

Public Safety Act 1988 [5 MIRC Ch 5]

5 MIRC Ch 5

MARSHALL ISLANDS REVISED CODE 2004

TITLE 5 - PUBLIC OFFICES AND AGENCIES

CHAPTER 5.

PUBLIC SAFETY

ARRANGEMENT OF SECTIONS

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An Act to provide for the establishment of a Department of Public Safety, Police Force and Prisons and to specify the powers and functions of the officers of the Force and Prisons and for matters connected therewith.

Commencement: October 24, 1988
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 P.L. 1991-143

 P.L. 1992-15
 P.L. 1993-75
 P.L. 1994-99
 P.L. 2001-42

PART I – PRELIMINARY

§501. Short title.

This Chapter may be cited as the [Public Safety Act 1988](#). [P.L. 1988-17, §1]

§502. Interpretation.

In this Chapter the words:

- (a) 'Commissioner' means the Commissioner of Public Safety appointed under [Section 508\(1\)](#) of this Chapter;
- (b) 'Force' means the Police Force established under [Section 503\(2\)](#) of this Chapter;

- (c) 'Minister' means the Minister for the time being in charge of the subject, justice;
- (d) 'parole' means conditional and revocable release of a prisoner serving an unexpired sentence in prison;
- (e) 'Probation Officer' means a Probation Officer appointed under [Section 530](#) of this Chapter;
- (f) 'regulations' means regulations made under [Section 541](#) of this Chapter;
- (g) 'Superintendent' means Superintendent of Prisons appointed under [Section 526](#) of this Chapter;
- (h) 'vessel' means any boat, yacht, lighter, barge, ship or other floating craft of any description.
- (i) 'Fund' means the Sea Patrol Fund established under [Section 564](#) of this Chapter. [P.L. 1988-17, §2, amended by P.L 1991-143, §3(2); P.L. 1993-75, §2.]

PART II- DEPARTMENT OF PUBLIC SAFETY

DIVISION1- ESTABLISHMENT OF DEPARTMENT

§503. Establishment of the Department of Public Safety.

- (1) There shall be established in the Marshall Islands a Department called the Department of Public Safety, hereinafter referred to as the 'Department'.
- (2) The Department shall consist of a Police Force, hereinafter referred to as the 'Force' under which shall have sub-divisions called the Fire Department, and at the discretion of the Minister, a Sea Patrol Division and a separate division called the Prisons Division. [P.L. 1988-17, §3.]

§504. Head of the Department.

The Commissioner of Public Safety shall be the head of the Department and shall be in charge of the administration of the Department. [P.L. 1988-17, §4.]

§505. Functions of the Force.

The Force shall be deployed in and throughout the Marshall Islands for the maintenance of law and order, the preservation of the peace, the protection of life and property, the prevention and detection of crime and the enforcement of laws and regulations. And the Force shall be entitled, in accordance with the regulations, for the performance of such duties, to carry Department firearms. [P.L. 1988-17, §5.]

§506. General Powers of the Commissioner.

The Commissioner shall have the command, superintendence and direction of the Force and may

from time to time make orders for the general management and control of officers in relation to their discharge, training, firearms, clothing and equipment, classification and grading of services, as well as their distribution and inspection and such other orders as he may deem expedient for preventing neglect and for promoting efficiency and discipline on the part of the officers in the discharge of their duties. [P.L. . 1988-17, §6.]

§507. Administration of the Force.

(1) The administration of the Force throughout the Marshall Islands shall be vested in the Commissioner.

(2) The control of the Force in any place shall be vested in such officer as may be appointed by the Commissioner to be in charge thereof; and such officer shall be subordinate to and carry out the orders of the Commissioner in all matters connected with discipline and training of the members of the Force under him and for the prevention, detection and enforcement of crime. [P.L. 1988-17, §7]

DIVISION 2- APPOINTMENT, ENROLLMENT, SERVICE AND DISCHARGE

§508. The Commissioner of Public Safety.

(1) There shall be a Commissioner of Public Safety who shall be appointed by the Minister, with the approval of the Cabinet. He may be removed by the Minister, in the same manner, with or without cause.

(2) Police Officers of the ranks of Captain, Sergeant and Policeman, and civilians of the Force shall be appointed by the Commissioner in consultation with the Minister. [P.L. 1988, §17 & §8]

§509. Oath of Office.

Every member of the Force shall on being enrolled make and sign before the Commissioner an oath or an affirmation as may be prescribed by regulations. [P.L. 1988-17, §9]

§510. Resignation.

Any officer of or below the rank of Captain may resign from the Force at anytime by giving two months notice in writing of his intention to do so to the commission; provided, that in any case the Commissioner may in his discretion waive the period of notice to be given. [P.L. 1988-17, § 10.]

§511. Discharge.

Any officer of the Force may be discharged by the Minister, on the recommendation of the Commissioner, at any time if:

- (a) the Minister considers that he is unlikely to become or has ceased to be an efficient officer;

(b) he is pronounced by a Medical Officer to be mentally or physically unfit for further service;

(c) the Minister considers his discharge is necessary and in the public interest; or

(d) he is convicted of a felony or crimes of moral turpitude. Provided, that no officer shall be discharged unless he has been given two weeks notice in writing of the intention to so discharge or two weeks salary in lieu of such notice. [P.L. 1988-17 §11.]

§512. Return of state property upon ceasing to be a member of the Force.

(1) When an officer ceases to be a member of the Force, he shall forthwith deliver up to the Commissioner or to the officer in charge of the police at the place where he was last stationed all firearms, ammunition, uniforms and other equipment which have been supplied to him which are the property of the Government.

(2) Any officer who, having ceased to belong to the Force, without probable cause, fails to deliver up any firearms, ammunition, uniforms or other appointments as required by this Section, shall be guilty of an offense and upon conviction before the High Court, be liable to a fine not exceeding \$500 or to a term of imprisonment not exceeding six (6) months. In addition, the Court shall issue a warrant to search and seize all such arms, ammunition, uniforms or other appointments which have not been delivered. [P.L. 1988-17, §12.]

DIVISION 3- POWERS AND DUTIES OF POLICE OFFICERS

§ 513. Other employment.

A Police Officer shall not, except with the written consent of the Commissioner, engage in any outside or off duty employment or office whatsoever other than in accordance with his duties under this Chapter. [P.L. 1988-17, §13.]

§514. General powers and duties.

(1) Every Police Officer shall exercise such powers and perform such duties as are by law conferred or imposed on a Police Officer, and shall obey all lawful directions with respect to the execution of his office which he may from time to time receive from his superiors in the Force.

(2) Every Police Officer shall be deemed to be on duty at all times and may from time to time be detailed for duty in any part of the Marshall Islands.

(3) It shall be the duty of every Police Officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate information affecting the public peace, to prevent the commission of offenses and public nuisances, to detect and bring offenders to Justice, and to apprehend all persons whom he is legally authorized to apprehend and for whose apprehension sufficient grounds exist.

(4) It shall be lawful for every Police Officer to prevent, detect and apprehend all persons who are attempting to commit or committing an offense under any law, whether any enforcement or investigating authority is appointed under such law or not.

If any Police Officer prevents, detects or apprehends any person attempting to commit or committing an offense, it shall be his duty to refer, all goods and material taken into custody and persons apprehended to the nearest enforcement or investigating authority under the law. [P.L. 1988-1 7§14.]

§515. Powers to take photographs, etc. and methods of identification.

(1) The officer in charge of a police station may cause to be taken, for use and record with the police registry, photographs, descriptions, measurements and finger prints of any person in lawful custody for any offense punishable by imprisonment whether accused or convicted.

(2) It shall be unlawful for any Police Officer to use unreasonable force to enable such methods of identification as aforesaid to be taken, if any person in lawful custody as aforesaid refuses to submit in a proper manner to the methods of identification aforesaid. [P.L. 1988-17, §15]

§516. Power to collect evidence.

It shall be lawful for a Police Officer to take such tests and collect such samples, like Breathalyzer tests and blood samples for the proper investigation of crime. [P.L. 1988-17, §16.]

§517. Duty to keep order on Public Roads.

(1) It shall be the duty of Police Officers

(a) regulate and control traffic;

(b) divert all or any particular kind of traffic when in the opinion of a Police Officer it is in the public interest to do so;

(c) keep order on public roads, streets, thoroughfares and landing places, and at other places of public resort or places to which the public has access;

(d) prevent obstructions by trailers and other heavy vehicles on public roads, streets, thoroughfares and other public places; and

(e) prevent obstructions on the occasion of assemblies and processions on the public roads and streets, and in any case when any road, street thoroughfare or landing place may be liable to be thronged or obstructed. [P.L. 1988-17, §17.]

DIVISION 4- FIRE DIVISION

§518. Functions.

(1) The Fire Division shall be primarily responsible for the protection of life and property from hazards of fire.

(2) The Division shall be in the charge of a Captain of the Force, who will be designated as the Chief of the Fire Division, who shall act under the command and guidance of the Commissioner. [P.L. 1988-17, §18]

§519. Duties of the Division.

(1) It shall be the duty of the Fire Division, either on information received or on its own motion to take all necessary steps to protect life and property at its earliest opportunity from the hazards of fire.

(2) The Fire Division shall be entitled to possess and maintain all necessary fire fighting equipment for the efficient and proper functioning of the Division. [P.L. 1988-17, §19]

§520. Power of officers to enter and break open premises.

Any officer of the Division may enter and if necessary break into any building that is or is reasonably supposed to be on fire, or any building or land adjoining or near thereto, without the consent of the owner or occupier thereof, and may do all such acts and things as he may deem necessary for extinguishing the fire in any such building or for protecting the same or rescuing a person or property therein from fire. [P.L. 1988-17, §20.]

§521. Power to restrict public from places of fire.

(1) It shall be lawful for any Police Officer of the Division to cordon off any area which in his opinion is not safe for the public and to restrict and prohibit any person entering the area without authority. He may also evacuate any person from any house or building in or around the area of fire for better security or safety of such person.

(2) Every person, who fails to obey any lawful order or who obstructs the due performance of the duties of an officer under this Section shall be guilty of an offense and shall upon conviction before the High Court, be liable to a fine not exceeding \$500 or to a term of imprisonment of not exceeding six (6) months, or both. [P.L. 1988-17, §21.]

DIVISION 5- SEA PATROL DIVISION

§522. Functions.

The Minister may, if he deems necessary, establish a Sea Patrol Division of the Force for the prevention and detection of crime and for the enforcement of laws and regulations outside the land area and within the territorial waters or other areas or zones of the sea as provided by law. [P.L. 1988-17, § 22.]

§523. Powers of Sea Patrol Division.

(1) Where any Police Officer has reason to believe or suspect that any boat or vessel is attempting to commit or is in the act of committing or has committed any offense, it shall be lawful for such officer to:

(a) give such orders, directions or signals, or to use such devices, or to take such other measures, as may be necessary to stop the boat or vessel or to cause it to be halted;

(b) enter, inspect and search the boat or vessel;

(c) arrest any person against whom a reasonable suspicion exists; and

(d) to seize any boat or vessel including all goods therein.

(2) If any Police Officer arrests any person or seizes any boat or vessel under Subsection (1) of this Section, it shall be his duty to refer such person arrested and boat or vessel seized, to the nearest enforcement or investigating authority, if under the law. [P.L. 1988-1 7, §23]

§524. Equipment of the Division.

The Sea Patrol Division shall be entitled to possess, carry and maintain boats and vessels, guns and ammunition and all other equipment and material necessary for the efficient and proper functioning of the Division. [P.L. 1988-1 7, §24]

PART III - PRISONS DIVISION

§525. Establishment of Prisons.

(1) The Minister may by notice declare any building or part of a building to be a prison for the purposes of this Chapter.

(2) The Superintendent of Prisons may, at his discretion transfer prisoners from one prison to prevent overcrowding, for security, or for any other reason. [P.L. 1988-17, §25.]

§526. Superintendent of Prisons.

The Minister may appoint an officer as the Superintendent of Prisons in whom shall vest the general supervision and control of all prisons. The Commissioner of Public Safety shall act as the Superintendent of Prisons until such time as a Superintendent is appointed under this Section. [P.L. 1988-1 7, §26.]

§527. Other Officers.

(1) The Minister may also appoint such subordinate officers in such ranks in prisons as he may deem fit.

(2) Where the Minister finds that the number of subordinate officers employed in a prison is insufficient to secure proper management and security, or until such time such officers are appointed, he may, in consultation with the Commissioner, employ such number of Police Officers as he may consider to be necessary to perform the duties of such officers in such prison. [P.L. 1988-17, § 27]

§528. Prison Officers to have powers of Police Officers.

For the purpose of conveying any person to or from a prison, or for the purpose of apprehending a prisoner who may have escaped, every Prison Officer while engaged in such duty shall have all powers, protection and privileges of a Police Officer. [P.L. 1988-1 7, §28.]

§529. Corrections and Parole.

(1) It shall be the duty of the Superintendent of Prisons to take every step and make every endeavor for the correction and rehabilitation of prisoners.

(2) The Prison Officer shall maintain individual records of all prisoners, who are sentenced to serve and the records shall reveal the prisoners' conduct and behavior in prison. [P.L. 1988-17, §29.]

§530. Probation Officer.

(1) The Minister may appoint a Probation Officer to be attached to any prison who shall have access to the prisons, prisoners and all records relating to prisoners at all times during the day.

(2) It shall be the duty of the Probation Officer to visit and interview all prisoners and take all possible steps to correct and rehabilitate them. [P.L. 1988-17, §30.]

§531. Parole of Prisoners.

(1) The Probation Officer may, upon application by the prisoners and subject to the provisions of any other law or to the regulations made under this Chapter or any other Act, recommend the conditional release of prisoners, who in the opinion of the Probation Officer, are suitable for such release.

(2) The report of the Probation Officer recommending such release shall state reasons for such release and be submitted to the Superintendent of Prisons who along with his recommendation shall forward the same to the Parole Board.

(3) As used in this Part, the term 'Parole Board' means the Parole Board established under the [Parole of Prisoners Act of 2001](#). [P.L. 1988-17, §31][amended by P.L. 2001-42 §2 Oct 18, 2001]

§532. Conditional release.

The Parole Board may, subject to such terms and conditions as may be prescribed in any other law or applicable regulations for granting of parole, and acting on the report and recommendations referred to in [Section 531](#) of this Chapter, either release the prisoner on parole as recommended or release the prisoner subject to such terms and conditions as it may deem fit, or decline to grant parole to the prisoner.' [P.L. 1988-17, §32.][amended by P.L. 2001-42 §2 Oct.18, 2001]

PART IV - DISCIPLINE

§533. Offenses by Police Officers and Prison Officers.

(1) Any Police Officer or Prison Officer who:

(a) willfully disobeys any lawful command;

(b) is drunk while on duty, or takes any intoxicants or harmful drugs while on duty:

- (c) uses or offers any violence against his senior officers or uses threatening or insubordinate language on his senior officer;
- (d) absents himself without leave;
- (e) sleeps while on duty, or leaves his post without authority;
- (f) idles or gossips when on duty;
- (g) neglects or refuses to apprehend or assist the apprehension of any suspect or prisoner whom it is his duty to arrest;
- (h) allows any suspect or prisoner to escape who is committed to his charge or whom it is his duty to keep or charge;
- (i) assaults or harasses any person in his custody;
- (j) uses any firearm without just cause or order;
- (k) without cause fails to appear or appears late for duty;
- (l) sells, loses by neglect, makes away with, willfully damages, or fails to report any damage to any arms, ammunition, clothing, articles or necessaries supplied to him;
- (m) solicits or accepts any gratuity, present, reward or favor from any member of the public with respect to anything done or to be done by him in the discharge of his duties of his office;
- (n) does not keep his ammunition, equipment or clothing clean;
- (o) without authority discloses or conveys any information concerning any investigation or official matters;
- (p) is guilty of willful misconduct;
- (q) makes any false statement in relation to his duties;
- (r) makes a false accusation against a fellow officer, knowing or having good reason to believe such accusation to be false;
- (s) is guilty of any other act, conduct, disorder or neglect which is adverse to good order and discipline; shall be deemed to have committed an offense against discipline.

(2) Regulations may be made prescribing the conduct of disciplinary proceedings, imposition of punishments and other matters relating to discipline. [P.L. 1988-17, §33]

§534. Not to exclude powers of court.

Nothing in [Section 533](#) of this Chapter, shall be construed to exempt any officer from being proceeded against for any offense under the ordinary course of the law. [P.L. 1988-17, §34.]

§535. Dismissal or reduction in rank.

The Minister may reduce in rank or grade or may dismiss any officer who has been convicted by the court with respect to any offense whether under this Chapter or otherwise. [P.L. 1988-17, §35.]

§536. Loss or damage to be recovered from salary.

If any officer sells, loses by neglect, makes away with or willfully damages any firearms, ammunition, clothing, articles or appointments supplied to him or any government property committed to his charge, he may in addition to or in lieu of any other punishment, be ordered to make good the amount of such loss or damage, and such amount may be recovered from his salary. [P.L. 1988-17, §36]

PART V - GENERAL

§537. Power to prosecute under other laws.

Nothing in this Chapter shall exempt any person from being proceeded against under any other Act or law, with respect to any offense punishable by this Chapter, or from being liable under any other Act or Law to any other or higher penalty or punishment than is provided for such offense by this Chapter; provided, that no person shall be punished twice for the same offense. [P.L. 1988-17, §37.]

§538. Duty to assist police.

It shall be lawful for any Police Officer to call upon any person to assist him if, while acting in the execution of his duty, he is assaulted or resisted or obstructed, or in danger of being assaulted or resisted or obstructed. [P.L. 1988-17, §38.]

§539. Immunity.

No suit or prosecution shall lie against any Police Officer or Prison Officer for any act which in good faith is done or purported to be done under this Chapter. [P.L. 1988-17, §39.]

§540. Restrictions in joining Associations.

Regulations may be made, in accordance with Article II, Section 1(2) of the Constitution of the Marshall Islands, restricting the time, place or manner of conduct of any Association or Union by Police Officers. [P.L. 1988-17, §40.]

§541. Regulations.

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Chapter.

(2) In particular and without prejudice to the generality of the powers conferred by Subsection (1) of this Section, the Minister may make regulations for or with respect to all or any of the following matters:

- (a) the numerical establishment of the Force and Prison Officers, the conditions of service therein and for various grades, ranks and appointment therein;
- (b) the duties to be performed by the members of the Force and Prison Officers;
- (c) the description and issue of firearms, ammunition, material, uniforms and necessaries to be supplied under this Chapter;
- (d) the discipline of the members of the Police Force and Prison Officers;
- (e) the safe custody, management, organization, hours, mode and kind of labor and employment, clothes, maintenance, instruction, discipline, treatment, restraint, correction, parole and discharge of prisoners;
- (f) the mode and method of recruitment, the procedure to be adopted in disciplinary matters, transfer, punishment, and dismissal, of all officers and employees;
- (g) all other matters stated or required by this Chapter to be provided or prescribed by regulation;
- (h) with respect to the Sea Patrol Division, regulations concerning discipline and disciplinary procedures, responsibility for equipment, operation of vessels, shore base and communications, log book entries, vessel boarding and port procedures, care of seized vessels and persons, and all other matters concerning general sailing orders.

(3) Notwithstanding the provisions of the Administrative Procedure Act 1979, regulations made under the provisions of this Chapter shall be valid and effective upon approval by the Cabinet. **[P.L. 1988-17, §41]**

PART VI - UNDERCOVER INVESTIGATIONS DIVISION

§542. Functions.

There shall be established in the Republic the Undercover Investigations Division to:

- (a) conduct undercover investigations of sensitive matters including, but not limited to, controlled substances such as narcotic drugs, national security, corruption in government, environmental law violations and trade in restricted or prohibited goods or tax evasion; and
- (b) conduct investigations into such other matters as may be determined by the President or the Cabinet. **[P.L. 1993-75, §3(42)]**

§543. Administration of the Division.

There shall be a Director of the Division who shall be appointed by the President with Cabinet

approval. The Director shall be the head of the Division in charge of administration. [P.L. 1993-75, §3(43).]

§544. General Powers of the Director.

The Director shall have the command, superintendence and direction of the Undercover Officers and may from time to time make orders for the general management and control of Undercover Officers in relation to their suspension, discharge, training, firearms, clothing and equipment, classification and grading of services and such other orders as the Director may deem expedient for preventing neglect and for promoting efficiency and discipline on the part of the Undercover Officers in the discharge of their duties. [P.L. 1993-75, §3(44).]

§545. Control of the Division.

Control of the Division shall be vested in such Chief Detective as may be appointed by the Director to be in charge thereof. The Chief Detective is the lead Undercover Officer and shall be subordinate to and carry out the orders of the Director in all matters connected with discipline and training of the members of the Division under him or her and for the prevention and detection of crime and enforcement of all laws and regulations of the Republic. [P.L. 1993-75, §3,(45)]

§546. Undercover Officers.

An Undercover Officer is anyone who is employed by the Director as an undercover investigations officer of the Division or who is deputized as such an officer by the Director or by anyone so employed by the Director. [P.L. .1993- 75, §3(46).]

§547. Oath of Office.

Every member of the Division shall on being enrolled make an oath or an affirmation stating, in essence, the member promises to uphold all laws and regulations of the Republic and abide by the duties set forth pursuant to this Chapter. [P.L. 1993-75, §3(47)]

§548. Other employment.

An Undercover Officer employed by the Division shall not engage in any outside or off duty employment or office whatsoever other than in accordance with his or her duties under this Chapter, except with the written consent of the Director. [P.L. 1993-75, §3(48)]

§549. General powers and duties of Undercover Officers

(1) Every Undercover Officer shall exercise such powers and perform such duties as are by law conferred or imposed on an Undercover Officer and shall obey all lawful directions with respect to the execution of his or her office which he or she may receive from superiors in the Division from time to time.

(2) Every Undercover Officer shall be deemed to be on duty at all times and may from time to time be detailed for duty in any part of the Marshall Islands.

(3) It shall be the duty of every Undercover Officer to promptly obey and execute all orders and warrants lawfully issued to him or her by any competent authority, to collect and communicate information affecting the public peace, to prevent the commission of offenses and public nuisances, to detect and bring offenders to Justice, to enforce all laws and regulations and to apprehend all persons whom he or she is legally authorized to apprehend and for whose apprehension sufficient grounds exist.

(4) It shall be lawful for every Undercover Officer to prevent, detect and apprehend all persons who are attempting to commit or committing a violation of any law or regulation, whether any enforcement or investigating authority is appointed under such law or not. If any Undercover Officer prevents, detects or apprehends any person attempting to commit or committing an offense, it shall be his or her duty to refer all goods and materials taken into custody and persons apprehended to the nearest enforcement or investigating authority under the law. [P.L. 1993-75, §3(49).]

§550. Duty of confidentiality.

(1) It shall be the duty of each Undercover Officer to keep strictly confidential all information and other evidence collected relating to matters deemed to be under investigation by the Director, unless confidentiality with respect to specific information or other evidence is waived with good cause by the Director. Confidential information may only be shared among Undercover Officers or the Director as needed to properly perform his or her duties.

(2) The Director and each Undercover Officer may not compel another employed Undercover Officer to divulge confidential information unless such information is necessary in order for that Director or other Undercover Officer to properly perform his or her duties. [P.L. 1993-75, §3(50).]

§551. Power to collect evidence.

It shall be lawful for an Undercover Officer to take such tests and collect such samples for the proper investigation. [P.L. 1993-75, §3(51)]

§552. Duty to assist.

It shall be lawful for any Undercover Officer to call upon any person to assist him or her while acting in the execution of his or her duties. [P.L. 1993-75, §3(52).]

§553. Immunity.

No suit or prosecution shall lie against any Undercover Officer for any act which in good faith is done or purported to be done under this Chapter. [P.L. 1993-75, §3(53)]

§554. Resignation

Any employed Undercover Officer may resign from the Division at anytime by giving two months notice in writing of his or her intention to do so to the Director, provided that in any case the Director may waive the period of notice to be given. [P.L. 1993-75, §3(54)]

§555. Discharge or suspension.

(1) Any employed Undercover Officer may be discharged by the Director at any time upon consultation with the President or his or her representative if:

(a) the officer divulges any confidential information to anyone without prior approval of the Director unless such disclosure is absolutely necessary under the circumstance;

(b) the Director considers he or she is unlikely to become or has ceased to be an efficient officer;

(c) he or she is pronounced by a Medical Officer to be mentally or physically unfit for further service;

(d) the Director considers discharge is necessary and in the public interest;

(e) the officer is convicted of a felony or crime of moral turpitude: or

(f) the officer otherwise conducts himself or herself in a manner unbecoming of such an officer. No such officer may be discharged unless he or she has been given two week's notice in writing of the intention to so discharge or two week's salary in lieu of such notice.

(2) Any employed Undercover Officer may be suspended without pay for a period of up to thirty (30) days or during the pendency of criminal proceedings, whichever is longer, at any time under any of the circumstances described in Subsection (1) of this section.

(3) Any other Undercover Officer may be suspended or discharged at any time by the Director or Chief Detective. [P.L. 1993-75, §3(55)]

§556. Discipline.

(1) Any Undercover Officer who:

(a) willfully disobeys an lawful command;

(b) is drunk while on duty, or takes any intoxicants while on duty;

(c) uses or offers any violence against his or her senior officers or uses threatening or insubordinate language on a senior officer;

(d) absents himself or herself without leave;

(e) sleeps while on duty, or leaves his or her post without authority;

- (f) unduly idles or gossips when on duty;
- (g) neglects or refuses to apprehend or assist the apprehension of any suspect or prisoner whom it is his or her duty to arrest.
- (h) allows any suspect or prisoner to escape who is committed to his or her charge or whom it is his or her duty to keep or charge;
- (i) assaults or harasses any person in his or her custody;
- (j) uses any firearm without just cause or order;
- (k) without cause fails to appear or appears late for duty;
- (l) sells, loses by neglect, makes away with, willfully damages or fails to report any damage to any arms, ammunition, clothing articles or necessaries supplied to him or her;
- (m) solicits or accepts any gratuity, present reward or favor from any member of the public with respect to anything done or to be done by him or her in the discharge of his or her duties of office;
- (n) does not keep his or her ammunition, equipment or clothing clean;
- (o) without authority discloses or conveys any information concerning any Investigation or official matters;
- (p) is guilty of willful misconduct;
- (q) makes any false statement in relation to his duties unless to persons outside the Division in the interest of confidentiality;
- (r) makes a false accusation against a fellow officer, knowing or having good reason to believe such accusation to be false; or
- (s) is guilty of any other act, conduct, disorder or neglect which is adverse to good order and discipline, shall be deemed to have committed an offense against discipline.

(2) The Director may make regulations prescribing the conduct of disciplinary proceedings, imposition of punishments and other matters relating to discipline.

(3) Nothing in this Chapter shall be construed to exempt any officer from being proceeded against for any offense under the ordinary course of the law. [P.L. 1993-75, §3(56,)]

§557. Unauthorized disclosure; criminal penalties.

Any person who is or at one time was an Undercover Officer or Director and who, without proper authority, discloses confidential information acquired in the course of his or her duties with respect to any matter deemed by the Director to be confidential in nature in accordance with this Chapter at the time of such disclosure shall be guilty of a crime and upon conviction shall be liable to a fine not exceeding \$100 or a term of imprisonment not exceeding (6) months, or both. [P.L. 1993-75, §3(57).]

§558. Restrictions in joining Associations.

Regulations may be made, in accordance with Article II, Section 1(2) of the Constitution of the Marshall Islands, restricting the time, place or manner of conduct of any Association or Union by Undercover Officers. [P.L. 1993-75, §3(58).]

§559. Return of state property upon ceasing to be a member of the Division.

(1) Upon ceasing to be a member of the Division, an Undercover Officer shall immediately deliver up to the Director or Chief Detective all equipment and materials which have been supplied to him or her which are the property of the Republic.

(2) Any person who, having ceased to belong to the Division, without justifiable reason fails to deliver up any all equipment and materials referred to in this section including, but not limited to firearms, ammunition and surveillance equipment or supplies shall, in addition to any other remedies or penalties under law, be guilty of an offense and upon conviction be liable to a fine not exceeding \$500 or a term of imprisonment not exceeding six (6) months. In addition, such person hereby irrevocably agrees to a reasonable search for and seizure of all such equipment and materials which have not been delivered at those places the Director reasonably believes such items may be located. [P.L. 1993-75, §3(59).]

§560. Loss or damage to be recovered from salary.

If any Undercover Officer sells, loses by neglect, fails to account for, makes away with or willfully damages any firearms, ammunition, clothing, articles or appointments supplied to him or her or any government property committed to his or her charge, he or she may be ordered to make good the amount of such loss or damage in addition to or in lieu of any other punishment, and such amount may be recovered from his or her salary. [P.L.1993-75, §3(60).]

§561. Expenditures for undercover investigations. Given that the Division investigates sensitive matters which requires confidentiality and that expenditures for such investigations will be required from time to time, it is the intention of the Nitijela that withdrawals for expenditures be kept confidential during an investigation. Therefore, notwithstanding the [Financial Management Act 1990](#), as amended, and any other applicable law or policy of the Republic:

(1) Funds out of the Division's budget or other such funds designated for the purpose of conducting undercover investigations may be withdrawn with the authority of the Director, who shall satisfy himself or herself that the withdrawals are made in accordance with the Chapter, and the Secretary of Finance, who shall satisfy himself or herself that such funds are available.

(2) A delegation under Article VII, Section 5(1), of the Constitution of the Republic of the Marshall Islands to expend funds for the purpose of undercover investigations is given to the Director or his or her designee.

(3) Any expenditures made pursuant to this section are subject to review by the Cabinet or Ministry of Finance, or audit by the Auditor General as provided for under law, upon completion of the matter under investigation. [P.L. 1993-75, §3(61).]

§562. Regulations.

(1) The Director may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Chapter.

(2) In particular and without prejudice to the generality of the powers conferred by Subsection (1) of this Section, the Director may make regulations for or with respect to all or any of the following matters:

(a) the numerical establishment of the Division, the conditions of service therein and for various grades, ranks and appointments thereunder;

(b) the duties to be performed by the members of the Division;

(c) the description and issue of firearms, ammunition, material, uniforms and necessaries to be supplied under this Chapter;

(d) the discipline of the members of the Division;

(e) the mode and method of recruitment, the procedure to be adopted in disciplinary matters, transfer, punishment and dismissal of all officers and employees;

(f) all other matter stated or required by this Chapter to be provided or prescribed by regulation.

(3) Notwithstanding the provisions of the Administrative Procedure Act 1979, as amended, regulations made under the provisions of the Chapter shall be valid and effective upon approval by the Cabinet. [P.L. 1993-75, §3(62).]

§563. Definitions for Part VI.

In this Part VI, unless the context requires otherwise:

(1) 'Chief Detective' means that Undercover Officer appointed in accordance with Section 545 of this Chapter;

(2) 'Director' means the director of the Division appointed in accordance with Section 543 of this Chapter;

(3) 'Division' means the Undercover Investigations Division;

(4) 'Undercover Officer' mean anyone who is employed by the Director as an undercover investigations officer or who is deputized as such an officer by the Director or by anyone so employed by the Director. [P.L. 1993-75, §3(63).]

PART VII- FINANCE

§564. Sea Patrol Fund.

(1) There is hereby established a fund to be known as the Sea Patrol Fund (hereinafter, 'the Fund').

(2) The Fund is a [special revenue] fund within the National Treasury and under the control and supervision of the Ministry of Finance, which shall provide for its administration in accordance with

the [Financial Management Act of 1990](#), as amended, 11 MIRC 1. [P.L. 1991-143, §3(4); amended by P.L. 1994-099, §3(22)(c).]

§565. Payments into the Fund.

(1) There shall be paid into the Fund:

- (a) all monies appropriated by the Nitijela for the purposes of the Fund;
- (b) all monies designated for fisheries surveillance and marine law enforcement, including but not limited to all monies paid to the Republic under [Section 216](#) (a)(1) of the Compact of Free Association;
- (c) all civil or criminal fees, fines, penalties, settlements, compromises, payments in satisfaction of compounding an offense, and any other sums collected or generated in the enforcement of fisheries or other laws which the Sea Patrol may be called upon to enforce; and
- (d) such other monies as may be received by the Sea Patrol.

(2) Notwithstanding Subsection (1), any moneys paid into the Fund in accordance with Paragraphs (c) or (d) of Subsection (1) which are in excess of \$750,000 received under Paragraphs (a) through (d) of Subsection (1) in any financial year, shall be transferred to the program area 'Cabinet Operation' and shall in turn be:

- (a) appropriated to the Marshall Islands Marine Resources Authority Fund established under Section 30 of the Marshall Islands Marine Resources Authority Act 1997¹; or
- (b) re-appropriated to the Sea Patrol Fund; or
- (c) both (a) and (b) of this Subsection, at the discretion of the Cabinet and in accordance with the needs and requirements of the Sea Patrol and the Marshall Islands Marine Resources Authority;

provided, however, that no money transferred to Cabinet Operations in accordance with this Subsection may be used for any purpose other than as provided herein. [P.L. 1991-143, §3(4).]

§566. Payments out of the Fund.

(1) Payments may be made out of the Fund only for the purposes of:

- (a) carrying out the powers and duties of the Sea Patrol;
- (b) the costs and expenses of the Sea Patrol;
- (c) working capital and petty cash, and similar expenses; and
- (d) giving effect to all laws concerning marine law enforcement.

(2) No money shall be withdrawn from the Fund except in accordance with this Act and with the procedures prescribed by the [Financial Management Act](#). [P.L. 1991-143, §3(4); amended by P.L. 1992-15, §3, by P.L. 1994-99, §3(22)(b).]

§567. Accounts and Records.

(1) The Secretary of Finance shall maintain, in accordance with the procedures prescribed by the [Financial Management Act](#), proper accounts and records with respect to the Fund, any money paid into or out of the Fund, and any property purchased with money from the Fund.

(2) The accounts to be laid before the Nitijela by the Minister of Finance under Articles VIII, Section 5(4) of the Constitution shall include accounts relating to the Sea Patrol Fund.

(3) The accounts and records maintained under subsection (1) of this Section shall be audited by the Auditor-General as provided for under Article VIII, Section 15 of the Constitution. [P.L. 1991-143, §3(4), amended by P.L. 1994-99, §3(22)(c)]

ENDNOTES:

¹ [correct citation inserted, Rev2003]
