



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

CONSTITUTIONAL CONVENTION (AMENDMENT) (7) ACT 2016

Sponsored by:

HON. SENATOR MICHAEL KABUA

Approved:

HON. SPEAKER KENNETH A. KEDI /s/

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**NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
37TH CONSTITUTIONAL REGULAR SESSION, 2016**

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BILL NO.45

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§101. Short title.5

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§102. Amendment.5

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§103. Effective Date7

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37TH CONSTITUTIONAL REGULAR SESSION, 2016



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Republic of the Marshall Islands
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CONSTITUTIONAL CONVENTION (AMENDMENT) (7)
ACT 2016

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A BILL FOR AN ACT to amend Schedule 1 of the Constitutional Convention Act, in order to provide a proposal for the amendment of Articles IX and X of the Constitution.

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BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

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§101. Short title.

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This Act may be cited as the Constitutional Convention (Amendment) (7) Act 2016.

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§102. Amendment.

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(1) Schedule 1 of the Constitutional Convention Act, 2015 is amended by adding new Proposal 25 and to be inserted after Proposal No. 24 to read as follows:

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“Proposal No. SC26 – Article X – Traditional Rights: To include an additional section under Section 2 of Article X of the Constitution of the Republic of the Marshall Islands to include the sea areas as part of customary law and traditional practices in the Republic, to read as follow:

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(1) Land rights vested in the Government during Japanese administration and the during TTR period including marine areas below the ordinary high water mark, and extending to the sea and seabed of the internal waters of

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the atoll or island, and to the surrounding sea and seabed to a distance of 5 miles from the shores of an atoll or island, which were established during the Japanese Administration and continued thereafter is hereby re-established to the rightful title holders.

- (2) Customary law and traditional practices concerning the rights and ownership of natural resources including land, sea and seabed, and airspace to a distance of 5 miles from the high water mark of an atoll or islands shall continued to be exercised and such rights and ownership of the natural resources including marine areas shall be vested in owners of the adjoining land or lands.
- (3) The Irojlaplap or the Iroj (where the case may be) of an atoll or island who owns the exclusive rights to any designated coral reef referred to as restricted zone, known in Marshallese as “*Mwo*” shall continue to exercise such right(s). In the event there is more than one Irojlaplap or Iroj (where the case may be) on an atoll or island, possessory and proprietary rights to this restricted zone shall be governed by local customary law of such atoll.
- (4) Where any destruction or damage caused to the land or the sea areas of the atoll or island including the 5 miles, both the local government and national government shall enforce and represent the land owners and the people in a law suit against an alleged or potential defendants.
- (5) The landowners, the local government and the national government shall share the benefits from the exploitation or development of the natural resources including the marine resources, the seabed and airspace to a distance of 5 miles from the high water mark of an atoll or islands, and shall apportion to a ratio of 90 percent for the landowners, and 10 percent to be equally shared between the local government, and the national government.

1 (2) Schedule 1 of the Constitutional Convention Act, 2015 is further
2 amended by adding new Proposal 26 and to be inserted after
3 Proposal No. 25 to read as follows:

4 Section (2)(1) of Article IX – Local Government is amended to extend
5 the local government jurisdiction to 12 miles,

6 (2) The system of local government shall in each case extend to
7 the sea and the seabed of the internal waters of the atoll or
8 island and to the surrounding sea and seabed to a distance of
9 12 miles from the ~~baseline~~ 5 miles from which the territorial
10 sea of that atoll or island is measured as rights and ownership
11 of traditional owners.

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14 **§103. Effective Date**

15 This Act shall take effect on the date of certification in accordance with
16 Article IV, Section 21 of the Constitution.

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37TH CONSTITUTIONAL REGULAR SESSION, 2016

CONSTITUTIONAL CONVENTION (AMENDMENT) (7)
ACT 2016

BILL SUMMARY

This Bill proposes to amend Schedule 1 of the Constitutional Convention Act, 2015, by inserting additional proposals under the Schedule.

Proposal No. SC25 seeks to extend the rights and ownership of natural resources such as land, marine areas including seabed, and airspace to traditional owners whose land is adjoining to a distance of 5 miles from the high water mark.

The rights to use and exploit, to the exclusion of all others of particular marine areas, including the submerge land from the high water mark to the fringed reefs and beyond to a distance of 5 miles, stems from the traditional practice of *Mwo*, and generally marine resources is considered "*Mour wot lejoj*" in the Marshallese custom, which is considered very significant.

Any destruction or damage caused to the land or the sea areas of the atoll or island including the 5 miles, both the local government and national government shall enforce and represent the land owners and the people in a law suit against an alleged or potential defendants.

The landowners, the local government and the national government shall share the benefits in the development of natural resources to a ratio of 90 percent, 5 percent, and 5 percent to the landowners, local government and national government, respectively.

Proposal SC26 intend to amend the local government jurisdiction to 12 miles starting from 5 miles jurisdiction owned by traditional landowners.

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ACT 2016**

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SIGNATURES

1 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. MICHAEL KABUA_* *___/S/___*

2 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_MIN. ALFRED ALFRED JR_* *___/S/___*

3 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. CHRISTOPHER LOAK_* *___/S/___*

4 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. TONY AISEIA_* *___/S/___*

5 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. JERAKOJ BEJANG_* *___/S/___*

6 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. DAVID KABUA_* *___/S/___*

7 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. JACK J ADING_* *___/S/___*

8 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. BRUCE BILIMON_* *___/S/___*

9 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. DENNIS MOMOTARO_* *___/S/___*

10 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. CASTEN NEMRA_* *___/S/___*

- 1 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. DAVID PAUL_* *___/S/___*
- 2 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. ATBI RIKLON_* *___/S/___*
- 3 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. KESSAI NOTE_* *___/S/___*
- 4 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. SHERWOOD TIBON_* *___/S/___*
- 5 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. DAISY MOMOTARO_* *___/S/___*
- 6 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_SEN. ALVIN JACKLICK_* *___/S/___*
- 7 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_MIN. TONY MULLER_* *___/S/___*
- 8 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_MIN. AMENTA MATTHEW_* *___/S/___*
- 9 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_MIN KALANI KANEKO_* *___/S/___*
- 10 **DATE:** *_AUG.19, 2016_* **INTRODUCED BY** *_VSPEAKER ANTON JEJWARICK_* *___/S/___*

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DATE: *_AUG.19, 2016_* **INTRODUCED BY** *_MIN.MATTLAN ZACKHRAS___/S/___*