;
- (d) a regional or sub-regional observer program; or
- (e) taking joint or harmonized enforcement measures with respect to foreign fishing vessels.

(2) The Authority may authorize by regulation such measures as may be necessary for the implementation of such arrangements or agreements, including:

- (a) exemption from certain requirements of this Act and any or all of the requirements of any regulation made under this Act, any foreign fishing vessel or class of foreign fishing vessel holding a valid regional fishing license, certificate of access or other such document issued by a competent regional agency or regional organization;
- (b) prescription of the conditions to be observed by foreign fishing vessels exempted under Paragraph (a) of this Subsection, while fishing or navigating in the Fishery Waters;
- (c) provision that were any foreign fishing vessel contravenes any of the conditions prescribed under Paragraph (b) of this Subsection, the operator and the holder of the regional fishing license issued with respect to the vessel shall each be guilty of an offense and provide for a penalty or a fine for each offense; and
- (d) provision that on conviction of the operator or the holder of the regional fishing license for an offense, the court may also order the forfeiture of the fishing vessel, including its equipment, fishing gear, appurtenances, stores, furniture and fish. *[P.L. 1988-12, § 20.]*

**§ 21. Compliance with foreign fishing agreement.**

The foreign party or parties and the operators of any foreign fishing vessel fishing pursuant to

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a foreign fishing agreement shall comply with all requirements of such agreement and terms and conditions of licenses issued thereunder. *[P.L. 1988-12, § 21.]*

**§ 22. Stowage of gear.**

(1) Subject to Subsection (2) of this Section, all fishing gear aboard a foreign fishing vessel in the Fishery Waters shall be stowed in such a manner that it is not readily available for use for fishing.

(2) Subsection (1) of this Section shall not apply to a foreign fishing vessel in an area of the Fishery Waters in which it is authorized to fish in accordance with this Act. *[P.L. 1988-12, § 22.]*

**PART IV - ACTIVITIES OTHER THAN FOREIGN FISHING**

**§ 23. Development of local fisheries.**

(1) The Authority may take such measures it considers necessary for the development of local fisheries in the Fishery waters, taking into account principles of conservation, management and optimum utilization. Including holding consultations, where appropriate, with Local Government Councils.

(2) Each Local Government council shall, as much as possible, cooperate in such development for the proper management and development of the fisheries resources for the benefit of the people of the Republic.

(3) Subject to Subsection 2 of this Section, each Local Government Council shall be responsible for the proper management and development of the reef and inshore fisheries within its waters *[P.L. 1988-12, § 23.]*

**§ 24. Issue of licenses for local fishing vessels.**

The Authority, or the Director on its behalf, may issue licenses to local fishing vessels, taking into consideration principles of conservation and management in any relevant fisheries management program, subject to such terms and conditions as it may prescribe from time to time by regulation. *[P.L. 1988-12, § 24.]*

**§ 25. Issue of licenses for noncommercial fishing.**

The Authority, or the Director on its behalf, may issue licenses to foreign vessels or parties for research, survey, recreation or other noncommercial fishing within the Fishery Waters on such terms and conditions as it may prescribe from time to time by regulation. *[P.L. 1988-12, § 25.]*

**§ 26. Issue of licenses for fish processing.**

(1) The Authority, or the Director on its behalf, may grant to any person a license to operate a fish processing establishment on payment of such fees and subject to such terms and conditions as it may prescribe from time to time by regulation.

(2) No person shall operate or allow to be operated any fish processing establishment except under a license granted under this Section and in accordance with the conditions of such a license.

**CHAPTER 4. MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**

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(3) In this Section “fish processing establishment” means any land, premises or other place on or in which fish are canned, packed, dried, gutted, salted, iced, chilled, frozen, or otherwise processed for sale by wholesale in or outside the Republic. *P.L. 1988-12, § 26.*

**§ 27. Agreement relating to fish processing.**

(1) Any person not a citizen or permanently domiciled or resident in the Republic who intends to invest or be involved in fisheries, including fishing, fish processing and related activities, shall agree with the Authority on the terms and conditions of such investment.

(2) Where agreement is not reached in accordance with Subsection (1) of this Section, the Authority may refuse to issue any fishing or fish processing license with respect to any vessel or fish processing establishment operated by or on behalf of that person or any company through which an investment is made.

(3) The requirements of this Section shall be in addition to the requirements of the Foreign Investment Advisory Board Act 1987. *[P.L. 1988-12, § 27.]*

**§ 28. Issue of licenses for nonliving resources.**

The Authority, or the Director on its behalf, may issue licenses for the exploration and exploitation of the nonliving resources of the Fishery Waters, seabed, and subsoil thereunder, subject to such terms and conditions as it may prescribe from time to time by regulation. *[P.L. 1988-12, § 28.]*

**§ 29. License fees.**

There shall be payable with respect to each license issued by the Authority such fees, royalties or other charges as may be prescribed by the Authority. *[P.L. 1988-12, § 29.]*

**PART V - FINANCE**

**§ 30. Marshall Islands Marine Resources Authority Fund.**

(1) There shall be established a Marshall Islands Marine Resources Authority Fund, hereinafter referred to as the “Fund”.

(2) The fund shall be a fund other than the General Fund within the meaning and for the purposes of Article VIII, Section 3 of the Constitution. *[P.L. 1988-12, § 30.]*

**§ 31. Payments into the fund.**

(1) There shall be paid into the fund:

- (a) all monies appropriated by the Nitijela for the purposes of the Authority;
- (b) all monies designated by the Compact for fisheries or related activities, including surveillance;
- (c) any monies received by the Authority by way of loans, grants, aid, advances, contributions, gifts or other assistance;
- (d) in the case of goods and services, all monies realized on such goods and services; and
- (e) such other monies as may be received by the Authority pursuant to this Act.

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(2) The Secretary of Finance shall keep within a separate account all monies referred to in Subsection (1)(b) of this Section. *[P.L. 1988-12, § 31; amended by P.L. 1988-14, § 19, deleting original Paragraph (c) of Subsection (1) and renumbering the remaining Paragraphs as new Paragraphs (c), (d), and (e).]*

**§ 32. Payments out of the fund.**

- (1) Payment may be made out of the Fund only for:
- (a) carrying out the powers and duties of the Authority;
  - (b) the costs and expenses of the Authority, including administration;
  - (c) the purposes of working capital and petty cash, and similar purposes;
  - (d) giving effect to the provisions of this Act and any regulations made under this Act.

(2) No money may be withdrawn from the Fund except with the Authority of the Secretary of Finance and such member of the Board as the Board may designate, who shall be satisfied that the withdrawal is made in accordance with this Act and regulations made under this Act, and any other applicable law.

(3) The Secretary of Finance, with the concurrence of the Board, may transfer any excess monies, which in his opinion may not be required for the Authority, to the General Fund. *P.L. 1988-12, § 32; amended by P.L. 1988-14, § 19, deleting original Paragraph (d) of Subsection (1) and renumbering Paragraph (e) as new Paragraph (d).]*

**§ 33. Exemption from tax.**

The income, property and transaction of the Authority shall not be subject to any tax, rates, or charges imposed under any other law. *[P.L. 1988-12, § 33.]*

**§ 34. Restriction on borrowing.**

Where any money is borrowed or any advance, grant, air or other assistance is received for a specific purpose or subject to any condition; it shall be expended or used only for that purpose or subject to those conditions. *[P.L. 1988-12, § 34.]*

**§ 35. Accounts.**

- (1) The Secretary of Finance shall maintain proper accounts and records of:
- (a) the Fund; and
  - (b) the disposition of monies paid into or out of the fund.

(2) The accounts and records of the Fund shall be audited by the Auditor-General as provided in Article VIII, Section 15 of the Constitution of the Marshall Islands.

(3) At the end of each financial year all monies remaining in the Fund, which is in excess of the Authority's budget estimate for the next financial year, shall be transferred to the General Fund. *[P.L. 1988-12, § 35.]*

**PART VI - VIOLATIONS AND PENALTIES**

**§ 36. VIOLATIONS AND PENALTIES**

- (1) Every person who:



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- (a) contravenes any provision of this Act or any regulations made under this Act;
- (b) uses any fishing vessel to engage in fishing in the Fishery Waters after revocation, or during the period of suspension of a license issued with respect to that vessel pursuant to this Act;
- (c) contravenes any provision of a foreign fishing agreement or any term or condition of any license issued in accordance with this Act and any regulations, made under this Act, including a regional fishing license issued in accordance with this Act;
- (d) refuses to permit any authorized officer to board a fishing vessel for the purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulations made under this Act or any foreign fishing agreement;
- (e) assaults, obstructs, resists, delays, refuses boarding to, intimidates or interferes with any authorized officer in the performance of his duties, and for the purposes of this Paragraph, any person who refuses to allow any authorized officer, or any person acting under his order or in his aid, to exercise any of the powers conferred on an authorized officer by this Act or any regulations made under this Act shall be deemed to be obstructing that officer or person;
- (f) fails to comply with the lawful requirements of any authorized officer or observer;
- (g) furnishes to any authorized officer any particulars which to his knowledge are false or misleading in any respect;
- (h) being on board any vessel being pursued or about to be boarded by any authorized officer, throws overboard or destroys any fish, fishing gear, explosive, poison or other noxious substance to avoid seizure of such fish, fishing gear, explosive, poison or other noxious substance or thing or the detection of any offense under this Act or the regulations made under this Act;
- (i) resists a lawful arrest for any prohibited act;
- (j) provides false, incomplete or misleading information required to be recorded, notified or communicated pursuant to any requirement of the provisions of this Act or the regulations;
- (k) ships, transports, offers for sale, sells, purchase, imports, exports or has custody, control or possession of any fish taken or retained in contravention of this Act;
- (l) interferes with, delays or prevents by any means, the apprehension or arrest of another person knowing that such person has committed any act prohibited by this Section,

shall be guilty of an offense. [*P.L. 1988-12, § 36. See Section 41(2) and (3) for penalties.*]

**§ 37. Operating without a license.**

(1) It shall be unlawful for any foreign fishing vessel, and for the operator or crew of such vessel to engage in fishing in the Fishery Waters of the Republic unless such fishing is authorized by, and conducted in accordance with, a valid license issued pursuant to this Act and the regulations made under this Act.

(2) It shall be unlawful for any foreign fishing vessel, and for the operator or crew of any foreign fishing vessel, to engage in fishing in waters under the jurisdiction of any Local Government unless such fishing is authorized by, and conducted in accordance with, a valid fishing license issued by the respective Local Government. [*P.L. 1988-12, § 37. See Section 41(4) for penalties.*]

## TITLE 33.

## MARINE RESOURCES

**§ 38. Use of explosives.**

(1) Every person who:

- (a) uses, permits to be used or attempts to use any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or
- (b) carries or has in his possession or control any explosive, poison, or other noxious substance in circumstances indicating an intention of using such substance for any of the purposes referred to in Paragraph (a) of this Subsection,

shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding fifty thousand dollars (US \$50,000).

(2) For the purposes of Subsection (1) of this Section, any explosive, poison or other noxious substance found on board any fishing vessel shall be presumed to be intended for the purpose referred to in Subsection (a) of this Section, unless the contrary is proved.

(3) Every person who lands, sells, receives or is found in possession of any fish taken in contravention of Subsection (1) of this Section, knowing or having reasonable cause to believe them to have been so taken, commits an offense and shall upon conviction be liable to a fine not exceeding fifty thousand dollars (US \$50,000).

(4) In proceedings for an offense under this section, a certificate stating the cause and manner of death or injury of any fish, signed by this Director, or by any person authorized by him in writing, shall be sufficient evidence as to the matters stated therein, without proof of the signature of the person appearing to have signed to certificate or his official designation, unless the contrary is proved. [*P.L. 1988-12, § 38. See also Marine Resources Act, § 2.*]

**§ 39. Possession of prohibited fishing gear.**

(1) Every person who, while within the Fishery Waters, uses for fishing or has on board any fishing vessel in circumstances which indicate an intention to use for fishing in those waters:

- (a) any net, the mesh size of which does not conform to the prescribed minimum mesh size for that type of net;
- (b) any fishing gear which goes not conform to any standards prescribed for that type of fishing gear; or
- (c) any fishing gear which is prohibited by this Act or any regulations made under this Act, including without limitation, a drift net;

shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding one hundred thousand dollars (US\$100,000).

(2) For purposes of this Section “drift net” means a gill net or other net:

- (a) which is more than 2.5 kilometers in length;
- (b) which acts by enmeshing, entrapping, or entangling any fish for other marine life;
- (c) which is used or intended to be used by being left to drift in, or on the surface of, the water; and
- (d) which is not used or intended to be used while attached to any point of land or the sea bed irrespective of whether the net is used or intended to be used while attached to any vessel.

[*P.L. 1988-12, § 39; amended by P.L. 1989-56m repealing and enacting new Paragraph (1)(c) and enacting new subsection (2).*]

**§ 40. Civil penalties**

(1) Any person who is found to have contravened this Act or any regulation made under this Act shall be liable for civil penalty.

**CHAPTER 4. MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**

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(2) The amount of the civil penalty shall not exceed one million dollars (US \$1,000,000) for each violation. Each day of a continuing violation shall constitute a separate offense.

(3) In determining the amount of such penalty, the court shall take into account the nature, circumstance, extent and gravity of the prohibited act or acts committed and, with respect to the violators, the degree of culpability, any history of previous offenses, and such other matters which may be relevant.

(4) It shall be the duty of the Attorney General to initiate all proceedings under this Section and to recover the amount imposed as a civil penalty.

(5) The proceeds of civil penalties shall be credited to the Fund. [*P.L. 1988-12, § 40.*]

**§ 41. Criminal penalties**

(1) Every person who contravenes any of the provisions of this Act or any regulation made under this Act shall be guilty of an offense, and if no penalty is prescribed he shall upon conviction be liable to a fine not exceeding one hundred thousand dollars (US \$100,000) for each offense.

(2) Unless otherwise provided, any offense described by Section 36, Subsection 91), Paragraphs (a), (b), (c) or (k) of this Act shall be punishable by a fine not exceeding two hundred fifty thousand dollars (US \$250,000).

(3) Unless otherwise provided, an offense described as a prohibited act by Section 36, Subsection (1), Paragraphs (d), (e), (f), (g), (§ h), (i), (j), or (l) of this Act shall be punishable by a fine not exceeding five hundred thousand dollars (US\$500,000), except that if in the commission of any such offense any person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or threatens any authorized officer with bodily injury, the offense shall be punishable by a fine not exceeding one million dollars (US \$1,000,000).

(4) Any offense described by Section 37 of this Act shall be punishable by a fine not exceeding seven hundred fifty thousand dollars (US \$750,000) and each day of continuing violation shall be considered a separate offense.

(5) Where an offense against this Act has been committed by any person on board or employed on a fishing vessel, the master of the vessel shall also be guilty of the same offense and shall be punished in the like manner. [*P.L. 1988-12 § 41.*]

**§ 42. Forfeitures and seizures.**

(1) Fishing vessels, including fishing gear, equipment, appurtenances, stores, furniture, and any fish taken or retained in any manner, in connection with or as a result of the contravention of this Act, shall also be subject to forfeiture to the Government of the Republic pursuant to a civil proceeding.

(2) If a judgment is entered for the Government in a civil forfeiture proceeding under this Section, the court may designate an officer of the Authority as enforcement officer and it shall be his duty to seize any property or other interest declared forfeited.

(3) Subject to the order of court, the forfeited vessel, gear, equipment, appurtenances, stores, furniture and any fish, may be retained for use by, or at the direction of, the Authority.

(4) Pending completion of the civil forfeiture proceedings, the seized vessel, gear, equipment, appurtenances, stores, furniture and fish, or any part thereof, may be discharged at the direction of the court upon deposit with the court of a satisfactory bond or other security as maybe determined by the court.

(5) The bond or other security referred to in Subsection (4) of this Section shall be conditioned upon such person delivering such property to the court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of the court.

(6) Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court. [*P.L. 1988-12, § 42.*]

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**§ 43. Sale of fish.**

Any fish seized pursuant this Act may be sold, subject to the approval and direction of the court. The proceeds of any such sale shall be deposited with the court pending the disposition of the civil forfeiture proceeding. [P.L. 1988-12, § 43.]

**§ 44. Proceeds of sale.**

All fines and the proceeds of the sale of all forfeitures collected pursuant to this Act shall be credited to the Fund. [P.L. 1988-12, § 44.]

**§ 45. Presumptions.**

(1) Unless the contrary is proved, all fish found on board any fishing vessel which has been used in the commission of any offense under this Act or any regulations made under this Act shall be presumed to have been caught in the commission of that offense.

(2) Where, in any legal proceedings instituted under this Act or any regulations made under this Act, the place in which an event is alleged to have taken place is in issue, the place stated in a certified copy of the relevant entry in the logbook or other official record of an enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place in which the event took place, unless the contrary is proved.

(3) In any legal proceedings under this Act where the defendant is charged with having committed an offense under which a license is required for the doing of any act, the onus shall be on the defendant to prove that at the time the offense was committed he was in possession of a valid license duly issued under this Act.

(4) All fish found on board a transmitting fishing vessel which has not reported to the Authority on entry and exit from the Fishery Waters, or which has been used in the commission of an offense in the Fishery Waters, shall be deemed to have been caught in the Fishery Waters, unless the contrary is proved. [P.L. 1988-12, § 45.]

**§ 46. Jurisdiction of courts.**

The High Court of the Republic shall have jurisdiction over any legal proceeding arising under this Act. The Court may at any time:

- (a) enter restraining orders or prohibitions;
- (b) issue warrants, process *in rem* or other processes;
- (c) prescribe and accept satisfactory bonds or other security; and
- (d) take such other actions as are necessary in the interest of justice. [P.L. 1988-12, § 46.]

**§ 47. Compounding of offenses.**

(1) Subject to Subsection (3) of this Section, the Director may, where he is satisfied that any person has committed an offense against this Act or any regulations made under this Act, compound such offense by accepting on behalf of the Government of the Marshall Islands from such person a sum of money not exceeding the maximum fine specified for that offense.

(2) On compounding an offense under this Section, the Director may order the release of any vessel or other article seized under this Act, or the proceeds of sale of any article under Section 44 of this Act on such conditions including the payment of such additional sums of money not exceeding the value of the vessel or other article seized, as he may think fit.

(3) Where the person who has committed the offense is no longer within the Republic, the Director may send written notice of his intention to compound the offense to the legal address of the person outside the Republic.

**CHAPTER 4. MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**

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(4) No offense shall be compounded under this Section unless the person who has committed the offense has expressed his willingness in the prescribed form that the offense be so dealt with, or in the case of notification under Subsection (3) of this Section, if the person concerned notifies the Director in writing that he does not wish the offense to be compounded, admits to the jurisdiction of the courts of the Republic and, where so required by the court, files a satisfactory bond or other form of security in accordance with the procedures required by this Act.

(5) The compounding of an offense under this Section shall be notified in writing to the appropriate court under the signature of both parties, except that in the case of compounding following notification under Subsection (3) of this Section, the signature of the Director alone will suffice.

(6) In any proceedings brought against any person for an offense against this Act or any regulation made under this Act, it shall be a defense if such person proves that the offense with which he is charged has been compounded under this Act. [*P.L. 1988-12, § 47.*]

**§ 48. Disposal of seized goods.**

(1) Any fish, fish produce or other article of a perishable nature seized or taken in accordance with this Act may, on the direction of the Director, be sold and the net proceeds of the sale held pending the outcome of any prosecution brought under this Act, and if no such prosecution is brought such proceeds shall be paid to the owner of the fish, fish produce or other article sold.

(2) Any fishing vessel, fishing gear, fish or fish product seized in accordance with this Act, which is not ordered to be forfeited, shall be returned to its owner. [*P.L. 1988-12, § 48.*]

**PART VII - OBSERVERS AND ENFORCEMENT OFFICERS****§ 49. Authorised observers.**

(1) The Authority may declare, by regulation, any person to be an authorized observer for the purposes of this Act.

(2) Any observer authorized by any regional organization, regional agency or other body or person in accordance with a regional observer program to which the Republic is a party, who is not a citizen of the Republic shall have such rights and privileges of a citizen of the Republic as may be required in the performance of this duties. [*P.L. 1988-12, § 49.*]

**§ 50. Authorised officers.**

(1) The Authority may, in consultation with the Attorney General, declare, in writing, any public officer, by name or office, to be an authorized officer for the purpose of enforcing the provisions of this Act and regulation made hereunder.

(2) The Authority may declare, by regulation, any person to be an authorized officer for the purpose of enforcing the provisions of this Act and any regulations made under this Act.

(3) The Director may at any time request the assistance of public safety and law enforcement authorities for the proper implementation of this Act. It shall be the duty of all such authorities to give assistance as requested by the Director. [*P.L. 1988-12, § 50.*]

**§ 51. Powers of Authorised officers.**

(1) For the purposes of ascertaining whether there is or has been any contravention of the provisions of this Act or any regulations made thereunder, any authorized officer may:

- (a) upon the issue of a warrant, at all reasonable hours enter any fish processing establishment and any premises other than premises used exclusively as a dwelling-house;

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- (b) where he has reasonable grounds for believing that an offense against the provisions of this Act or regulations made thereunder has been committed, stop, board, and search:
  - (i) any foreign fishing vessel, within the fishery Waters; or
  - (ii) any local fishing vessel, inside or outside the Fishery Waters;
- (c) stop and search any vehicle transporting, or reasonably suspected of transporting, fish or fish products;
- (d) make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle in relation to which any of the powers conferred by this Section have been, or may be, exercised and take samples of any fish, or fish products, found therein;
- (e) require any person to produce his license or his authority if it appears to the authorized officer that such person is doing any act for which a license or other authority is required under this Act and take copies of any such license or other authority; and
- (f) require any person to produce any logbook, record or other document to be held by him under this Act or any regulations made under this Act, and take copies of such log book, record or other document.

(2) Where he has reasonable grounds for believing that an offense against the provisions of this Act or any regulations made under this Act has been committed, any authorized officer may, with or without a warrant or other process:

- (a) following hot pursuit in accordance with international law and commenced within the fishery limits, stop, board, and search outside the Fishery Waters any foreign fishing vessel which he believes has been used in the commission of that offense within the Fishery Waters or in relation to which he believes such offense has been committed and bring such vessel and all persons and things on board within the Fishery Waters;
- (b) within the Fishery Waters:
  - (i) arrest any person if he has reasonable cause to believe that such person has committed an offense prohibited by this Act;
  - (ii) seize any fishing vessel used or employed in, or when it reasonably appears to have been used or employed in, the violation of any provision of this Act;
  - (iii) seize any fishing gear, furniture, appurtenances, stores, cargo, and fish in or on a fishing vessel seized pursuant to this Section;
  - (iv) seize any fish which he reasonably believes have been taken or fish products produced in the commission of such offense; and
  - (v) seize any explosive, poison or other noxious substance which he reasonably believes has been used, carried, possessed or controlled in contravention of this Act.

(3) Any authorized officer may execute any warrant or other process issued by any court of competent jurisdiction.

(4) Where, following the commission of an offense under this Act by a foreign fishing vessel, that vessel is pursued beyond the limits of the Fishery Waters, the powers conferred on authorized officers under this Section shall be exercisable beyond the limits of the Fishery Waters in accordance with international law.

(5) Any authorized officer may exercise any other lawful authority for the enforcement of this Act and any regulations made under this Act. [*P.L. 1988-12, § 51.*]

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**PART VIII - GENERAL**

**§ 52. Immunities.**

No actions shall lie against any member of the Board, the Director, any employee of the Authority, any authorized officer or observer or any other person appointed pursuant to this Act with respect to anything done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act. [*P.L. 1988-12, § 52.*]

**§ 53. Application of other laws.**

No license issued under this Act shall relieve any foreign fishing or other vessel or its operator or crew of any obligation or requirements imposed by law concerning navigation, customs, immigration, health or other matters. [*P.L. 1988-12, § 53.*]

**§ 54. Exclusion of Administrative Procedure Act.**

The provisions of the Marshall Islands Administrative Procedure Act 1979 shall not apply to this Act or to any actions taken or required to be taken under this Act. [*P.L. 1988-12, § 54.*]

**§ 55. Transitional**

(1) All assets, liabilities, rights and obligations of the Marshall Islands Maritime Authority established under the Marine Resources Jurisdiction Act 1978 in existence immediately before the effective date of this Act shall stand transferred and vest in the Authority created under this Act.

(2) All regulations, orders and notices made or given under the Marine Resources Jurisdiction Act 1978 as amended, and all licenses, permits, other authorizations, and agreements issued or made thereunder shall, except so far as they are inconsistent with the Act, continue to have effect as though made, given or issued under this Act. [*P.L. 1988-12, § 55.*]

**CHAPTER 5.**

**MARINE MAMMAL PROTECTION**

**ARRANGEMENT OF SECTIONS**

Section	Section
1. Short title.	8. Permittee requirements.
2. Legislative findings.	9. Prohibition.
3. Scope and application.	10. Peer review panel.
4. Vessel operating permits required.	11. Regulations.
5. International program.	12. Violations and penalties
6. Records.	13. Jurisdiction of courts.
7. Safety panel.	

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An Act to provide for the protection of dolphins and other marine mammals captured in the course of commercial fishing operations in the eastern tropical Pacific Ocean by flag vessels of the Republic of the Marshall Islands.

Commencement: February 19, 1990  
Source: P.L. 1990-84

**§ 1. Short title.**

This Act may be cited as the “Marine Mammal Protection Act 1990.” [P.L. 1990-84, § 1.]

**§ 2. Legislative findings.**

The Government of the Republic of the Marshall Islands recognizes that marine mammals are resources of international significance and that they should be protected to the extent feasible with sound policies of resource management. The primary objective of their management should be to maintain their health and stability within the marine ecosystem. [P.L. 1990-84, § 2.]

**§ 3. Scope and application**

The Species of marine mammals which are the subject of this Act are the following:

- (a) the offshore spotted dolphin;
- (b) the coastal spotted dolphin;
- (c) the eastern spinner dolphin;
- (d) the whitebelly spinner dolphin;
- (e) the Coasta Rican spinner dolphin;
- (f) the common dolphin;
- (g) the striped dolphin; and
- (h) any other species of small toothed cetaceans, captured in the course of commercial fishing operations in the eastern tropical Pacific Ocean. [P.L. 1990-84, § 3.]



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**§ 4. Vessel operating permits required.**

Vessels of the Republic of the Marshall Islands flagged pursuant to the Maritime Act 1990 (34 MIRC, Chapter 3A), fishing for tuna in the eastern tropical Pacific Ocean bounded by forty (40) degrees south latitude by forty (40) degrees north latitude by one hundred sixty (160) degrees west longitude and whose carrying capacity is four hundred (400) tons of greater, shall obtain a vessel operating permit to fish tuna associated with marine mammals [*P.L. 1990-84, § 4. Reference to the Maritime Act 1987 was substituted with the Maritime Act 1990, as the 1990 Act repealed the Maritime Act of 1987.*]

**§ 5. International program.**

Persons who have obtained vessel operating permits pursuant to Section 4 of this Act (hereinafter, "the permittees") shall participate in an international program designated by the Government of the Marshall Islands for protecting marine mammals, providing facilities so that observers and scientific researchers can carry out data collection, monitoring, and research responsibilities on board the tuna vessels. Such participation in the international program is necessary to monitor the effectiveness of marine mammal rescue gear and procedures and to record the incidental mortality of marine mammals associated with fishing. [*P.L. 1990-84, § 5.*]

**§ 6. Records.**

The permittees shall maintain and submit records of their fishing activities involving tuna and marine mammals according to the requirements of the international program designated by the Government for the Republic of the Marshall Islands. Records and information required by the international program shall be made available to the Government of the Republic of the Marshall Islands upon request, and may be released directly to the inter-national program with prior written authorization of the Government of the Republic of the Marshall Islands. [*P.L. 1990-84, § 6*]

**§ 7. Safety panel.**

The permittees shall install and maintain a safety panel in their tuna purse seine net to avoid the entanglement of marine mammals captured during tuna fishing operations. The safety panel must be constructed of one and one-half inch mesh in order to cover the perimeter of the back-down area. The safety panel must have a minimum length of three hundred twenty-nine (329) meters (180 fathoms). If the purse seine net has more than eighteen (18) strips, the safety panel must have a minimum length of ten (10) fathoms for each strip. The safety panel must be clearly marked so as to be visible during fishing operations, and three (3) towing points must be located in the net at one-quarter, one-half, and three-quarters of the net. [*P.L. 1990-84, § 7*]

**§ 8. Permittee requirements.**

The permittees shall be required to:

- (a) do a back-down maneuver when marine mammals are captured in a tuna set, which consists of moving the vessel in reverse in order to form a channel and cause the sinking of the cork line of the net to allow the release of trapped marine mammals;

**CHAPTER 5. MARINE MAMMAL PROTECTION**

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- (b) undertake maneuvers necessary to avoid the collapse of the net in order to prevent marine mammals from being trapped or from coming in contact with the net. A minimum of two speedboats, equipped with towing bridles, should be immediately available to hold the net open in order to prevent the net from collapsing and to assist in the hand rescue of trapped marine mammals;
- (c) undertake maneuvers for the release and rescue of marine mammals that are not released during the backdown maneuver. This procedure requires the use of speedboats to force the marine mammals toward the backdown channel and the use of persons in a rubber raft to release marine mammals trapped in a net;
- (d) remove all live marine mammals from the net before sack up and brailing the tuna on board the vessel. Brailing and sacking up of live mammals in the net is prohibited;
- (e) use lights capable of producing a minimum of one hundred forty thousand (140,000) lumens of output for use in darkness to carry out marine mammal rescue procedures. Vessels must complete the backdown maneuver and begin rolling the net to sack-up no later than thirty (30) minutes after sundown, unless the operator qualifies for a waiver because of the operator's proven ability to complete sets in darkness with a mortality rate less than or equal to the fleet's average during daylight; and
- (f) restrict the use of explosive devices to influence the movements of dolphin to those devices that contain less than forty (4) grains (2.292 grams) of explosive material and insure that the devices are discharged in a manner that precludes any harm to the dolphin. [*P.L. 1990-84, § 8. Paragraphs were renumbered to conform to the format and style of the Code.*]

**§ 9. Prohibition.**

The permittees are prohibited from making tuna sets associated with marine mammals involving pure schools of eastern spinner dolphin, coastal spotted dolphin, and on any other pure schools of marine mammals except offshore spotted dolphin, striped dolphin, and common dolphin. [*P.L. 1990-4, § 9.*]

**§ 10. Peer review panel.**

The permittees shall participate in or appear before a peer review panel of expert skippers designated by the Government of the Republic of the Marshall Islands for the purpose of reviewing and recommending improvements in the performance of the individual tuna permittee in releasing and rescuing marine mammals during tuna fishing operations. Vessel owners and operators shall provide data for each trip to the Government of the Republic of the Marshall Islands, or its designee, that shall become part of a skipper performance system that identifies the operators with consistently higher dolphin mortality rates than the majority of the nation's fleet, for the purpose of providing remedial training to the operator, and, if the performance of such operator does not improve, removing the operator from the fishery. [*P.L. 1990-84, § 10.*]

**§ 11. Regulations.**

The Minister of Resources and Development may, in accordance with the Act, adopt such regulations as are necessary to carry out this Act. [*P.L. 1990-84, § 11.*]

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**MARINE RESOURCES**

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**§ 12. Violations and penalties.**

(1) Any person who is found to have contravened this Act or any regulation made under this Act shall be liable for a civil penalty.

(2) The amount of the civil penalty shall not exceed one million dollars (US \$1,000,000) for each violation. Each day of a continuing violation shall constitute a separate offense.

(3) In determining the amount of such penalty, the court shall take into account the nature, circumstance, extent and gravity of the prohibited act or acts committed and, with respect to the violators, the degree of culpability, any history of previous offenses, and such other matters which may be relevant.

(4) In addition to any other civil penalty which may be imposed, the failure by a permittee to comply with the provisions of this Act shall result in the forfeiture of the fishing permit to fish for tuna in the eastern tropical Pacific Ocean.

(5) It shall be the duty of the Attorney General to initiate all proceedings under this Section and to recover the amount imposed as a civil penalty. [*P.L. 1990-84, § 12*]

**§ 13. Jurisdiction of courts.**

The High Court of the Republic of Marshall Islands shall have jurisdiction over any legal proceeding arising under this Act. The Court may at any time:

- (a) enter restraining orders or prohibitions;
- (b) issue warrants, process *in rem* or other process;'
- (c) prescribe and accept satisfactory bonds or other security; and
- (d) take such other actions as are necessary in the interests of justice. [*P.L. 1990-84, § 13.*]

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Note:

**MARSHALL ISLANDS MARINE RESOURCES AUTHORITY**

**RULES AND REGULATIONS ON  
FOREIGN FISHING AGREEMENTS AND  
FISH PROCESSING ESTABLISHMENTS**

The following regulations are promulgated under the authority of the Marshall Islands Maritime Resources Authority Act 1988, Title 33 Marshall Islands Revised Code, Chapter 4.

SECTION 1 General Provisions; Definitions

SECTION 2 Requirements of Foreign Fishing Agreements

SECTION 3 Requirements Prior to Entry of Vessels for Local Government Area Activities

SECTION 4 Fish Processing Establishments

**SECTION 1 GENERAL PROVISIONS; DEFINITIONS**

**A GENERAL PROVISIONS**

These rules and regulations are intended to provide further detail to the provisions of the Marshall Islands Marine Resources Authority Act. These rules and regulations apply to all aspects of MIMRA jurisdiction unless otherwise provided.

**B DEFINITIONS**

Terms used in these regulations shall have the meanings assigned them in the Marshall Islands Marine Resources Authority Act 1988. In addition, the following terms are defined:

- (1) "Act" means the Marshall Islands Marine Resources Authority Act 1988.
- (2) "Baseline of the Marshall Islands" shall have the meaning assigned it in the Marine Zones (Declaration) Act 1984: the low water line of the seaward side of the reef fringing the coast of any part of the Marshall Islands or bounding any lagoon waters adjacent to any part of that coast, or, where a reef is not present, the low water line of the coast itself.
- (3) "Exclusive Economic Zone" shall have the meaning assigned it in the Marine Zones (Declaration) Act 1984: those parts of the sea having as their inner limits the outer limits of the territorial sea, and as their outer limits a line drawn 200 nautical miles seaward from the baselines from which the breadth of the territorial sea is measured.
- (4) "Fish processing establishment" means any land, premises or other place on or in which fish are canned, packed, dried, gutted, salted, iced, chilled, frozen, or otherwise processed for sale by wholesale in or outside the Republic.
- (5) "Foreign fishing agreement" means a bilateral or multilateral agreement providing for fishing rights to foreign fishing vessels in accordance with the requirements of the Act.

- (6) "Foreign fishing vessel" means any fishing vessel other than a local fishing vessel.
- (7) "Jurisdiction of a Local Government Area" means the sea and seabed of the internal waters of an atoll or island and the surrounding sea and seabed to a distance of five nautical miles from the baselines from which the territorial sea of that atoll or island is measured.
- (8) "Local fishing vessel" means a fishing vessel -
  - (i) registered in the Republic of the Marshall Islands; and
  - (ii) wholly owned and controlled, or chartered by -
    - (A) the Government of the Republic of Marshall Islands;
    - (B) a public corporation established under the laws of the Republic of Marshall Islands; or
    - (C) any citizen of or person permanently domiciled in the Republic of the Marshall Islands.
- (9) "Nautical mile" means an international nautical mile of 1,852 meters.
- (10) "Person" means any individual, corporation, company, association, partnership, authority, commission, foundation, the Republic of the Marshall Islands government or its political subdivisions, or any local, state, or foreign government or municipality, or other institution or entity, whether public or private.
- (11) "Territorial sea" shall have the meaning assigned it in the Marine Zones (Declaration) Act 1984: that part of the sea within twelve (12) nautical miles from the baseline of the Marshall Islands.

### **C ADDITIONAL REQUIREMENTS; WAIVER OR VARIANCE**

MIMRA may, if it deems appropriate, vary or waive any of the items herein, or impose additional requirements.

## **SECTION 2 REQUIREMENTS OF FOREIGN FISHING AGREEMENTS**

### **A SCOPE**

These regulations set out terms and conditions of foreign fishing agreements to which substantial agreement will be sought.

### **B ESSENTIAL ITEMS**

The following items shall be considered basic and essential terms for any foreign fishing agreement:

- (1) That the party seeking an agreement present a business plan that outlines at least the following:

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- (i) experience in the fishing industry and references;
  - (ii) vessels to be used;
  - (iii) intended catch species and quantity;
  - (iv) intended marketing plans for catch;
  - (v) plans and measures designed to assure compliance by all vessels with the laws of the Republic.
- (2) recognition of RMI sovereignty over its exclusive economic zone of 200 nautical miles, its territorial sea, as well as local government authority over their specific areas of jurisdiction.
  - (3) recognition of all RMI Laws, rules and regulations, local government ordinances, and where appropriate, local custom and specific consent to the jurisdiction of the RMI courts.
  - (4) appointment of local agent for service of process. Designation of local address for mailings.
  - (5) maintain at all times a bond or letter of credit, in the amount of \$500,000 per vessel license application, in the Majuro Branch of the Bank of Hawaii. The bond or letter of credit is intended to ensure payment of judgments, fees, fines, or penalties that may be imposed against any vessel charterer, captain, crew, or owner.
  - (6) recognition of importance of, and agreement to comply with, all catch and position reporting requirements.
  - (7) agreement to comply with all reasonable requirements for and by observers and authorized personnel.
  - (8) as appropriate to the particular agreement any or all of the following:
    - (i) local-based off-loading only;
    - (ii) prohibition of any off-loading or trans-shipment other than at Ebeye or Majuro;
    - (iii) exclusion from certain areas of the RMI fishery waters;
    - (iv) the type of method of fishing or related activity;
    - (v) the target species and amount of fish authorized to be taken, including any restriction on by-catch.

### **C** ADDITIONAL REQUIREMENTS

MIMRA may, if it deems appropriate, impose additional requirements. Examples of additional requirements may include, but are not limited to, maintaining a bond or letter of credit in an amount greater than required in **B(5)**; specifications regarding fishing gear; items respecting the terms and conditions of licenses and items respecting the export of fish.

SECTION 3                      REQUIREMENTS PRIOR TO ENTRY OF VESSELS FOR LOCAL GOVERNMENT AREA ACTIVITIES

**A**        **SCOPE**

These regulations set out the minimum requirements for a foreign fishing agreement required of any person that desires to enter into a license agreement with a local government Authority for fishing or other exploitation of marine resources within the jurisdiction of the Local Government Authority. These regulations are in addition to the requirements of Section 2 of these regulations regarding the basic elements of a foreign fishing agreement.

**B**        **REQUIREMENTS**

- (1) any person or corporation, prior to entering into a license agreement with a Local Government Council regarding exploitation of marine resources shall comply with MIMRA requirements regarding foreign fishing agreements.
- (2) any proposal to enter into a license agreement with a Local Government Council shall include at least the following elements:
  - (i) name of the Local Government Council;
  - (ii) the substantive terms of the proposal to be made to the Local Government Council, including target species or marine resource, projected catch, gathering or harvest rates, marketing plans, price, length of license requested, and elements of local control that will be included to assure local government involvement;
  - (iii) a copy of the foreign investment business license;
  - (iv) a copy of the articles of incorporation and by-laws;
  - (v) evidence of liability insurance for all boats and any short-based facility. Such insurance must include coverage of all personnel;
  - (vi) specific acknowledgment of the need to comply with all laws, rules, and regulations of the Marshall Islands, as well as all local ordinances, and customs.
- (3) the following items must be filed with MIMRA prior to any MIMRA clearances coming into effect:
  - (i) all agreements or contracts for local fishing licenses or any other activity related to the exploitation of fish or any marine resources must be filed in final and executed form with the Director of MIMRA;
  - (ii) all agreements, contracts, or licenses filed as required herein must be accompanied by a certified copy of the Local Government Council resolution approving the matter. Such resolution must recite the key terms of the agreement (as set out in item (iv) below) and show the name and signature of all council members voting to approve or accept the agreement;

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- (iii) all resolutions shall be submitted in Marshallese and English and must include an affidavit of translation; and
  - (iv) all agreements with Local Government Councils must state:
    - (A) the types of fish to be caught or other marine resource to be exploited;
    - (B) the areas within the jurisdiction of the Local Government that will be exploited and those which are to be protected;
    - (C) the amount of the catch or other gathering allowed, or restrictions that will be imposed; and
    - (D) the amount and method of payment that will be made to the Local Government Council.
  - (v) no agreement may state a duration of greater than one year unless, upon written submission, a request for longer duration is made. A request for a longer term will be considered if it involves local construction and related investment in facilities or equipment needed in connection with the proposed agreement. Requests for agreements of longer terms must be accompanied by a business plan and any resulting agreement must include appropriate performance standards.
  - (vi) all local government agreements that involve export must provide that the catch or harvest will be exported from Majuro or Ebeye.
- (4) on at least a semi-monthly basis, any person with a local fishing agreement shall report to MIMRA complete and detailed information on the catch made, in a form required by MIMRA.

### SECTION 4

### FISH PROCESSING ESTABLISHMENTS

#### **A** SCOPE

These Regulations cover the licensing, operation, and inspection of fish processing centers.

#### **B** APPLICATION

Any person who desires to operate a fish processing establishment must submit an application to MIMRA and include a non-refundable fee as prescribed by MIMRA. Each application shall include the following information:

- (1) name of applicant, address, telephone number;
- (2) if a corporation - name, address, telephone number, and place of incorporation, a copy of the articles of incorporation and by-laws;
- (3) foreign investment license number, if applicable;
- (4) proposed site (describe or attach diagrams and information regarding land lease, utility connections);



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- (5) information on the proposed facility, including, but not limited to, a description or diagram of the facility, as well as dates for construction, modification etc or physical plant, and plans for financing;
- (6) information on proposed capacity and fish handling capabilities, including but not limited to: ice-making capacity with arrangements for sufficient waters;
- (7) information on plans to comply with relevant always and regulations on environmental protection and employment;
- (8) information on shipping arrangements for the processed material;
- (9) general information on the planned source of the fish.

### **C** REVIEW OF APPLICATION

MIMRA shall review each complete application within 45 business days after it submitted. If further information is required, or the application is not complete, MIMRA shall inform the applicant what further information is required.

### **D** APPROVED APPLICATION

If an application is approved, the applicant will receive from MIMRA an indication of permission to proceed with construction or modification of the physical plant, as the case may be.

### **E** ISSUANCE OF LICENSE

No license will be issued until the fish processing establishment has been completed in accordance with the submitted application and plans or any approved modifications, and is ready for operation. No operations are allowed to proceed until a license has been issued.

### **F** TEMPORARY LICENSE

In the event that a processing establishment, although not completed in accordance with the application, is capable of appropriate handling of fish, MIMRA may issue a temporary license. No temporary license may be issued for a period exceeding 6 months, and may be issued for a shorter period.

**TITLE 35.**

**ENVIRONMENT**

**CHAPTER 1.**

**ENVIRONMENTAL PROTECTION**

**ARRANGEMENT OF SECTIONS**

Section		Section	
	<b>PART I - PRELIMINARY</b>		<b>PART IV - GENERAL RULE AS TO GOVERNMENTAL ACTION</b>
1.	Short title.	33.	Environmental impact.
2.	Application.	34.	Environmental impact statements.
3.	Interpretation.		<b>PART V - FINANCE</b>
	<b>PART II - NATIONAL ENVIRONMENTAL PROTECTION AUTHORITY</b>	35.	National Environmental Protection Authority Fund.
4.	Establishment of the Authority.	36.	Bank accounts.
5.	Inapplicability of the Corporations, Partnership and Associations Act.	37.	Accounts and records.
6.	Members and their appointment.	38.	Minister may require report.
7.	Compensation.	39.	Exemption from tax, etc.
8.	Vacation of office.		<b>PART VI - ENVIRONMENTAL ADVISORY COUNCIL</b>
9.	Delegation by the Authority.	40.	Constitution.
10.	Procedure.	41.	Compensation.
11.	Disclosure of, and disqualifications for, interest.	42.	Applicability of certain Sections.
12.	Misconduct in public office.	43.	Meetings.
13.	By-laws.	44.	Functions.
14.	Staff of the Authority.		<b>PART VII - ENFORCEMENT</b>
15.	Application of bribery laws.		<b>Division 1 - General</b>
16.	Protection for action taken under this Act, or on the direction of the Authority.	45.	Enforcement action generally.
17.	Immunity.	46.	Discharges of waster.
18.	Attorney-General	47.	Pollutants.
	<b>PART III - OBJECTS, POLICIES, POWERS FUNCTIONS AND DUTIES</b>		<b>Division 2 - Cease and Desist Orders</b>
	<b>Division 1 - Objects, Policies and Powers</b>	48.	Application of administrative procedure laws.
19.	Objects.	49.	Issuing, etc., of cease and desist order.
20.	Policies of the Authority.	50.	Public hearings.
21.	Powers of the Authority.		<b>Division 3 - Judicial Proceedings, etc.</b>
22.	Primary drinking water regulations.	51.	Declaratory and equitable relief.
23.	Pollutants.	52.	Defenses.
24.	Pesticides, etc.	53.	Relief.
25.	Nuclear and radioactive waste, etc.	54.	Remission for administrative proceeding, etc.
	<b>Division 2 - Functions and Duties</b>	55.	Administrative proceeding, etc., subject to judicial review.
26.	Functions and duties of the Authority.		<b>Division 4 - Fines, Penalties, etc.</b>
27.	Environmental management.	56.	Violation.
28.	Land Use Scheme.	57.	Civil penalties.
29.	Natural resources.		
30.	Fisheries.		
31.	Soil conservation.		
32.	Studies, research, etc.		

**TITLE 35. ENVIRONMENT**

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**§ 28. Land Use Scheme.**

The Land Use Scheme formulated under Section 27 of this Act may include:

- (a) a scientifically adequate land inventory and classification system;
- (b) a determination of present land uses, the extent to which land is utilized, under-utilized or rendered idle or abandoned;
- (c) a comprehensive and accurate determination of the adaptability of land for community development, agriculture, industry or commerce;
- (d) identification of areas having important historic, cultural or aesthetic value where uncontrolled development or exploitation could result in irreparable damage;
- (e) a method for exercising control by the Government of the Marshall Islands over the use of land in areas where environmental control is deemed necessary; and
- (f) a policy for influencing the location of new areas for the resettlement of persons and the methods for assuring appropriate controls over the use of land in and around such areas. [*P.L. 1984-31*, § 28.]

**§ 29. Natural resources.**

The Authority shall, in consultation with the Council and with the assistance of the Ministry of Resources and Development, recommend to the Minister the basic policy on the management and conservation of the country's natural resources in order to obtain the optimum benefits there from and to preserve the same for future generations, and the general measure through which policy may be carried out effectively. [*P.L. 1984-31*, § 29.]

**§ 30. Fisheries.**

(1) The Authority shall, in consultation with the Council and with the assistance of the Ministry in charge of the subject of fisheries, recommend to the Minister a system of rational exploitation of fisheries and of the aquatic resources within the territorial waters of the Republic including its exclusive economic zone, and shall encourage citizen participation therein to maintain and enhance the optimum and continuous productivity of such waters.

(2) Measures for the rational exploitation of fisheries and other aquatic resources may include the regulation of the harvesting and marketing of threatened species of fish or other aquatic life. [*P.L. 1984-31*, § 30.]

**§ 31. Soil conservation.**

The Authority shall, in consultation with the Council and with the assistance of the Ministry of Interior and Outer Islands Affairs, recommend soil conservation programs, including therein encouragement of scientific farming techniques, physical and biological means of soil conservation, and short-term and long-term research and technology for effective soil conservation. [*P.L. 1984-31*, § 31.]

**§ 32. Studies, research, etc.**

The Authority may undertake and promote continuing studies and research programs on environmental management and shall from time to time determine priority areas of environmental research [*P.L. 1984-31*, § 32.]