

# TITLE 11

## FINANCE

### CHAPTER 1.

#### FINANCIAL MANAGEMENT

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An Act to establish a comprehensive system of financial management for the Republic of the Marshall Islands. [The Tax chapters (1, 3, 7) have been re-codified in Title 48, Taxation, and the name of this Title changed. This Chapter was previously codified as 11MIRC 8. The Department of Finance Act 1979, P.L. 26-16-i (1979), was repealed and replaced by the Financial Management Act 1990, P.L. 1990-8 1, effective February 19, 1990.]

Commencement: February 19, 1990  
 Source: P.L. 1990-81  
 P.L. 1993-70

#### PART I - PRELIMINARY

##### §101. Short title.

This Chapter may be cited as the Financial Management Act 1990. [P.L. 1990-81, §1.]

##### §102. Repeal.

The Department of Finance Act 1979 is hereby repealed. [P.L. 1990-81, §2.]

##### §103. Interpretation.

In this Chapter, unless the context otherwise requires:

(a) “agency” means any executive department, independent commission, board, bureau, office, or other establishment of the Government of the Republic of the Marshall Islands, or any quasi-public institution which is supported in whole or in part by national funds;

(b) “allotment” means an amount which may be encumbered or expended during an allotment period, in accordance with applicable law on behalf of the Republic of the Marshall Islands, as specified in an appropriation act of the Nitijela;

(c) “appointed collector” means a person, appointed by the Secretary of Finance, having the duty of collecting or receiving revenue or other money on account of the Republic, as provided in Section 139 of this Chapter;

(d) “Appropriation Bill” means the Annual Appropriation Bill defined in Article VIII, Section 6 of the Constitution of the Republic of the Marshall Islands;

(e) “balanced budget” means a budget in which proposed appropriations, expenditures and other charges do not exceed estimated budget revenues;

(f) “base budget” means the amount required to carry on a program area at its current level of expenditures;

(g) “budgetary ceiling” means the maximum amount that is authorized to be expended in a program area;

(h) “budget estimates” means estimated expenditures, appropriations, revenues and other charges of the Government of the Republic of the Marshall Islands;

(i) “capital asset” means any item that has an acquisition cost of three hundred dollars (US \$300) or more or a useful life of more than one year;

(j) “capital expenditures” means payments to contractors and payments for other items related to the construction of a capital improvement project or the creation of any other capital asset;

(k) “capital investment costs” means costs, beyond the research and development phase, associated with capital improvements, including the acquisition and development of land, the design and construction of new facilities, and the making of renovations or additions to existing facilities. Capital investment costs for a program are the sum of the program’s capital improvement project costs;

(l) “claimant agency” means any executive department, independent commission, board, bureau, office, or other establishment of the Government of the Republic of the Marshall Islands;

(m) “construction costs” means the costs involved in building, equipping and landscaping capital facilities, including any consultant or staff services required;

(n) “cost categories” means the major types of costs and includes research and development, capital investment, and operating expenses;

(o) “cost elements” means the major subdivisions of a cost category. For the category “capital investment” it includes land acquisition, design, and construction. For the categories “research and development” and “operating,” it includes personal services, other current expenses, equipment, and motor vehicles;

(p) “crosswalk” means a reconciliation of a program structure with the structures used for accounting and appropriations;

(q) “debt” means any liquidated sum which is due and owing a claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, operation of law, or judicial or administrative judgment or order;

(r) “debt service” means interest and principal repayments on monies borrowed;

(s) “debtor” means any person owing a debt to a claimant agency;

(t) “department earnings” means the amounts collected by governmental agencies for services provided and products or property sold, rentals collected for use of public property, fees, fines, forfeitures, and penalties assessed, and other related types of charges;

(u) “Department of Finance” or “department” means the Marshall Islands Department of Finance as created pursuant to Section 105 of this Chapter;

(v) “depository” includes any bank or savings and loan association authorized to do business in the Republic of the Marshall Islands or in any state of the United States of America;

(w) “design costs” means the costs related to the preparation of architectural drawings for capital improvements through its various stages from schematic to final construction drawings. It does not include costs associated with the identification of needs, determining alternative ways of meeting needs, and prescription of standards for capital improvements;

(x) “development budget” means the document which presents the financing plans and progress of all government non-recurrent projects, including those funded by capital account funding sources made available to the Marshall Islands Development Authority;

(y) “effectiveness measure” means the criterion for measuring the degree to which the objective sought is attained;

(z) “encumbrance” means an expenditure commitment recorded to ensure effective budgetary

control and accountability and to facilitate effective cash planning;

(aa) “full cost” means the total cost of a program, system or capability, including research and development costs, capital investment costs, and operating costs;

(bb) “full time position” means funding reserved to pay the salary of a full-time employee.

(cc) “fixed cost” means an expenditure of funds approved by the Cabinet as part of the budget pursuant to the Constitution or to statute, such as legally binding lease agreements or contracts.

(dd) “general fund” means the fund created by Article VIII, Section 3 of the Constitution of the Republic of the Marshall Islands.

(ee) “general obligation bonds” means certificates or notes of indebtedness for the payment of the principal and interest of which the full faith and credit of the Republic of the Marshall Islands are pledged;

(ff) “item” means any instrument for the payment of money even though it is not negotiable but does not include money;

(gg) “land acquisition costs” means the costs of obtaining lands, including any consultant or staff service costs attributable to that acquisition;

(hh) “means of financing” means the various sources from which funds are available and includes the general fund, special fund, revolving fund, general obligation bonds, reimbursable general obligation bonds, revenue bonds, federal aid interstate highway fund, funds, and other funds;

(ii) “Minister of Finance” or “Minister” means the individual occupying that position or his designee;

(jj) “non-tax revenue sources” means sources other than taxes from which revenues are produced;

(kk) “objective” means an expected result which is specific, time phased and measurable;

(ll) “operating cost” means recurring costs of operating, supporting and maintaining authorized programs including costs for personnel salaries and wages, employee fringe benefits, supplies, materials, equipment and motor vehicles;

(mm) “performance measure” means the evaluation of the efficiency of carrying out activities within program areas for the purpose of establishing budgetary estimates;

(nn) “person” means an individual, partnership, corporation, trust, estate, cooperative association or other legal entity;

(oo) “phases of capital improvement project” means land acquisition, design, construction. and occupancy;

(pp) “plan” means the National Economic Development Plan;

(qq) “planning” means that process by which government objectives are formulated; measures by which effectiveness in attaining the objectives are identified; alternatives by which objectives may be attained are determined; the full cost, effectiveness and benefit implications of each alternative are determined: the assumptions, risks and uncertainties of the future are clarified and cost and effectiveness and benefits trade-offs of the alternatives are identified;

(rr) “prime account” means the highest level grouping of expenditure classification;

(ss) “program” means a sub-category within a program area which is a combination of resources and activities designed to achieve an objective or objectives;

(tt) “program area” means the program areas set forth in the Annual Appropriation Bill;

(uu) “program size” means the magnitude of a program, such as the number of persons serviced by the program, the amount of a commodity, the time delays, or the volume of service in relation to population or area;

(vv) “program size indicator” means a measure to indicate the magnitude of a program;

(ww) “program structure” means a display of programs which are grouped by program area, and which are grouped within program areas in accordance with the objectives to be achieved, or the functions to be performed;

(xx) “programming” means that process by which the Government of the Republic of the Marshall Islands long range program and financial plans are scheduled for implementation over a five (5) year period and which specifies what programs are to be implemented, how they are to be implemented, when they are to be implemented, and what the costs of such implementation are;

(yy) “public corporation” means any corporation or other entity in which the Government of the Republic of the Marshall Islands has an ownership interest;

(zz) “recurrent budget” means the annual operating budget as opposed to the development budget;

(aaa) “refund” means any income tax refund which is or will be due any debtor;

(bbb) “reprogrammed funds” means appropriated funds which are shifted to another program area;

(ccc) “Republic” means the Republic of the Marshall Islands;

(ddd) “research and development costs” means costs primarily associated with the development of a new program, system or capability to the point where capital and operating costs are required to introduce the program system or capability into operational use;

(eee) “resource categories” means types of resources and includes tax revenues departmental earnings, and other receipts;

(fff) “Revolving Fund” means a fund from which is paid the cost of goods and services rendered or furnished to or by a national agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds;

(ggg) “Secretary of Finance” or “Secretary” means the individual occupying that position or his designee;

(hhh) “special funds” means funds which are dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds;

(iii) “sub-accounts” means the lowest level grouping of expenditure classification;

(jjj) “taxes” and “tax revenue sources” mean each specific kind of tax;

(kkk) “tax revenues” means the amounts collected from compulsory charges, in the form of taxes, levied by the National Government for the purpose of financing services performed for the common public benefit;

(lll) “Treasury” means the General Fund of the Marshall Islands and all other funds that are under the control and supervision of the Secretary of Finance as established by statute; and

(mmm) “trust account” means a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes. [P.L. 1990-81, §3. Paragraphs have been renumbered for consistency with the format and style of the Code; amended by P.L. 1993-70, §2.]

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**PART II- MANAGEMENT OF PUBLIC FUNDS****DIVISION 1- ADMINISTRATION****§104. Declaration of policy.**

It is the declared policy of the Republic that:

(a) the accounting of the Republic shall provide full disclosure of the results of financial operations and adequate financial information needed in the management of operations, and shall ensure effective control over revenues, multilateral and bilateral grants-in-aid including United States federal grants, income expenditures, monies, and other assets, and shall be in accordance with standards promulgated by the Governmental Accounting Standards Board (GASB);

(b) full consideration be given to the needs and responsibilities of the executive and legislative branches of government in the establishment and maintenance of accounting systems and other fiscal requirements; and

(c) emphasis shall be placed on effectuating systematic and orderly improvements in financial management in order to formulate, adopt, and maintain simplified and more effective accounting systems, financial reporting procedures, budget processes, auditing requirements, and procedures to safeguard against duplication and to eliminate systems and processes that do not serve a purpose commensurate with the costs involved. [P.L. 1990-81, §4.]

**§105. Department of Finance.**

The Marshall Islands Department of Finance is hereby created. [P.L. 1990-81, §5.]

**§106. Scope of administration.**

All revenue and fiscal functions of the Government of the Republic of the Marshall Islands shall be administered by the Department of Finance, including revenue, tax and duty collection and accounting; fund and treasury maintenance, security and accounting; disbursement, accounts receivable and expenditure accounting; budget control; and all data processing and other assets related to the foregoing. [P.L. 1990-81, §6.]

**§107. Collection, disbursement and accounting of public funds.**

The Secretary of Finance shall be responsible for the collection, disbursement, and accounting of all public monies, including the General Fund of the Marshall Islands. The Secretary of Finance shall not be personally liable for the larceny or embezzlement of public funds under his control by third parties; provided, that in the case of larceny or embezzlement of any monies, by any officer of his department, or other persons, the Secretary of Finance shall be allowed to give that fact, and that he had no conclusive knowledge thereof, in evidence and establishment of these facts shall discharge him of responsibility. [P.L. 1990-81, §7.]

**§108. Accountant and comptroller of public funds.**

The Secretary of Finance shall be the general accountant and comptroller of all public funds, including the General Fund of the Marshall Islands. In these capacities, the Secretary of Finance shall have full supervisory authority over all public funds, including the authority to stop any disbursement

of public funds when necessary to prevent misappropriation of public fund; or to prevent a disbursement without, or in excess of, appropriation or supplementary appropriation authorized by Act; or to prevent a disbursement of a charge against the General fund that would impede or hamper financial operations of the Republic of the Marshall Island or jeopardize the financial condition of the Republic. [P.L. 1990-81, §8.]

**§109. Books and records.**

The Secretary of Finance shall assure that adequate books of account and other records are systematically, accurately and timely maintained for each appropriately separate account authorized to receive, expend or encumber public funds. [P.L. 1990-81, §9.]

**§110. Review program.**

The Secretary of Finance shall conduct a continuous review program for the improvement of accounting and financial reporting. [P.L. 1990-81, §10.]

**§111. Responsibility rules and regulations.**

The Secretary of Finance shall be responsible to the Minister of Finance. The Secretary of Finance, with the approval of the Minister of Finance, is authorized to prescribe rule and regulations necessary to assure his ability to fulfill his responsibilities under this Chapter and to protect all public funds from loss, waste and embezzlement. The powers accorded to the Secretary of Finance to promulgate such rules and regulations shall be exempt from the Marshall Islands Administrative Procedures Act 1979 (6 MIRC 1), and any amendments made thereto. [P.L. 1990-81, §11.]

**§112. Delegation of authority.**

The Secretary of Finance, from time to time, may delegate the authority accorded to him by this Chapter with the approval of the Minister of Finance, including, but not limited to, authority related to the collection and billing functions of the Marshall Islands Department of Finance. [P.L. 1990-81, §12.]

DIVISION 2- ALLOTMENT SYSTEM

**§113. Intent and policy.**

Subject to Article VIII, Sections 7, 8 and 9 of the Constitution of the Republic of the Marshall Islands, and unless otherwise excepted by Act, total appropriations or the total of any budget proved by the Nitijela, for any department or program area, shall be deemed to be the maximum amount authorized to meet the requirements of the department or program area for the period of appropriation. [P.L. 1990-81, §13.]

**§114. Allotment periods.**

(1) No officer, department or establishment shall be allowed to expend during any fiscal year any sum not specifically authorized by the Nitijela by appropriation act for expenditure. In addition, with respect to anticipated and reprogrammed expenditure under Article VII, Section 7 of the Constitution of the Republic of the Marshall Islands, no officers, department or establishment shall be allowed to expend any anticipated and reprogrammed expenditure not authorized by the Cabinet.

With the approval of the Minister in charge of the affected program area, funds which have been authorized by appropriation of the Nitijela or by Cabinet approval of anticipated or reprogrammed expenditures and which have been allocated to sub-categories of program areas may be transferred among subcategories within the same program area. The Secretary of Finance may promulgate regulations which govern when such funds can be transferred.

(2) For purposes of the allotment system, each fiscal year shall be divided into quarterly allotment periods, which shall begin, respectively, on the first (1st) days of October, January, April and July. If such allotment periods are impracticable, the Secretary of Finance may provide for a different period suited to circumstances, not extending beyond the end of the fiscal year.

(3) Development expenditures shall not be subject to quarterly allotments as provided for in this Section. [P.L. 1990-81, §14.]

**§115. Modification.**

The Secretary of Finance may at any time modify or amend any allotment which will not exceed one thousand dollars (US \$1,000), provided that:

(a) no deficit of funds to meet future needs of the department or establishment will result; and

(b) no modification or amendment reduces an allotment below the amount required to meet valid encumbrances or commitments previously incurred against the allotted funds. [P.L. 1990-8 1, §15.][Paragraphs have been renumbered for consistency with the format and style of the Code]

**§116. Allotment according to classification prescribed in appropriation.**

Allotments shall be made according to prime accounts and sub-accounts within program areas outlined in an appropriation enacted by the Nitijela. In addition, any anticipated and reprogrammed expenditure authorized by the Cabinet pursuant to Article VII, Section 7 of the Constitution of the Republic of the Marshall Islands. shall be used for no other purposes other than those authorized by the Cabinet. [P.L. 1990-81, §16.]

**§117. Limit of expenditures; liability for over-expenditure and over-obligation.**

(1) No department or establishment shall expend or be allowed to expend any sum, or incur or be allowed to incur any obligation in excess of an allotment or appropriation. Any officer, agent, employee, or person in service of the government, whether elected or appointed, who makes or causes to be made any over-expenditure or incurs or causes to be incurred any over-obligation shall be deemed guilty of neglect of official duty and shall be subject to removal from office and shall be liable to the Government of the Republic of the Marshall Islands for the amount of the over-expenditure or over-obligation, and such amount, together with interest and costs, shall be recoverable in an action instituted by the Attorney-General or as otherwise provided by law.

(2) The amount of any liability hereunder may be recovered as a civil debt.

(3) An over-obligation, an authorization of an over-obligation or a contract involving an over-expenditure or an over-obligation is void unless the over-expenditure or over-obligation is authorized under Article VIII of the Constitution of the Republic of the Marshall Islands. or otherwise by law.

(4) Any person who, on behalf of the Republic, enters into or authorizes an over-obligation or contract shall indemnify the Government of the Republic of the Marshall Islands and hold it



harmless against any claim arising out of it. [P.L. 1990-81, §17.]

**§118. Appropriations to revert to General Fund.**

Unless otherwise provided by law, and except for special revenue funds, every appropriation or part thereof which remains unexpended and unencumbered at the close of any fiscal year shall lapse and be returned to the General Fund of the Marshall Islands. [P.L. 1990-81, §18.]

DIVISION 3-INVESTMENTS

**§119. Long term investment of monies.**

The Secretary of Finance may invest any monies of the Republic which:

- (a) are funds that have not been appropriated by Act;
- (b) in his judgment are in excess of the amounts necessary for meeting the immediate requirements of the Government of the Republic of the Marshall Islands; and
- (c) in his judgment will not impede or hamper the necessary financial operations of the Republic.

Any of such investments shall be due to mature no later than one (1) year from the date of investment, unless otherwise directed and authorized by the Cabinet for a longer period. Income derived therefrom may be reinvested, unless the Cabinet decides otherwise, at the discretion of the Secretary of Finance and shall be recognized as revenue in accordance with generally accepted accounting principles. Long-term investments shall be in time certificates of deposits, bonds, notes, prime commercial paper or other low-risk investments. [P.L. 1990-81, §19.]

**PART III - BUDGET**

**§120. Statement of policy.**

It is the purpose of this Part to establish a comprehensive system for national financial management which furthers the capacity of the Cabinet and the Nitijela to plan, program and finance projects and programs of the Republic Systems shall include procedures for:

- (a) the orderly establishment, continuing review and periodic revision of national financial objectives, programs, and policies;
- (b) the establishment of policies and procedures that conform with government accounting and auditing procedures;
- (c) the development, coordination and review of long-range programs and financial plans that will implement established national objectives and policies;
- (d) the preparation, coordination, analysis and enactment of a budget that is organized to focus on national programs and their costs, and that authorizes the implementation of the long-range plans in the succeeding budget period;
- (e) the evaluation or alternatives to existing objectives, policies, plans and procedures that offer potential for more efficient and effective use of national resources; and
- (f) the regular appraisal and reporting of program performance. [P.L. 1990-81, §20. Paragraphs have been renumbered for consistency with the format and style of the Code.]

**§121. Governing principles.**

The system shall be governed by the following general principles:

- (a) the budget shall be balanced;
- (b) planning, programming, budgeting, evaluation, and appraisal reporting shall be by program areas or groups of program areas;
- (c) the formulation and operation of the budget will serve as an implementation mechanism for the plan;
- (d) the national program structure shall be such that it will enable meaningful decisions to be made by the Cabinet and the Nitijela at all levels of the structure. At its lowest level, it shall display those programs which are the simplest units of activities, about which resource allocation decisions are to be made by the Cabinet and the Nitijela;
- (e) a program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily serves, and where desirable, it shall also be placed with other objectives, but its cost is not to be included with the total cost of that objective or program area because it is included in some other objective or program area;
- (f) the full cost, including research and development, capital and operating costs, shall be identified for all program areas regardless of the means of financing. Costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to be expended by prior appropriation acts or are authorized to be expended by existing law or require new appropriations or authorizations;
- (g) objectives shall be stated for every level of national program structure;
- (h) the effectiveness of program areas in attaining objectives shall be assessed;
- (i) planning shall have a long-range view; and
- (j) systematic analysis in terms or problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning. [P.L. 1990-81, §21 Paragraphs have been renumbered for consistency with the format and style of the Code.]

**§122. Responsibilities of the Cabinet.**

(1) The Cabinet shall be responsible for the formulation of a balanced budget. The Cabinet shall accept the estimates of revenue provided them by the Secretary of Finance, through the Budget Coordination Committee, unless the Cabinet decides to modify tax or revenue policy.

(2) The Minister of Finance shall prepare and submit, prior to or concurrently with the Appropriation Bill, tax and revenue bills which are necessary to produce a balanced budget. [P.L. 1990-81, §22.]

**§123. Responsibilities of the Legislature.**

(1) The Nitijela shall:

- (a) consider the long-range plans, including the proposed objectives and policies, the five (5) year national program and financial plan, and the budget and revenue proposals recommended by the Cabinet;
- (b) adopt program areas and the national budget, and appropriate monies to implement the program areas it deems appropriate;
- (c) adopt any other legislation necessary to implement program areas; and
- (d) review the implementation of the national budget and program accomplishments

and execution of legislative policy direction. Implementation of the national budget and program area management, execution and performance shall be subject to the requirements of the Auditor General Act 1986 (3 MIRC 9).

(2) Notwithstanding anything to the contrary in this Section, the Nitijela shall not pass any law which causes an expenditure of public funds without budgetary estimates in which a source of revenue is identified for the expenditure. [P.L. 1990-81, §23 Section title modified to be consistent with section titles for Sections 22, 24 and 25.]

**§124. Responsibilities of the Department of Finance.**

The Secretary of Finance shall:

(a) with the approval of the Cabinet and in consultation with the Budget Coordination Committee, develop expenditure ceilings for the recurrent budget, procedures and regulations to guide national agencies in the formulation of initial expenditure requests to the Cabinet. The Secretary of Finance shall prepare expenditure ceilings in accordance with Section 121 of this Chapter, which requires that the budget be balanced. The Secretary of Finance, in cooperation and consultation with the Public Service Commission, shall provide such assistance as needed in the determination of the maximum number of full-time positions for each program area;

(b) lay before the Cabinet estimates of revenue to be collected, fixed costs for the next fiscal year, and estimated expenditures for each program area in the recurrent budget so that the overall budget is balanced;

(c) if assistance is sought from the Secretary of Finance, provide such assistance as needed to national agencies, including the Office of Planning and Statistics, the Public Service Commission, the Planning Coordination Committee and the Budget Coordination Committee, in the formulation of program objectives, preparation of program plans and program budget requests, and in reporting of program and program area performance;

(d) if assistance is sought from the Secretary of Finance, provide such assistance as needed in the coordination, analysis and revision of the program objective, program area and financial plans, program budget requests and program area performance reports that have been initially proposed or prepared by such national agencies, and assist, as needed, in the development of the national comprehensive program and financial plan, budget and program performance report. The Secretary shall seek to ensure that the policy decisions and budget determinations of the Cabinet and the Nitijela are implemented to the fullest extent possible within the concepts of proper management;

(e) in cooperation and consultation with the Public Service Commission, provide such assistance as needed in the preparation of program areas and financial plans, budget requests and program area performance reports;

(f) advise the Chief Planner about the total amount of funding which will be available in the next fiscal year for the development budget. In consultation with the Budget Coordination Committee and the Cabinet, long range financial planning shall be done in order to ensure that government expenditure is accomplished according to a planned set of goals and objectives; and

(g) provide the Nitijela with such documents and information that may be requested concerning programs, program areas, budget and fiscal or financial management operations of the Republic. [P.L. 1990-81, §24. Paragraphs been renumbered for consistency with the format and style of the code.]

**§125. Responsibilities of agencies.**

(1) Under such rules and regulations that may be prescribed by the Secretary of Finance:

(a) every agency assigned to the task of developing program areas, programs and financial plans, budgetary requests and program performance reports shall submit to the Secretary of Finance, at such times on such forms and in such manner as the Secretary may prescribe, recurrent budget estimates, the total amount of which does not exceed the budgetary ceiling or total number of full-time positions which have been assigned by the Public Service Commission; and

(b) every agency administering program areas, and every agency responsible for the formulation of program areas and the preparation of programs and financial plans, budgetary requests and program area performance reports, shall furnish the Department of Finance with all such documents and information as such department may from time to time require. Each agency shall make available to the Cabinet and the Nitijela all documents and information that may be requested.

(2) The Secretary of Finance or any employee of the Department of Finance, when duly authorized, shall, for the purpose of securing information related to the budget, have access to and may examine any books, documents, papers or records of any agency.

(3) Agencies may submit budget requests which exceed their assigned ceiling, so long as the request is separate from their recurrent budget request. [P.L. 1990-81, §25.]

**§126. The budget.**

(1) The budget shall in general, contain:

(a) the national program structure;

(b) statements of national objectives;

(c) the financial requirements to carry out the recommended programs; and

(d) a summary of receipts and revenues in the last completed fiscal year, a revised estimate for the fiscal year in progress, and an estimate for the next fiscal year.

(2) The information contained in the budget shall be presented generally in the following manner:

(a) information shall be displayed by program areas:

(b) program area financial requirements shall be appropriately crosswalk between the program areas and expending agencies;

(c) data shall be appropriately summarized at each level of the program structure;

(d) program costs shall include all costs, including research and development, operating and capital, regardless of the means of financing, except that the means of financing shall be expressly identified, and regardless of whether the expenditure of any sum was authorized by prior appropriations acts. is authorized by existing law, or requires new authorization, except that the amounts requiring new authorization shall be appropriately identified:

(e) financial requirements shall be presented to the nearest dollar, omitting cents; and the summary of national receipts and revenues shall be presented to the nearest thousand dollars, and

(f) the budget shall reflect the next fiscal year program areas contained in the five (5) year development plan.

(3) The display of financial requirements for the next fiscal year shall more specifically include:

(a) at the lowest level of the national program structure for each program area:

(i) the total recommended expenditures, including research and development, capital and operating costs, by cost categories and cost elements for the ensuing year; the planned allocation of the total annual request, by cost categories, and cost elements. The means of financing and the number of positions included in any cost category amount shall be appropriately identified;

(ii) a summary showing means of financing the total recommended expenditures, those amounts requiring and those amounts not requiring legislative appropriation or authorization for spending for the fiscal year;

(iii) a crosswalk of the total proposed annual expenditures between the program and expending agencies. The means of financing the number of positions included in any cost amount, and the net amount requiring appropriation or authorization shall be appropriately identified for each expending agency; and

(iv) the proposed changes in the levels of expenditures, by cost categories, between the year in progress and the succeeding year, together with a brief explanation of the major reasons for each change, which reasons shall include, as appropriate, the following:

(A) salary adjustments to existing positions of personnel;

(B) the addition or deletion of positions;

(C) changes in the number of persons being served or to be served by the program:

(D) changes in the program implementation schedule;

(E) changes in the actual or planned level of program effectiveness;

(F) increases due to the establishment of a program not previously included in the national program structure;

(G) decreases due to the phasing out of a program previously included in the national program structure; and

(H) changes in the purchase price of goods or services.

As appropriate, references to the program and financial plan shall be noted for an explanation of the changes. For each program, the total dollar and percentage change shall also be noted. Notwithstanding the provisions of Subsection (2)(e) of this Section, the proposed changes in the levels of expenditures may be shown to the nearest thousand dollars:

(b) appropriate summaries of Clauses (3)(a)(i) and (3)(a)(iii) of this Section at every level of the national program structure. Such summaries shall be by the major groupings of programs encompassed within the level. The summaries of Clause (3)(a)(i) of this Section shall identify the means of financing and the number of positions included in any cost category amount;

(c) a summary listing of all capital improvements projects included in the proposed capital investment costs for the succeeding fiscal year. The listing shall be by programs at

the lowest level of the national program structure and shall show for each project, by investment cost elements:

- (i) the cost of the project;
  - (ii) the amount of funds previously appropriated and authorized by the Nitijela, and
  - (iii) the amount of new appropriations and authorizations proposed in the succeeding fiscal year. The amount of the new appropriations and authorizations proposed shall constitute the proposed new requests for the project in the succeeding fiscal year. In every instance, the means of financing shall be noted.
- (4) The summaries of the receipts and revenues shall more specifically include:
- (a) the following financial summaries displaying the national financial condition:
    - (i) a display of the proposed, total national expenditures, by cost categories, the total national resources anticipated from existing taxes and non-tax sources at existing rates, by resource categories (including the available fund balance or deficits and anticipated bond receipts), and the fund balance or deficit resulting therefrom for the fiscal year in progress and for the succeeding fiscal year;
    - (ii) the changes proposed to the existing tax and non-tax rates, sources or structure, and the estimated cumulative increases or reductions, and the estimated fund balance or deficit in the succeeding fiscal year as a result of such proposed changes. Proposals for changes in the existing tax and non-tax rates, sources or structure shall be made in every case where the proposed total national expenditures exceed the total national resources anticipated from existing tax and non-tax sources at existing rates.
- Such financial summaries shall be prepared for the total expenditures and resources and for the general fund and special fund portions thereof.
- (b) a summary of the balances of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and for the succeeding fiscal year:
  - (c) a summary regarding bonds;
  - (d) a schedule of bonds;
  - (e) a schedule of projected debt service charges for general obligation bonds;
  - (f) a schedule of the current funded debt, legal debt limit and the legal debt margin, including the details thereof:
  - (g) separately for General Fund tax revenues, special fund tax revenues. General Fund non-tax revenues and special fund non-tax revenues:
    - (i) by kinds of taxes or sources, the amount of revenue from existing authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in the succeeding fiscal year:
    - (ii) a summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in the succeeding fiscal year resulting from such changes; and
    - (iii) the total estimated revenues with and without the proposed changes.
- (5) The proposed budget shall include such other financial statements, information and data

which in the opinion of the Cabinet are necessary or desirable in order to make known in all practical detail the programs, program plans, and financial conditions of the Republic. [P.L. 1990-81, §26]

## **PART IV - INTERNAL CONTROL AND ACCOUNTING SYSTEMS**

### DIVISION 1- SECRETARY OF FINANCE; POWERS AND DUTIES

#### **§127. Supervision of accounts.**

In addition to the powers conferred on the Secretary of Finance pursuant to Part II of this Chapter, the Secretary of Finance, pursuant to Article VIII of the Constitution of the Republic of the Marshall Islands, shall have the power to disapprove any request for expenditure or withhold any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded. [P.L. 1990-81, §27.]

#### **§128. Accounting systems and internal control: enforcing the use of and inspection of the same.**

(1) The Secretary of Finance shall install and maintain an accounting system for all the government agencies which is in conformity with generally accepted accounting principles as determined by the Governmental Accounting Standards Board.

(2) The Secretary of Finance is charged with the responsibility to maintain an adequate system of internal control and with the further responsibility to see that the internal control system continues to function effectively as designed. The Auditor-General shall make such investigations and audits from time to time to ensure the proper use of the accounting system and internal control systems. [P.L. 1990-81, §28.]

#### **§129. Book Keeping.**

The Secretary of Finance shall:

(a) keep and maintain a complete set of double entry books (manual and computerized) in which he shall open or cause to be opened all government accounts, and for the several amounts as shown by the Appropriation Bill, or any other appropriation that may be at any time made by the Nitijela, and he shall record his daily business transactions in detail therein;

(b) keep and maintain ledgers in which he shall open, arrange, and keep in a methodical and systematic manner the various Marshall Islands accounts so that the status and condition of all funds and appropriations, of all assets and liabilities, and for all income and expenditures of the Marshall Islands may at any time be ascertained and known;

(c) keep and maintain any auxiliary books as he may deem necessary for a correct and proper administration of his office; and

(d) keep and maintain a convenient form for easy reference of all invoices for which checks have been issued by him. This form shall contain the vendors name, the invoice numbers, the numbers of the checks by which the invoices were paid, the dates of the checks, and the amounts of the checks. [P.L. 1990-81, §29 Paragraphs have been renumbered for consistency with the format and style of the Code.]

#### **§130. Annual reports.**

The Secretary of Finance shall make an annual report to the Minister of Finance upon request by the Minister. The Secretary of Finance may, in his yearly report, or in any special report which he may at any time think fit to make, recommend any plans and suggestions that he may think fit or worthy of adoption for the better collection, custody, and payment of the public monies and the more economical auditing and examining of the public accounts, and any improvements in the mode of keeping these accounts that may at any time be brought to his notice, and generally report upon all matters relating to public accounts. [P.L. 1990-81, §30.]

**§131. Approval of business and accounting forms.**

The Secretary of Finance may determine the forms required to adequately supply accounting and statistical data for the Government. The Secretary may require heads of Government agencies and departments to submit proposed new forms or proposed changes in current business and accounting forms for review and approval before ordering the same printed. All standard Government forms may be classified, numbered, and standardized in design, dimensions, color, and grade of paper and recorded in a catalogue of accounting and statistical forms by the Secretary. [P.L. 1990-81, §31.]

**§132. Count of money and securities in Treasury.**

The Secretary of Finance shall count the money and securities in the Treasury at least quarterly, provided that the scope of the examination shall be determined by the Secretary who shall use such auditing procedures as he deems necessary. The Secretary shall prepare, in duplicate, statements showing:

(a) the amount of money actually in the Treasury reconciled with the amount of money as shown by the Secretary of Finances record; and

(b) the amount of securities owned by the Republic in the Treasury reconciled with the amount of securities as shown by the Secretary of Finances records. [P.L. 1990-80, §32. Paragraphs have been renumbered for consistency with the format and style of the Code]

**§133. Statements of count to be filed.**

The Secretary of Finance shall file the original statements in his office until after completion of the audit of that fiscal period. [P.L. 1990-81, §33.]

**§134. Keeping of cash book or status report.**

The Secretary of Finance shall keep in his office a cash book or status report in which shall be entered all sums received and paid out of the Treasury on account of the several agencies and departments of the Government of the Republic of the Marshall Islands. [P.L. 1990-81, §34.]

**§135. Destruction of invoices and other documents.**

At the end of each fiscal year, the Secretary of Finance, with the approval of the Attorney General of the Republic of the Marshall Islands, may destroy all invoices, purchase orders, documents, and other records or papers on file with the Secretary of Finance or kept in his Department for a period of more than six (6) years (exclusive of permanent records) which in his opinion are no longer of any use or value. No records may be destroyed if exceptions remain uncleared and unresolved with the Auditor General's office or if the documents are the subject of



an audit already undertaken but not yet completed. [P.L. 1990-81, §35.]

**§136. Destruction of checks, bonds and interest coupons.**

The Secretary of Finance and the Minister of Finance may supervise and conduct the destruction by burning, machine shredding, chemical disintegration or any other method of disposal deemed acceptable to them, of all checks and items of the Government of the Republic of the Marshall Islands which have been paid and which bear any date six (6) years prior to the date of destruction. The Secretary of Finance and the Minister of Finance may also supervise and conduct the destruction by burning, machine shredding, chemical disintegration, or any other method of disposal deemed acceptable to them, of bonds and interest coupons issued by the Marshall Islands which have been paid and which bear any date two (2) years prior to the date of destruction; provided, that the Secretary of Finance may appoint the fiscal agent for the bond issue to supervise and conduct the destruction of bonds and interest coupons issued by the Republic of the Marshall Islands which have been paid and which bear any date two (2) years prior to the date of destruction. The fiscal agent so appointed shall submit reports as required by the Secretary of Finance. [P.L. 1990-81, §36.]

**§137. Examination before destruction.**

Before the checks, items, bonds, and interest coupons are destroyed, the Secretary of Finance or the fiscal agent appointed pursuant to Section 136 of this Chapter shall conduct such examination and investigation as is necessary to determine that the checks and items to be destroyed bear a date six (6) years prior to the date of destruction and that the bonds and interest coupons bear any date two (2) years prior to the date of destruction. [P.L. 1990-81, §37.]

**§138. Regulations.**

The Secretary of Finance, with the concurrence of the Minister of Finance, shall adopt such regulations in accordance with this Chapter as are necessary to carry out the objectives and provisions of this Chapter, and for the more effectual record, check, and audit of all receipts and disbursements of public monies. [P.L. 1990-81, §38.]

DIVISION 2- PAYMENTS INTO TREASURY

**§139. Appointed collectors; duties.**

The Secretary of Finance shall appoint persons, who shall be known as “appointed collectors,” who shall have the duty of collecting or receiving revenue or other monies on account of the Republic of the Marshall Islands. The appointed collectors shall perform all such duties and render such accounts as this Chapter prescribes, and as the Secretary of Finance shall from time to time direct. [P.L. 1990-81, §39.]

**§140. Payments by appointed collectors.**

Every appointed collector collecting or receiving revenue or other monies in the Republic of the Marshall Islands shall pay daily and intact to the Revenue and Taxation Division of the Finance Department all sums of money collected or received by him on account of the revenue or otherwise. [P.L. 1990-81, §40.]

**§141. Payments by Revenue and Taxation Division.**

The Chief of the Revenue and Taxation Division of the Finance Department, or his designee, shall pay to the Treasurer, or the Treasurer's designee, on the day following the day of receipt, all sums of money collected or received by him on account of the revenue or otherwise. For all monies paid by an appointed collector to the Chief of the Revenue and Taxation Division of the Finance Department, or his designee, there shall be prepared a cash transmittal receipt in the form and in the number of copies determined by the Secretary of Finance as provided in Section 143 of this Chapter. The receipt shall specify the information required by the Secretary of Finance for proper verification of the amount paid to the Chief of the Revenue and Taxation Division of the Finance Department, or his designee, by an appointed collector. The receipt shall be countersigned by the Chief of the Revenue and Taxation Division of the Finance Department, or his designee, after writing upon its face the day of its delivery to him. The Chief of the Revenue and Taxation Division of the Finance Department, or his designee, shall delivery a copy of the receipt to the appointed collector paying the money to him. No receipt shall be considered valid or binding as against the Government of the Republic of the Marshall Islands, unless so countersigned as provided in this Chapter. [P.L. 1990-81, §41.]

**§142. Powers in examination.**

In the examination of all accounts and statements of the Republic, and all other documents produced as invoices, purchase orders or other required documentation, the Secretary of Finance may make such queries and observations addressed to appointed collectors, officers certifying accounts, or persons in any way concerned with the receipt or disbursement of the monies or funds referred to in this Chapter, and shall call for such further accounts, invoices, statements, and explanations as he may think necessary. [P.L. 1990-81, §42.]

**§143. Receipts and payments.**

For all monies paid into the Treasury there shall be prepared a cash transmittal receipt in the form and in the number of copies determined by the Secretary of Finance as provided in Section 131 of this Chapter. The receipt shall specify the information required by the Secretary of Finance for the proper accounting of the amount paid into the Treasury. The receipt shall be countersigned by the Treasurer, or his designee. after writing upon its face the day of its delivery to him. The Treasurer, or his designee, shall deliver a copy of the receipt to the person or official paying the money into the Treasury, and shall deliver a copy to the Secretary of Finance. The Treasurer shall retain the original receipt, charging himself with the amount specified therein, and crediting the fund or account named thereon. No receipt shall be considered valid or binding as against the Republic of the Marshall Islands, unless so countersigned as provided in this Chapter. [P.L. 1990-81, §43.]

DIVISION 3- CHECKS AND ITEMS; PAYMENTS OUT OF TREASURY

**§144. Money drawn only on checks and items.**

No money may be drawn from or out of the Treasury except upon checks or items issued or duly authorized from the Finance Department. Every such check or item shall be signed or duly

authorized by any two (2) or four (4) signatories authorized by the Secretary of Finance or by means of any mechanical check signer that may be adopted by the Secretary of Finance, and shall be made payable upon such date as may be approved by the Secretary of Finance to the order of the person to whom the Republic of the Marshall Islands is directly indebted. [P.L. 1990-81, §44.]

**§145. Salary and pension checks.**

All salary and pension checks shall be signed by the Secretary of Finance, or his designee, payable to each individual to whom the Republic of the Marshall Islands is directly indebted, except as provided for in Section 148 of this Chapter, and the checks shall be receipted for. [P.L. 1990-81, §45.]

**§146. Checks for supplies; incidentals.**

(1) For vendors located in the Republic of the Marshall Islands, checks for bills of materials, supplies, and incidentals of every kind and character, shall be made payable to the order of each individual person to whom the Republic of the Marshall Islands is indebted, except as provided in Section 148 of this Chapter, but only after an invoice and purchase order shall have been presented to the Secretary of Finance accompanied by any other supporting document as may be required by the Secretary of Finance. The original invoice shall be certified to by the procurement and supply officer of the Republic that all the materials, supplies, and incidentals have been received in good order and condition. However, such certification by the procurement and supply officer shall not in any way prejudice any claim by the Republic for defects or appropriateness of such materials, supplies and incidentals.

(2) For vendors located outside of the Republic, the procedures for payment of bills described in Subsection (1) of this Section shall also apply, except that the Secretary of Finance may, under extraordinary circumstances, issue a check or item in payment of materials, supplies and incidentals prior to certification of receipt by the procurement and supply officer, provided, that the following conditions have been met:

- (a) a written request for prepayment was made prior to the issuance of the purchase order;
- (b) justification for prepayment, in writing, was provided to show that such prepayment was necessary in order to obtain the required goods or derive a substantial savings in cost; and
- (c) the Secretary of Finance determined, based on the request and justification, that a prepayment was necessary to obtain the required goods or derive a substantial savings in cost. [P.L. 1990-81, §46.]

**§147. Checks on account of contracts.**

All checks for bills on account of contracts entered into by the Republic of the Marshall Islands shall be made payable to the order of the person to whom the Republic of the Marshall Islands is directly indebted, except as provided in Section 148 of this Chapter, and only after the Secretary of Finance shall have been presented with a certification by the appropriate officer of the Republic of the Marshall Islands supervising the work performed, or receiving the materials and supplies as specified in the contracts, that the work has been faithfully performed and that the materials and supplies were in a good and merchantable condition when received. [P.L. 1990-81, §47.]

**§148. In favor of assignees.**

No assignment of monies by a person to whom the Republic is directly indebted shall be effective unless the assignment is first approved by the Secretary of Finance. The Secretary of Finance may prescribe the form for an assignment, and may approve the assignment within a reasonable time period if, in his discretion, the rights or obligations of the Republic of the Marshall Islands under any contract or other undertaking or under any law, rule, or order by a competent authority will not be prejudiced thereby. Upon approval of the assignment, the Secretary of Finance shall issue a check payable to the assignee. A reasonable administrative fee, as determined by the Secretary of Finance, may be charged to the assignee and such charge shall offset and reduce the amount of any check payable to the assignee. [P.L. 1990-81, §48.]

**§149. Lapse of appropriations.**

Unless otherwise provided by law, all sums of money which are appropriated to the public service for any fiscal period, and which are not encumbered during the period, shall lapse. All sums of money which are appropriated to the public service for any fiscal period, and which are encumbered but not expended during the period may be paid in any future fiscal period to the particular service for which the appropriation has been so made, without further action or appropriation by the Nitijela. [P.L. 1990-81, §49.]

**§150. Non-presentment of checks and items.**

Any check or item drawn upon the Treasury shall be presented at a bank for payment within twelve (12) months from the date of issue. All checks or items not so presented within such time shall be deemed void and the amount of such check or item shall be credited to a liability account; provided that within the period of three (3) fiscal years immediately following the year in which an amount of money was so credited to the liability account, the payee or assignee of such check or item, or, if the payee is deceased, the personal representative of the estate of the payee, or if the estate of the payee is closed, to any person lawfully entitled to the un-disposed property of the deceased payee, upon filing with the Secretary of Finance a claim for recovery and any supportive evidence required by the Secretary of Finance, shall be paid the amount of such check or item out of the liability account. There shall be no liability for unclaimed checks or items after three (3) years and the Secretary shall credit the amount from such checks back to the General Fund; provided that, in the case of United States Federal Programs, the Secretary shall refund such amounts to the appropriate Federal Agency. [P.L. 1990-81, §50.]

DIVISION 4- MISCELLANEOUS PROVISIONS

**§151. Petty cash funds; regulations.**

(1) Whenever the head of any department or agency of the Republic of the Marshall Islands deems it necessary to have a petty cash fund for the proper transaction of the business of his agency, he shall make written application therefor to the Secretary of Finance setting forth the details covering the purposes and uses of and for the fund. The Secretary of Finance, before issuing a check for such purpose, shall determine whether or not the business of such agency warrants the

establishment of such a fund, and if he is satisfied that such fund is necessary, he shall issue a check to such agency for such amount as he shall determine, not to exceed, however, the sum of five hundred dollars (US \$500).

(2) The Secretary of Finance may prescribe such rules and regulations as he deems necessary for the proper administration and accountability of these funds. [P.L. 1990-81, §51.]

DIVISION 5- ENFORCEMENT; PENALTIES

**§152. Examining persons and documents.**

The Secretary of Finance may, by precept under his hand in the form contained in Section 153 of this Chapter, require all such persons as he may think fit to appear personally before him at any time and place to be named in the precept, and to produce to him all such accounts, books, and papers in the possession or control of these persons as shall appear to be necessary for the purpose of their examination. The Secretary of Finance may cause search to be made and extracts to be taken from any book, paper or record in the custody of any public officer without paying any fee for the same; and every officer having the custody of any book, paper or record shall make such search and furnish such extracts as thereto requested. [P.L. 1990-81, §52.]

**§153. Form of notice to appear for examination.**

To \_\_\_\_\_:

By virtue of the authority vested in me by the Financial Management Act 1990, you are hereby required to appear before me at \_\_\_\_\_ on \_\_\_\_\_ and to bring with you for the purpose of examination a certain book (or as the case may be) and to be examined by and before me touching and concerning matters required to be investigated by me pursuant to the provisions of the Financial Management Act 1990. Witness my hand this \_\_\_\_\_ day of 19 \_\_\_\_\_

\_\_\_\_\_  
Secretary of Finance. [P.L. 1990-81, §53]

**PART V - DEPOSITS OF PUBLIC FUNDS**

**§154. Authorized; conditions.**

(1) All monies in the National Treasury shall be deposited by the Secretary of Finance to the credit of the Republic of the Marshall Islands in any depository which the Secretary of Finance may select. Any sums so deposited shall be deemed to be in the National Treasury. The Secretary of Finance shall consider the safety and liquidity of the sums to be deposited in the depository and the yield offered by the depository prior to the selection of the depository. In the case of amounts on deposit which would not be required for expenditure for at least three (3) months, the Secretary of Finance may place these funds on time deposit on such terms and at such rates of interest as may be allowed by a depository to other depositors. All deposits of money, except time deposits, shall be available on demand by a request signed by at least two (2) authorized government officials who have signature authority over the account.

(2) The Treasurer shall deposit in a depository, daily and intact, all monies received into the

National Treasury. [P.L. 1990-81, §54.]

**§155. Interest.**

Any interest received on any money deposited by the Secretary of Finance under this Part shall be paid into and credited to the Marshall Islands General Fund. [P.L. 1990-81, §55.]

**PART VI- RECOVERY OF MONEY OWED TO THE GOVERNMENT**

**§156. Purpose.**

The purpose of this Part is to permit the retention of any sums otherwise payable by the Government of the Republic of the Marshall Islands to any person owing a debt to the Government. [P.L. 1990-81, §56.]

**§157. Setoff against payment.**

The Government of the Republic of the Marshall Islands, through the Department of Finance, shall setoff any debt due an agency against any payment due a debtor. Any amount of the payment in excess of the debt shall be remitted to the debtor. [P.L. 1990-81, §57.]

**§158. Hearings; appeals.**

At the time a setoff is identified, the debtor shall be notified in writing by the Secretary of Finance of the Government of the Republic of the Marshall Islands' intention to apply the payment toward settlement of the debtor's debt. The notice shall state that the debtor, within thirty (30) days of the delivery of the notice, may request a hearing before the claimant agency to contest the setoff. The Marshall Islands Administrative Procedure Act 1979(6 MIRC 1), shall apply to any such hearing, which shall be treated as a "contested case," as defined in that Act, and shall also apply to any appeals taken therefrom. No issues which have previously been the subject of judicial proceedings or a contested case shall be considered at the hearing. [P.L. 1990-81, §58.]

**§159. Setoff; credit on debt.**

Upon completion of the hearing process provided for in Section 158 of this Chapter, and any appeals therefrom, or upon the debtor's failure to timely request a hearing pursuant to that Section, the setoff shall become final and the amount of the setoff shall be credited by the claimant agency against the debtor's debt. [P.L. 1990-81, §59.]

**§160. Apportionment of joint payments.**

If a payment shall be jointly due a debtor and the debtor's spouse, the payment shall be divided in proportion to the gross earnings of each spouse as shown to the satisfaction of the Secretary of Finance and the setoff shall be made against only that proportion of the payment allocable to the debtor spouse. [P.L. 1990, §60.]

**§161. Salary withheld for indebtedness to Government.**

(1) In case any officer, agent, employer or other person in the service of the government shall owe any debt to any claimant agency, the government, through the Department of Finance, shall setoff the amount of such debt against the salary, wages or compensation due the debtor. At the time

such a setoff is identified, the debtor shall be notified by the Secretary of Finance of the government's intention to apply such salary, wages or compensation to payment of the debtor's debt. The notice shall state that the debtor, within thirty (30) days of delivery of the notice, may request a hearing before the claimant agency to contest the setoff. The Marshall Islands Administrative Procedure Act 1979 (6 MIRC 1), shall apply to any such hearing, which shall be treated as a "contested case" as defined in that Act, and shall also apply to any appeals taken therefrom. No issues which have previously been the subject of judicial proceeding or a contested case shall be considered at the hearing.

(2) Subsection (1) of this Section shall not apply where the officer, agent, employee or other person in the service of the government has signed an agreement permitting the Secretary to withhold debts due from his salary, wages, fees and other compensation. [P.L. 1990-81, §61.]

**§162. Setoff; withholding.**

Upon completion of the hearing process provided for in Section 161 of this Chapter, and any appeals therefrom, or upon the debtors' failure to timely request a hearing pursuant to that Section, the setoff shall become final and the Secretary of Finance shall withhold from the salary, wages or other compensation due the debtor from time to time an amount equal to the maximum legally permissible amount deductible under garnishment law until such time that the total debt owing, including any penalties and interest thereon, is fully paid. [P.L. 1990-81, §62.]

**§163. Prerequisite for final settlement of contracts with the Government.**

All government officers and agents making contracts on behalf of the Government shall withhold payment in the final settlement of the contracts until the receipt of a certificate from the Secretary of Finance that any taxes accrued and unpaid and any debt due from the person to whom payment under the contract is due have been fully paid. [P.L. 1990-81, §63.]

**§164. Debts due public corporations.**

The Secretary of Finance may provide, by regulation, for the recovery of debts due public corporations in the same manner as is provided in this Part for recovery of debts due a claimant agency. [P.L. 1990-81, §64.]

**§165. Rules.**

The Secretary of Finance may adopt rules, pursuant to the Marshall Islands Administrative Procedure Act 1979 (6 MIRC 1), to carry out the purposes of this Part. [P.L. 1990-81, §65.]

**§166. Procedure not exclusive.**

The procedures authorized by this Part are in addition to and not in substitution of any other remedy available by law. [P.L. 1990-81, §66.]

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