

P.L. 2002-71

An Act

To establish the Wotje Atoll Economic Development Authority people of Wotje Atoll, with responsible and appropriate review by the Government of the Republic of the Marshall Islands to ensure fiscal responsibility and consistency with the development policies of the Government of the Republic.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

Section 1. Short Title.

This Act may be cited as Wotje Atoll Development Authority Act, 2002.

Section 2. Purpose.

It is the intent of this legislation to create a vehicle by which the people of Wotje Atoll may themselves develop and implement programs and projects for the social, economic and educational betterment of the people of the Wotje Atoll, with responsible and appropriate review by the Government of the Republic of the Marshall Islands to ensure fiscal responsibility and consistency with the development policies of the Government of the Republic.

Section 3. Interpretation.

In this Act, unless the context otherwise requires:

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1 (1). "Authority" means the Wotje Atoll
2 Development Authority established under Section 5 of
3 this Act;

4 (2). "Board" means the Board of directors
5 established under Section 6 of this Act;

6 (3). "Government" means the Government of the
7 Republic of the Marshall Islands;

8 (4). "Government Agency" means any corporation or
9 statutory body established by the Government for the
10 purpose of development generally or with respect to
11 any particular locality or subject;

12 (5). "Government Representative" means the
13 official to whom the subject of Wotje Atoll
14 development has been delegated by the President.

15 (6). "Local Government" means the Wotje Atoll
16 Local Government.

17 (7). "member of the Board" includes the Chairman
18 of the Board.

19 (8). "President" means the President of the
20 Republic of the Marshall Islands, or in his absence,
21 the Acting President
22
23

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1 **Section 4. Application of Article VII of the Constitution.**

2 Article VII of the Constitution shall not apply or
3 relate to the Authority, its Board or employees.

4 **Section 5. Constitution of the Authority.**

5 (1) The Wotje Atoll Development Authority ("the
6 Authority") is hereby established.

7 (2) The Authority:

8 (a) Shall be a body corporate with perpetual
9 succession;

10 (b) shall have a common seal;

11 (c) may acquire, hold, charge, and dispose of
12 property; and

13 (d) may sue and be sued in its corporate name.

14 (3) Common Seal:

15 (a). all courts, judges and persons acting
16 judicially shall take judicial notice of the common
17 seal of the Authority affixed to any document and
18 shall presume that it was duly affixed;

19 (b). the common seal of the Authority shall be in
20 the custody of the Authority;

21 (c). the common seal of the Authority may only be
22 altered in such a manner as may be determined by the
23 Authority;

(d). the common seal of the Authority shall not be affixed to any document except in the presence of

(i) the chairman of Board; or

(ii) a member of the board; or

(iii) an officer of the Authority

authorized by the Board to act on behalf of the Chairman.

(4) The provisions of the current Associations Law Act shall apply or relate to the Authority.

Section 6. Organization and Management.

(1) The powers and duties of the Authority are hereby vested in and shall be exercised by the Board. The Board shall consist of 7 members appointed by the President from the following offices and nominations:

(a) An official representative of the Government;

(b) the Senator representing Wotje Atoll in the Nitijela;

(c) the Mayor, Wotje Atoll Local Government or a member of the Council duly nominated by the Mayor;

(d). a representative nominated by consensus of the Wotje Atoll Local Government;

(e). All Iroijs, who are the principle land

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1 owner on Wotje Atoll;

2 (d) two (2) members to be nominated by a
3 majority of the members appointed under Subsection 1
4 (a), (b), (c), (d), and (e) above. In the event the
5 members are unable to nominate such two (2) members,
6 the President shall appoint such members from among
7 those persons initially considered for nomination by
8 the members.

9 Section 7. Compensation.

10 (1) All members of the Board, other than members
11 appointed under Section 6 (1)(a), (b) and (c) above, and
12 members who otherwise hold a salaried Government office,
13 shall be entitled to receive compensation for services as
14 the Board may determine.

15 (2) All members of the Board shall be entitled to
16 receive per diem and travel expense at such rates and upon
17 such terms and conditions as may be determined by the
18 Board, while traveling exclusively on official business of
19 the Authority; provided, however, that such rates shall in
20 no event exceed the rates paid to Government employees.

21 (3) The prohibition on compensation set forth in sub-
22 section (1) of this Section shall also apply to the member
23 who is elected as Chairman of the Board.

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1 Section 8. Vacation of Office.

2 (1) A member of the Board is deemed to have vacated
3 his office;

4 (a) upon death;

5 (b) by submitting a letter of resignation
6 as provided for in Subsection (2) of this Section;

7 (c) by ceasing to hold that elective office
8 which was the basis for his appointment;

9 (d) by being removed from office as
10 provided for in Subsection (3) of this Section.

11 (2) A resignation under Subsection 1(b) of this
12 Section shall take effect when it is received by the
13 President or on such later date as may be agreed by the
14 President and the member concerned.

15 (3) The Board may, for cause, remove any member of
16 the Board from office; provided, however, that in the event
17 good cause exists, and the Board fails to take appropriate
18 action, the President shall have the authority to remove
19 such member. Likewise, failing action from the Board, the
20 President, may suspend any member of the Board from office
21 pending a decision for removal as provided herein above.

22 (4) In the event of a vacancy, the President may in

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1 accordance with Section 5(1) of this Section, appoint
2 another person to fill the vacancy.

3 (5) If any member of the Board is temporarily unable
4 to discharge the duties of his office on account of ill-
5 health or absence from the country for a period of more
6 than six (6) months, or any other good cause, the President
7 may appoint another person to act in his place temporarily.

8 (6) Any appointment made by the President under this
9 Section or Section 5 of this Act, shall be;

10 (a) published in two consecutive issues of the
11 Marshall Islands Journal or other newspaper currently
12 circulating within the Marshall Islands;

13 (b) announced through the Government owned V7AB
14 radio station once a day for 2 consecutive days.

15 Section 9. Delegation by the Board.

16 (1) The Board may, by written instrument, delegate
17 any of its powers and functions, except the power to make
18 by-laws under Section 12 of this Act, to any person.

19 (2) A delegation under Subsection (1) of this Section
20 may relate:

21 (a) to the whole or any part of the Authority
22 specified in the instrument of delegation; or

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1 (b) to all activities conducted by the Authority
2 or in which the Authority is concerned, or to any
3 such activities as may be specified in the
4 instrument of delegation.

5 (3) A delegation under Subsection (1) of this
6 Section, may be made subject to certain limitations and
7 conditions.

8 (4) A delegation under this Section shall be
9 revocable at will by written instrument, and no such
10 delegation shall prevent the exercise or performance of any
11 power or function by the Board.

12 Section 10. Procedures of the Board.

13 Subject to this Act and to the by-laws made under
14 Section 13 of this Act, the Board shall determine its own
15 procedures.

16 Section 11. Disclosure of, and disqualification for
17 Interest.

18 (1) Any member of the Board who has any personal
19 interest in the subject matter of any question before a
20 meeting of the Board:

21 (a) shall disclose such interest at the meeting;

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1 (b) shall not participate in the deliberations
2 except as directed by the Board, or in accordance
3 with the decision of the Board on the question.

4 (2) A disclosure under Subsection (1) of this Section
5 shall be recorded in the minutes.

6 (3) Unless the RMI Representative for cause shown,
7 otherwise directs, failure to comply with the requirements
8 of Subsection (1) or (2) of this Section shall not
9 invalidate any act or proceeding of the Board.

10 Section 12. Misconduct in Public Office.

11 A failure to comply with Section 11 of this Act shall
12 be deemed to be misconduct in public office within the
13 meaning of 31 MIRC, Criminal Code Chapter 1, Part XX,
14 Section 46, and is grounds for removal from the Board.

15 Section 13. By-laws.

16 (1) Subject to this Act, the Board shall adopt by-
17 laws to govern and regulate the operations of the
18 Authority.

19 (2) The by-laws shall provide for:

20 (a) the quorum;

21 (b) procedure for the conduct of, meetings
22 of the Board;

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1 (c) the appointment and duties of officers
2 of the Authority; and

3 (d) any other matters relating to the
4 operations of the Authority which the Board may
5 deem appropriate.

6 Section 14. **Staff of the Authority.**

7 (1) The Authority:

8 (a) shall employ an executive officer who
9 shall be a person with a sound knowledge and
10 experience of commerce, industry administration, or
11 business management;

12 (b). may employ such other employees,
13 agents, consultants, attorneys, accountants or
14 advisers as may be necessary to carry out the purpose
15 of the Authority.

16 (2) Persons referred to in Subsection (1) of this
17 Section shall be employed on such terms and conditions
18 consistent with similar to the rules and regulations of the
19 Public Service Commission.

20 Section 15. **Application of Bribery Law.**

21 The conduct of every member of the Board and employees
22 of the Authority shall be subject to the provisions of 31
23 MIRC, Chapter 1, Part VI, section 118.

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1 Section 16. Immunity for Official Acts.

2 (1) No suit or prosecutions shall lie:

3 (a) against the Authority for any act which in
4 good faith is done, or purported to be done, by the
5 Authority under this Act, or any regulations made
6 under this Act; or

7 (b) against any member of the Board, officer,
8 servant, or agent of the Authority for any act which
9 in good faith is done, or purported to be done, by
10 him under this Act, or any regulations made under this
11 Act, or at the direction of the Authority.

12 (2) Any expenses incurred by the Authority in any
13 suit or prosecution brought by or against the Authority
14 before any court shall be paid out of the Fund of the
15 Authority, and any cost paid to or recovered by the
16 Authority in any such suit or prosecution shall be credited
17 to the Fund of the Authority.

18 (3) Any expenses incurred by any such person as
19 referred to in Subsection 1(b) of this Section in any suit
20 or prosecution brought against him before any court in
21 respect of any act which is done or purported to be done by
22 him under this Act, or any regulations made under this Act
23 or at the direction of Authority shall, if the court holds

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1 that such act was done in good faith be paid out of the
2 Fund of the Authority unless such expenses are recovered by
3 him in such suit or prosecution.

4 (4) No writ against person or property shall be
5 issued against a member of the Board in any action brought
6 against the Authority.

7 Section 17. Policies of the Authority.

8 Subject to this Act, the Authority shall be
9 responsible for determining its own policies for carrying
10 out its functions; provided, however, that such policies
11 shall be in conformity with the development policies of the
12 Government.

13 Section 18. Functions of the Authority.

14 (1) The primary functions of the Authority under this
15 Act shall be:

16 (a). to investigate, study, develop, implement,
17 and aid in the financing of social, economic, cultural
18 and educational development programs and projects for
19 the betterment of the inhabitants of Wotje Atoll by
20 itself or jointly with other government or private
21 organizations or agencies; and

22 (b). to develop and implement a comprehensive
23 Wotje Atoll Development Plan; and

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1 (c) to develop and improve the quality of life
2 of all the inhabitants of Wotje Atoll.

3 (2) For purposes stated in Subsection (1) of this
4 Section, the Authority shall encourage or develop, and may
5 conduct or manage activities of social, economic, cultural
6 and educational importance to the inhabitants of the Wotje
7 Atoll.

8 (3) In the conduct of any activity under Subsection
9 (2) of this Section, the Authority shall comply with sound
10 business and accounting practices.

11 (4) In the conduct of any activity authorized by this
12 Act, the Authority shall not compete with the Government
13 except with the approval of the Cabinet.

14 (5) The Authority shall also perform any other
15 functions as required by law.

16 Section 19. Powers of the Authority.

17 (1) Subject to this and any other law, the Authority
18 shall have any powers as are necessary or convenient for
19 carrying out its purposes.

20 (2) Without prejudice to the generality of the powers
21 conferred by Subsection (1) of this Section, the Authority
22 may:

23 (a) identify, promote, assist, or engage in any

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1 new or existing economic development projects designed
2 to increase the economic welfare of the inhabitants of
3 Wotje Atoll.

4 (b) acquire by lease, sublease, easement, or as
5 otherwise allowed by law, any improved or unimproved
6 land or interest in land, within or without Wotje
7 Atoll, for the purpose of development, conservation,
8 or rehabilitation;

9 (c) acquire by purchase, lease sublease,
10 easement, or as otherwise allowed by law, any improved
11 or unimproved land or interest in land situated within
12 or outside the Republic of the Marshall Islands for
13 investment purposes;

14 (d) erect buildings or structures for the
15 purposes of this Act on land belonging to or
16 administered by the Authority;

17 (e) alter or reconstruct any building or
18 property belonging to or administered by the
19 Authority;

20 (f) construct residential buildings on land
21 belonging to or administered by the Authority;

22 (g) dispose of by sale, lease, sublease, or
23 easement, any building or interest therein;

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1 (h) dispose of by lease, sublease, or easement
2 any land or interest therein;

3 (i) acquire by purchase, lease, or sublease any
4 personal property or license which the Authority
5 considers necessary or convenient for carrying out its
6 purposes;

7 (j) dispose of by sale, or any other manner
8 allowed by law, any personal property or license of
9 the Authority;

10 (k) borrow money and accept contributions,
11 gifts, or other assistance in accordance with Section
12 21 of this Act;

13 (l) notwithstanding the provisions of this or
14 any other law to the contrary lend money, invest or
15 reinvest its funds from time to time and take and hold
16 any property as security for the payment of funds
17 loaned or invested;

18 (m) provide for the insurance of any property,
19 project, or operation against any or all risks;

20 (n) expend finds for the study and
21 implementation of programs and projects determined by
22 the Authority to be of social, economic, cultural and
23 educational benefit to the inhabitants of Wotje Atoll;

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1 (o) employ agents, attorneys or accountants;
2 (p) enter into contracts and other instruments
3 that the Board may consider necessary or convenient
4 for the exercise and performance of the powers and
5 duties of the Authority.

6 Section 20. **Wotje Atoll Development Authority Fund.**

7 (1) There shall be established the Wotje Atoll
8 Development Authority Fund ("the Fund").

9 (2) The Fund shall be a fund other than the Marshall
10 Islands General Fund as described in Article VII, Section
11 3, of the Constitution.

12 (3) The Fund shall be held in any bank or trust
13 company as may be determined by the Board from time to
14 time.

15 (4) Notwithstanding anything to the contrary, there
16 shall be paid into the Fund:

17 (a) all monies appropriated by the Nitijela for
18 the purposes of the Authority, either generally or
19 relating to any particular purpose;

20 (b). all monies received by the Authority through
21 loans, advances, contribution, gifts, or assistance in
22 accordance with Section 22 of this Act;

23 (c). all monies received by the Authority as

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1 profits, dividends or raised by the Authority through
2 sale, mortgage, lease, sublease, easement, or
3 otherwise from any other source, including repayment
4 of loans and income from any business or other
5 enterprise; and

6 (d) any other funding authorized by the Minister of
7 Finance.

8 (5). The Authority shall separately account for each
9 of the sources of money referred to in Subsection (4) of
10 this Section.

11 Section 21. Payments out of the Fund.

12 (1) Payments may be made out of the Fund for the
13 following:

14 (a) to carry out the purposes of the Authority;

15 (b) to pay the costs of any expenses of the
16 Authority;

17 (c) to provide working capital, petty cash, and
18 similar purposes; and

19 (d) to pay the costs of administering this Act;

20 (2). The Board is not authorized to pay any monies out
21 of the Fund unless the purpose for the expenditure is
22 authorized by the relevant provisions of this Act.

23

1 Section 22. Borrowing, etc.

2 (1) With the approval of the Cabinet and subject to
3 such conditions and within such limits as the Cabinet may
4 impose, and subject to Subsections (3) and (4) of this
5 Section, the Authority may borrow money from the
6 government, a bank, or any other lending institution or
7 individual, necessary and convenient to carry out its
8 purposes.

9 (2) Except as provided in Subsection (3) of this
10 Section, the Authority may accept advances, grants,
11 contributions, gifts, and other forms of financial
12 assistance to carry out its purposes from any person or
13 organization in the Marshall Islands and abroad.

14 (3) No money may be borrowed nor may any advance,
15 grant, contributions, gift, and other assistance be
16 accepted by the Authority from Government of the United
17 States of or any of its agencies, or from any other source
18 outside the Marshall Islands except with the consent of the
19 Government Cabinet.

20 (4) Where any money is borrowed or any advance,
21 grant, contribution, gift or assistance is received by the
22 Authority for a specific purpose, or subject to any

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1 conditions as to its use, such funds shall be expended or
2 used only for the purpose, or subject to those conditions.

3 Section 23. Bank accounts.

4 (1) The Authority shall open an account, or accounts
5 with a banking institution, which is a member of the
6 United States Federal Deposit Insurance Corporation or the
7 United States Federal Saving & Loan Insurance Corporation.

8 (2) Separate accounts shall be maintained for each of
9 the following:

10 (a) each business, enterprise, project , or
11 program in which the Authority is actively engaged;
12 and

13 (b). any other function which the Authority may
14 perform and which involves expenditures by the
15 Authority.

16 (3) Subject to Section 21 (1)(c) of this Act, any
17 money (other than petty cash withdrawn from the Fund and
18 not immediately expended, shall be deposited in an account
19 opened under Subsection (1) of this Section.

20 Section 24. Accounts and Records.

21 (1) The Authority shall maintain proper accounts and
22 records, in a form satisfactory to the Secretary of
23 Finance, for the following:

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- 1 (a) the Fund;
- 2 (b) the expenditures of money from the Fund; and
- 3 (c) the property and financial transactions of
- 4 the Authority.

5 (2) The accounts shall be submitted to the Nitijela

6 by the Minister of Finance pursuant to Article VIII,

7 Section 5(4), of the Constitution, shall include all

8 accounts relating to the Authority.

9 (3) The accounts and records referred to in Section

10 23 of this Act and subsection (1) of this Section shall be

11 audited by the Auditor-General as provided for in Article

12 VII, Section 15 of the Constitution.

13 Section 25. Investment.

14 With the approval of the Board, money in the Fund, or

15 withdrawn from the Fund in accordance with Section 21(2) of

16 this Act, and not immediately expended, may be invested as

17 follows:

18 (a) on deposits or on call with a bank or other

19 financial institution as provided for in this Act; or

20 (b) in any other manner authorized by the

21 Constitution or law for investment of the Marshall

22 Islands General Fund.

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1 Section 26. Reports.

2 (1) The Board shall, as soon as practicable after
3 each thirtieth day of June occurring after the commencement
4 of this Act, prepare and furnish to the Cabinet a report on
5 the operations of the Authority during the proceeding year,
6 together with financial statements for that year in such
7 form as the Secretary of Finance approves.

8 (2) The Authority shall also submit a copy of the
9 report, referred to in Subsection (1) of this Section to
10 the Auditor-General who shall report to the Cabinet as to:

11 (a) whether the statements are based on proper
12 accounts and records;

13 (b) whether the statements are in agreement with
14 the accounts and record and show fairly the
15 financial operations and state of the
16 affairs of the Authority;

17 (c) whether the receipts, expenditures, and
18 investment of money, and the acquisition and
19 disposal of assets by the Authority during
20 the previous year have been in accordance
21 with this Act; and

22 (d) such other matters as the Auditor-General
23 considers appropriate.

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1 (3) The Cabinet shall cause the report and financial
2 statements of the Board, together with the report of the
3 Auditor-General, and its own comments to be submitted to
4 the Nitijela within fifteen (15) session days of the
5 Nitijela after receipt by the Cabinet.

6 Section 27. **Other Reports.**

7 Notwithstanding Section 25 of this Act, the Cabinet
8 may require the Authority to submit to it a report in such
9 a form and as to such matter as the Cabinet deems
10 appropriate.

11 Section 28. **Tax Exemption.**

12 (1) Subject to Subsection (2), and notwithstanding
13 the contrary provisions of any other Act, the income,
14 property, and transactions of the Authority shall not be
15 subject to any tax, rate, charge, or impost under any law.

16 (2) Subsection (1) of this Section shall not apply in
17 respect to any licensing fee or similar fee that is
18 reasonably in proportion to the administrative expenses
19 involved.

20 Section 29. **Compliance with Other Laws.**

21 The Authority, and any business or enterprise in which
22 the authority is engaged, shall comply with all laws,

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1 including licensing, to be prescribed in the regulations
2 for carrying this Act into effect.

3 Section 30. Effective Date.

4 This Act shall take effect on the date of
5 certification in accordance with Article IV, Section 21 of
6 the constitution.

7 **CERTIFICATE**

8 I hereby certify;

9 (1) that Nitijela Bill No. 90 N.D.1 was passed by the
10 Nitijela of the Marshall Islands on the 12th day
11 of April 2002; and

12 (2). that I am satisfied that Nitijela Bill 90 N.D.1
13 was passed in accordance with the Rules of Procedures of
14 the Nitijela and the relevant provisions of the
15 Constitution of the Marshall Islands.

16 I hereby place my signature before the Clerk of the
17 Nitijela on this 11th day of November 2002.

18

19

Attest:

20

21

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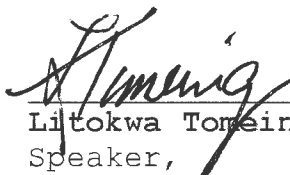
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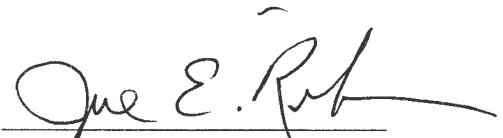
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Lilitokwa Tomeing
Speaker,
Nitijela of the
Marshall Islands


Joe E. Riklon
Clerk,
Nitijela of the
Marshall Islands