



## MARSHALL ISLANDS

# REVIEW OF NATURAL RESOURCE AND ENVIRONMENT RELATED LEGISLATION

---



Prepared by  
Secretariat of the Pacific Regional Environment Programme (SPREP)  
and  
EDO NSW

January 2018



**SPREP Library Cataloguing-in-Publication Data**

Kiribati : review of natural resource and environment related legislation. Apia, Samoa : SPREP, 2018.

15 p. 29 cm.

ISBN: 978-982-04-0877-7

1. Environmental policy – Kiribati. 2. Environment – Protection – Kiribati. 3. Environmental law – Kiribati. 4. Conservation of natural resources – Law and legislative – Samoa. I. Pacific Regional Environment Programme (SPREP). II. Title.

344.04609681

---

## INTRODUCTORY NOTE

---

The following review, prepared jointly by the Secretariat of the Pacific Regional Environmental Programme (SPREP) and the Environmental Defenders Office Ltd (EDO NSW), updates and builds on the reviews conducted in the early 2000s under the International Waters Project.

The review offers a brief overview of environmental legislation in force in each Pacific Island country identified and is current as of January 2018.

A number of sources were referenced for this update, including:

- Prior reviews prepared by SPREP;
- Pacific Islands Legal Information Institute – Paclii;
- ECOLEX - an information service on environmental law, operated jointly by FAO, IUCN and UNEP; and
- Government websites.

While reasonable efforts have been made to ensure the accuracy of the information contained in this review, no guarantee is given, nor responsibility taken, by SPREP or the EDO NSW for its accuracy, currency or completeness. SPREP and EDO NSW do not accept any responsibility for any loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the information contained in this review.

This review is for information purposes only. It is not intended to be a complete source of information on the matters it deals with. Individuals and organisations should consult a local lawyer for legal advice on specific environmental matters.

If you have any feedback in relation to this review, please forward your comments to: [registry@sprep.org](mailto:registry@sprep.org).



## TABLE OF CONTENTS

---

INTRODUCTORY NOTE .....	2
TABLE OF KEY ENVIRONMENTAL LEGISLATION .....	4
CONSTITUTIONAL AND ADMINISTRATIVE STRUCTURE.....	5
1.1. The Constitution.....	6
1.2. Customary Law.....	7
1.3. Local government .....	7
ENVIRONMENTAL PLANNING AND ASSESSMENT.....	7
2.1. National Environmental law.....	8
2.2. Environmental Impact Assessments (EIA) .....	9
2.3. Land.....	10
2.4. Planning.....	10
BIODIVERSITY CONSERVATION AND NATURAL RESOURCES.....	11
3.1. Conservation.....	12
3.2. Protected areas.....	13
3.3. Natural Resources .....	15
WASTE MANAGEMENT AND POLLUTION.....	16
4.1. Littering.....	17
4.2. Waste and Pollution .....	17
4.3. Hazardous Waste and Pollution .....	18
4.4. Marine Water Pollution.....	19
OTHER .....	19
5.1. Disaster Risk Management.....	20
5.2. National Heritage .....	20
MULTILATERAL ENVIRONMENTAL AGREEMENTS.....	20

## TABLE OF KEY ENVIRONMENTAL LEGISLATION

### **ENVIRONMENTAL LAW, PLANNING AND ASSESSMENT**

*Office of Environmental Planning and Policy Coordination (OEPPC) Act 2003 [35 MIRC Ch. 4]*  
*National Environmental Protection Act 1984 [35 MIRC Ch. 1]*  
*Public Lands and Resources Act 1966 [9 MIRC Ch. 1]*  
*Environmental Impact Assessment (EIA) Regulations 1994*  
*Land Recording and Registration Act 2003 [24 MIRC Ch. 4]*  
*Land Acquisition Act 1986 [9 MIRC Ch. 2]*  
*Planning and Zoning Act 1987 [10 MIRC Ch. 2]*  
*Earth Moving Regulations 1989*  
*Tourism Act 1991*

### **BIODIVERSITY CONSERVATION AND NATURAL RESOURCES**

*Marshall Islands Marine Resources Act 1997 – Marshall Islands Marine Resources Authority [51 MIRC Ch. 1]*  
*Marine Zones (Declaration) Act 1984 [33 MIRC Ch. 1]*  
*Coast Conservation Act 1988 [35 MIRC Ch. 3]*  
*Protected Areas Network (PAN) Act 2015 [35 MIRC Ch. 5]*  
*Endangered Species Act 1975 [8 MIRC Ch. 3]*  
*Marine Mammal Protection Act 1990 [33 MIRC Ch. 2]*  
*Tuna and Game Fish Conservation Zone Act 1996 [33 MIRC Ch. 3]*  
*Animal and Plant Inspection Act – Quarantine Restrictions [8 MIRC Ch. 1]*  
*Quarantine Restrictions Act*  
*Plant and Animal Quarantine Regulations (2000)*  
*Fisheries Act 1997 [51 MIRC Ch. 5]*  
*Management and Development of Local Fisheries Act 1997 [51 MIRC Ch. 3]*  
*Fisheries Access and Licencing Act 1997 [51 MIRC Ch. 4]*

### **WASTE MANAGEMENT AND POLLUTION**

*Littering Act 1982 [35 MIRC Ch. 2]*  
*National Environmental Protection Act 1984 [35 MIRC Ch. 1]*  
*RMI Ports Authority Act 2003 [22 MIRC Ch. 1]*  
*Solid Waste Regulations 1989*  
*Toilet Facilities and Sewage Disposal Regulations 1990*  
*Pesticides and Persistent Organic Pollutants (POPS) Regulations 2004*  
*Civil Liability for Oil Pollution Damage Act [47 MIRC Ch 6]*  
*Marine Water Quality Regulations 1992*

### **OTHER**

*Disaster Assistance Act 1987 [7 MIRC Ch. 10]*  
*Fire Control Act [7 MIRC Ch. 7]*  
*Historic Preservation Act 1991 [45 MIRC Ch.2]*

## CONSTITUTIONAL AND ADMINISTRATIVE STRUCTURE

---

After decades of Spanish, German, Japanese and American administration, the Republic of the Marshall Islands (RMI) gained complete independence. The path towards total sovereignty was long and difficult. RMI voted for the establishment of a constitutional government based upon a constitution already made in December 1978, when they adopted the Marshall Islands Constitutional Convention. After this, the Government of RMI was officially established in 1979. Although self-governing since 1979, RMI became a fully free and sovereign nation only after the *Compact of Free Association between the US Government and the Republic of Marshall Islands* (Compact). After the Compact came into effect in 1986, the Republic of Marshall Islands became a newly-independent constitutional democracy. Under the terms of the Compact, the United States has full authority and responsibility for the security and defence of RMI, and the Government of the Marshall Islands is obligated to refrain from taking actions that would be incompatible with these security and defence responsibilities.

### 1.1. The Constitution

The law of RMI is contained in the *Constitution of the Republic of the Marshall Islands* (Constitution). Past traditional, Spanish, Japanese and American influence has helped shape current law in RMI. The Constitution sets forth a democratic system of government that contains aspects of Commonwealth, American and traditional governing structures.

The Constitution provides for the separation of powers, conferring:

- Legislative power to the Nitijela (Parliament). This body consists of 33 members elected from 24 atolls and islands for a term of four years.
- Executive powers to the Cabinet, headed by the President. The president is the head of State of RMI. The Cabinet consists of between six to ten members of the *Nitijela* to serve as Ministers and Cabinet members.
- Judicial power to the Judiciary. This power is independent of the legislative and executive powers and is vested in the Supreme Court, a High Court, a Traditional Rights Court, the District Court and 22 Community Courts. The High Court has trial court jurisdiction over nearly any case or controversy in RMI. It has discretionary review jurisdiction as well as appellate jurisdiction over all decisions of the subordinate courts. On the other hand, the District Courts operate in the major population centres of Majuro and Kwajalein Atolls. Community Courts operate in local government areas and their jurisdiction is limited to their respective local government area.

The Ministry of Health and Environment, the Ministry of Natural Resources and the Ministry of Internal and Social Affairs assume primary responsibility for environmental issues.

#### *Compact of Free Association between the US Government and the Republic of Marshall Islands*

Under article VI of the Compact, the United States (U.S.) and RMI Governments pledged to “promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of natural resources of the Marshall Islands”.

To carry out this policy, the U.S. continues to apply:

- the environmental controls in effect on the day preceding the date of the Compact entering into force;
- the U.S. National *Environmental Protection Act* to its activities in RMI; and
- environmental standards that are substantively similar to those required in six enumerated U.S. environmental statutes when conducting activities requiring the preparation of an Environmental Impact Assessment (EIA).

Reciprocally, the RMI has agreed to develop and enforce comparable environmental protection standards and procedure.

In 2004, amendments made to the Compact provide for grants to continue for another 20 years, to be used for assistance in different development fields, and protection of the environment.

## 1.2. Customary Law

The deep Marshellese respect for customary law and recognition of traditional management structures is embodied throughout the Constitution. The preamble of the Constitution speaks of the Marshellese pride in “their own distinctive society”.

Consistent with the intent to preserve certain Marshallese traditional practices, the Constitution provides for the establishment of a Council of *Iroji* (consisting of 12 Paramount Chiefs), which serves as an advisory body to Cabinet. Its main role is to consider any Nitijela Bill which affects customary law, traditional practice, land tenure and related matters.

Section 2 of article X of the Constitution also provides that the Nitijela has the power to declare, by an Act, the customary law in RMI. This codification may include any provisions which “are necessary or desirable to supplement the established rules of customary law or to take into account any traditional practice”.

### *Customary Law and Commission Act 2004 [39 Marshall Islands Revised Code (MIRC) Ch. 1]*

The *Customary Law and Commission Act* establishes a Customary Law and Language Commission to declare the customary law of the land and to assist in preserving the Marshallese language.

## 1.3. Local government

Legislative power is centralised and there are no provinces or states. However, article IX of the Constitution sets forth the right to a system of local governments on all inhabited atolls and islands. The jurisdiction of the local governments includes the internal waters of the island or atoll and extends to a distance of five miles to sea.

### *Local Government Act 1980*

In 1980, the *Local Government Act* was enacted in order to implement article IX of the Constitution by providing for the manner and operation of local governments.

Consistent with customary practices, the Act recognises the importance of consensus decision making by allowing a certain number of local council representatives to be elected by consensus. From an environmental point of view, local governments have been given responsibility for a wide range of activities, including development of land, water and agricultural resources, coastal and marine management, intra-atoll transportation, providing safe drinking water and energy supplies, and public safety. As in other Pacific Islands, limited monetary support and administrative capacities have severely hindered the delivery of services by the local governments.

There are 24 local governments across RMI that operate on 23 atolls and islands. The Kwajalein Atoll has two local councils, the Kwajalein and Rongelap Local Government Councils. In Majuro, there is one local council.

## ENVIRONMENTAL LAW, PLANNING AND ASSESSMENT

---

### 2.1. National Environmental law

The key environmental statute is the *National Environmental Protection Act 1984*, which established the RMI Environmental Protection Authority. As will be discussed below, there are other environmental institutions that also manage the environment in RMI, including the Marshall Islands Marine Resources Authority (MIMRA) and the Office of Environmental Planning and Policy Coordination (OEPPC).

#### *Office of Environmental Planning and Policy Coordination (OEPPC) Act 2003 [35 MIRC Ch. 4]*

The Act establishes the Office of Environmental Planning and Policy Coordination (OEPPC) and provides for its functions. The OEPPC is an advisory body to the Office of the President, Cabinet and the Ministries and government agencies on matters related to environmental planning and policy generally. It is the national focal point in the coordination, management and implementation of all international environmental projects and programs. The OEPPC's duties also include liaising with Foreign Affairs, and providing technical training, advice, and assistance to ministries, departments and agencies on sector and project plans, programs and funding submissions.

In performing its duties, the OEPPC is organised into the following three units: an Environmental Policy and Planning Unit, a Program coordination Unit, and a Data Collection and Analysis Unit.

#### *National Environmental Protection Act 1984 [35 MIRC Ch. 1]*

The main objective of the *National Environment Protection Act 1984* is to establish a National Environmental Protection Authority (EPA) for the protection and management of the environment. Section 119 prescribes that the primary purpose of the EPA is preserving and improving the quality of the environment. This includes preventing the degradation of the environment, preserving the nation's culture and heritage and ensuring a healthy environment for the people.

The Act requires the EPA to:

- formulate an appropriate land use scheme;
- recommend a policy related to the management and conservation of the nation's natural resources;
- recommend a system of national fisheries and aquatic resources exploitation; and
- define appropriate soil conservation programme.

Therefore, the EPA is mainly responsible under the Act for the management of natural resources, and land use, planning and assessment.

Under section 121, the EPA has broad general powers to make regulations with respect to the following:

- Primary and secondary drinking water;
- Pollutants;
- Pesticides and chemicals;
- Discharge or hazardous waste; and
- Culture and heritage.

Several regulations have been adopted under the Act. However, anecdotal reports suggest that the EPA has had limited success in enforcing these regulations. The regulations under the Act include the following:

- *Earthmoving Regulations 1989*;
- *Marine Water Quality Regulations 1992*;
- *Public Water Supply Regulations 1994*;



- *Pesticides and Persistent Organic Pollutants (POPS) Regulations 2004*; and
- *Toilet Facilities and Sewage Disposal Regulations 1990*.

The Act provides for a cross-Ministerial Environmental Advisory Council to advise the EPA within the scope of their responsibilities.

The RMI EPA is the key environmental enforcement agency, aside from local government that has an enforcement role in relation to relatively minor environmental offences such as littering. Enforcement provisions are similarly drafted across a range of environmental legislation. The main enforcement tools available to the RMI EPA are the revocation of a permit, and making a cease and desist order.

## 2.2. Environmental Impact Assessments (EIA)

In RMI, the framework for EIA is set out in the *National Environmental Protection Act 1984* and is further described in the *Environmental Impact Assessment Regulations 1994* (the EIA Regulations).

### *National Environmental Protection Act 1984 [35 MIRC Ch. 1]*

Section 33 provides that all Ministries, Departments, offices and agencies of the Government of the Marshall Islands shall, in all matters in which there is or may be an environmental impact, apply an interdisciplinary approach, which will ensure the integrated use of the natural and social sciences, traditional wisdom and the environmental design arts in planning and decision-making. These bodies are also called to study, develop and describe appropriate alternatives to recommended courses of action in any proposal which contains unresolved conflicts concerning alternative uses of available resources.

Section 34 sets out requirements for environmental impact statements, stating that it must be a detailed statement made by the responsible official on:

- the environmental and cultural impact of the proposed action;
- any adverse environmental effects which cannot be avoided if the proposal is carried out;
- alternatives to the proposed action;
- the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and
- any irreversible and irretrievable commitment of resources which the proposed action will necessitate if it is carried out.

### *Environmental Impact Assessment (EIA) Regulations 1994*

These regulations were drafted with the intent of implementing the associated Acts and guiding both government officials and the general public to “understand the environmental consequences of their decisions and take action consistent with the goal of protecting, restoring and enhancing the environment”.

Part II requires that every proposed development activity be accompanied by a preliminary proposal that describes the initiative as outlined in section 6. This includes an assessment of the possible adverse impacts to the environment and possible alternatives to mitigate those impacts.

The current status of EIA regulations in the RMI is improving. For fifteen years, there was only one EIA solicited by the EPA and completed by a proponent (independent of any outside requirements such as US funding), while by 2009 six EIAs have been initiated, with four reaching their completion.

## 2.3. Land

Traditionally, land on atolls is divided into *wetos*. *Wetos* are strips of land that run across an atoll from the lagoon to the ocean. Land is held communally by family groups called *bwij* which trace their claim to land matrilineally through the *alap* or the person in immediate charge of a piece of land. The *Irijlaplap* (the Paramount Chief of certain lands) is the acknowledged owner of all land interests under his jurisdiction and may not necessarily be a member of a *bwij* inhabiting certain land. The Constitution preserves traditional rights of land tenure such that decision-making powers over land are vested in the traditional, hereditary chiefs of the Republic.

### *Land Acquisition Act 1986 [9 MIRC Ch. 2]*

The *Land Acquisition Act 1986* details compensation arrangements for land acquired by the Government for public purposes. The Act makes provision for the acquisition of lands and servitudes for public use for payment of just compensation as required under Article II, Section 5 of the Constitution.

### *Land Recording and Registration Act 2003 [24 MIRC Ch. 4]*

This Act creates the Land Registration Authority and provides for the recording of all land interests, registration of certain land interests, and guarantee of title to registered interests, and establishes legal requirements for land leases in the Republic". The purposes of the Authority include:

- providing a legal framework to allow the people of the RMI to voluntarily register their interests in land to create more certainty for land owners and those with interests in land;
- providing for standards and criteria for land leases; and
- maintaining and keeping records of land and land transactions open to the public.

Other provisions in this Act relating to objections to registration and notification were introduced in the 2006 amendments.

### *Public Lands and Resources Act 1966 [9 MIRC Ch. 1]*

This Act governs "public land", defined as land previously owned or maintained by Japanese administration, and land acquired by the Government for public purposes. Section 103 confirms that all land below the high water mark belongs to the Republic. However, exceptions include:

- the customary ownership of fish traps and weirs and any other customary rights that were abolished by the Japanese administration during its occupation; and
- the owner of land abutting the ocean or a lagoon has rights in relation to marine areas below the ordinary high water mark.

Despite the rights mentioned above, there is no right for the general public to misuse, abuse, destroy or carry away mangrove trees or land abutting the ocean or a lagoon.

## 2.4. Planning

### *Planning and Zoning Act 1987 [10 MIRC Ch. 2]*

The *Planning and Zoning Act 1987* is an Act to provide for:

- planning inland water use;
- the promotion of the health, safety and general welfare of the people;
- the creation of zones in municipal areas in order to lessen the congestion and to secure safety from fire and other hazards; and
- the regulation and control of the construction of buildings and the prevention of overcrowding of land.

Key provisions of the Act include the following:

Section 221 The Act only applies to the local government Councils of Majuro Atoll and Kwajalein Atoll.

Sections 204-205

Requires every local government Council to establish a Planning Commission. A Commission is designed to function as an advisory body to the local government Council in all matters relating to planning and zoning.

Section 206 Requires every local government Council to establish a subsidiary Planning Office. The Planning Office functions under the Council for the administration of the day-to-day affairs of the Commission. All local government councils must have a planning office with a Director of Planning who has a duty “to carry out and execute all matters relating to planning and zoning” and “to grant, renew or revoke licences for the construction of any buildings, houses or other structures in accordance with the law or ordinances”.

Sections 210-211

Majuro Atoll may be divided into zones prepared by the local Council in consultation with the Government Chief Planner. The objectives of these zones include:

- promotion of a harmonious interrelationship of land use;
- the preservation of the natural landscape and environment; and
- facilitation of appropriate locations for recreational areas and parks.

Section 209 Local government councils have authority to make ordinances around restrictions on buildings.

Section 213 Building permits are also required.

Part V Provides for the adoption of a Marshall Islands Building Code by the Minister of Public Works. The understanding is that the legislative provisions concerning the Building Code remain largely unimplemented.

### ***National Environmental Protection Act 1984 [35 MIRC Ch.1]***

Section 128 provides that the EPA shall, in consultation with the Council and with the assistance of the Ministry of Internal Affairs, formulate and recommend to the Minister a Land Use Scheme consistent with the following objectives:

- identifying areas having important historic, cultural or aesthetic value where uncontrolled development or exploitation could result in irreparable damage;
- make a comprehensive and accurate determination of the adaptability of land for community development, agriculture, industry or commerce;
- define a method for exercising control by the Government of the RMI over the use of land in areas where environmental control is deemed necessary; and
- determine present land uses, the extent to which land is utilised, under-utilised or rendered idle or abandoned.

### ***Earth Moving Regulations 1989***

Made by the EPA, the *Earthmoving Regulations 1989* apply to any construction or other activity that “disturbs or alters the surface of the land, a coral reef or bottom of a lagoon”. Sections 22-23 require all persons who engage in earthmoving activities to apply for a permit from the EPA in order to prevent accelerated erosion, accelerated sedimentation, and disturbance of potential cultural resources. Section 5 requires all persons engaging in earthmoving activities to design, implement and maintain erosion control, sedimentation control, and cultural preservation measures which effectively prevent accelerated erosion, accelerated sedimentation, and adverse impact on cultural resources.

## BIODIVERSITY CONSERVATION AND NATURAL RESOURCES

---

### 3.1. Conservation

#### Marine and Coastal Resources

##### *Marshall Islands Marine Resources Act 1997 – Marshall Islands Marine Resources Authority [51 MIRC Ch. 1]*

This Act was made to establish the Marshall Islands Marine Resources Authority (MIMRA) responsible for managing all marine resources within the fishery waters, which includes the exclusive economic zone, the territorial sea and internal waters.

Key provisions of the Act include the following:

#### Sections 112-113

The Authority is governed by a Board consisting of:

- the Minister of Resources and Development, the Secretary of Foreign Affairs and the Attorney-General;
- four other members appointed by the President who have knowledge of, and experience in, the fisheries sector in RMI; and
- a Director who is a member of the Board *ex officio*.

Section 114 The Cabinet may give directions to the Board in relation to policy matters.

Section 119 The powers and functions of MIMRA relate to Fishery Waters, as described in the *Marine Zones (Declaration) Act 1984*, and any other waters within the jurisdiction of RMI. The powers and functions of MIMRA include:

- to conserve, manage and sustainably develop all resources in the Fishery Waters and seabed and subsoil;
- to establish management plans and programs to manage the resources in the Fishery Waters;
- to issue licences in accordance with the Title (marine resources) and for the exploration and exploitation of the seabed and subsoil of the Fishery Waters;
- by regulation or otherwise, to implement access agreements or fisheries management agreements to which the RMI is party;
- to act as the Competent Authority for the purpose of implementing the international fisheries and related obligations of the RMI;
- to coordinate and manage fisheries monitoring, control and surveillance and, in consultation with the Attorney-General, enforcement; and
- to cooperate in the conservation and management of highly migratory fish stocks with other coastal States in the region.

Section 120 The MIMRA has the power to make wide-ranging regulations in respect of matters including the conservation, management and sustainable development of fish in Fishery Waters, pollution or the environmental quality of Fishery Waters, and fisheries monitoring, control and surveillance.

A number of related laws and regulations support the Act, including the:

- *Marshall Islands Fisheries Regulations 1998* – regulates authorisations required under the Marine Resources Act, licencing procedures and requirements, transshipment, fish export certification, vessel reporting requirements, and exportation of fish.
- *Aquarium Fisheries Regulation 2015*;
- *Sea Cucumber Regulations 2012*; and
- *Maritime Administration Act [47 MIRC CH 1]* – maritime laws.

### ***Marine Zones (Declaration) Act 1984 [33 MIRC Ch. 1]***

The *Marine Zones (Declaration) Act* extends the sovereignty of the Marshallese government beyond its land territory and internal waters, and its archipelagic waters over its territorial sea, and to the airspace over them and the seabed and subsoil under them, and the resources contained therein.

### ***Coast Conservation Act 1988 [35 MIRC Ch. 3]***

The *Coast Conservation Act 1988* is the primary piece of legislation directed towards coastal management. The Act establishes the RMI EPA as the relevant authority and creates a position within the RMI EPA for a Director of Coast Conservation (Director). The Director's functions include the formulation and execution of schemes of work for coast conservation within the Coastal Zones, and the conduct of research, in collaboration with other ministries, departments, agencies and institutions for the purpose of coast conservation. The Director is also required to carry out a survey of the Coastal Zone, including an inventory of matters listed at section 306.

Section 309 prohibits engagement in any development activity other than a prescribed development activity within the Coastal Zone except under the authority of a permit issued by the Director. The RMI EPA may prescribe categories of development that may be engaged in within the Coastal Zone without a permit having regard to the effect such activities may have in relation to “long term stability, productivity and environmental quality” of the Coastal Zone. Categories of development that do not require a permit have not yet been expressly prescribed.

## **3.2. Protected areas**

Although the *National Environment Protection Act 1984* establishes the EPA with the primary purpose of preserving and improving the terrestrial and marine environment, there is no subsidiary legislation for this purpose and not many marine or terrestrial protected areas within the country.

### ***Protected Areas Network (PAN) Act 2015 [35 MIRC Ch. 5]***

This Act creates a protected areas network for the purposes of conservation and management of natural resources in the RMI, including establishment of local resources committees (LRC), PAN fund, PAN Office and Technical Advisory Committee.

Protected Area is defined as “an area designated through a local or national process to be protected by the National Government through the Ministry of Resources and Development as part of the Protected Areas Network”. Section 505 enables the Ministry of Resources and Development in consultation with the Local Resources Committee and local government officials, to designate areas as Protected Areas by notice on

the National Government's website. Two types of protected areas may be designated, with differing levels of subsistence use and commercial use as outlined in section 504. The PAN office may also create plans of management for protected areas where there is no LRC.

## Endangered Species

### *Endangered Species Act 1975 [8 MIRC Ch. 3]*

The *Endangered Species Act 1975* provides for the protection of endangered fish, shellfish and game. This Act defines endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range" whilst threatened species refers to "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range".

Key provisions of the Act include:

Section 304 Declares the indigenous plants and animals of the RMI to be of aesthetic, ecological, historical, recreational, scientific and economic value and states that the policy of the Republic is to foster the well-being for these plants and animals and prevent the extinction of any species.

Section 307 Lists exceptions to the provisions of the chapter, including:

- scientific purposes, providing the person or persons involved apply for and are issued a permit for such activity by the Secretary of Resources and Development;
- if that plant or animal becomes a public nuisance or public safety factor; provided that any remedial action be taken only by the Government of the RMI; and
- old traditional uses if it does not further endanger the species involved and provided that:
  - i) the species or parts thereof involved are not subjected to commercial activity nor exported; and
  - ii) the use is by bona fide indigenous inhabitants of the islands excepted by the Secretary.

Sections 309-310

Bans the import of endangered or threatened species or parts of them, with the exception of importing exotic plants and animals with a permit from the Secretary.

### *Marine Mammal Protection Act 1990 [33 MIRC Ch. 2]*

The *Marine Mammal Protection Act 1990* provides for the protection of dolphins and other marine mammals captured in the course of commercial fishing operations in the Eastern Tropical Pacific by vessels operating under the flag of the RMI.

### *Tuna and Game Fish Conservation Zone Act 1996 [33 MIRC Ch. 3]*

This Act was passed to establish a tuna and game-fish conservation zone within 50 miles from the base line of each atoll and island in RMI.

Section 304 prohibits foreign fishing vessels, local fishing vessel or other vessel or persons from fishing within the conservation zone without a valid licence issued by the Marshall Islands Marine Resources Authority, with the exception of sport fishing or subsistence fishing activities.

## Biosafety

A biosafety legislative review was conducted by OEPPC in 2006. There is no legislation in RMI that directly addresses the protection of biodiversity from genetically modified organisms (GMO). However, it seems that a Biosecurity Bill is under review and revision under the Ministry of Resources and Development. At the moment no single domestic regulation and legislation explicitly mention the topic of biosafety of GMO.

#### *Animal and Plant Inspection Act – Quarantine Restrictions [8 MIRC Ch. 1]*

This chapter deals with all aspects of animal and plant quarantine upon entering the RMI to prevent the introduction and further dissemination of injurious insects, pests, and diseases into and within the RMI. Section 103, adopted in 2000, empowers the Chief of Agriculture to adopt regulations, with approval of the Cabinet.

#### *Plant and Animal Quarantine Regulations (R&D 2000)*

These extensive regulations detail the import, quarantine and export requirements for the RMI, including certain species that are prohibited. In the “Second Schedule” the Minister is empowered to prohibit the import of any species “likely to become a nuisance or to cause injury or damage.” As with quarantine regulations worldwide, the central focus of these regulations is the removal of pests or disease, and not on the safety of the product in and of itself, or the nature in which the product was made.

The regulations establish a procedure for the import of any plant or animal, living or otherwise.

### **3.3. Natural Resources**

The only types of natural resources legally administrated within RMI are the fisheries. It is relevant to note that the Marshallese legislation considers endangered species as part of flora and fauna resources. However, for the purpose of this review it seems more appropriate to consider them not as resources but as biodiversity that needs to be protected.

Different laws deal with fisheries and fishing activities, creating often an overlap of functions and role. There is overlap of functions between the EPA and the MIMRA in the context of marine natural resources. Under the *Marshall Islands Marine Resource Authority Act*, the Authority has responsibility to conserve, manage and sustainably develop all resources in the Fishery Waters, but also the resources in the seabed and subsoil thereunder. Alongside this, section 130 of the *National Environmental Protection Act* requires the EPA to develop a system of rational exploitation of fisheries and aquatic resources within the RMI, including the harvest of threatened species.

#### *Marshall Islands Marine Resources Act 1997 – Marshall Islands Marine Resources Authority [51 MIRC Ch. 1]*

This Act and associated amendments relate to driftnet fishing and establishes the Marshall Islands Marine Resources Authority (MIMRA). The MIMRA is an independent statutory authority with the function to oversee the development and management of fisheries and marine resources. The MIMRA is responsible for the exploration, exploitation, regulation and management of marine resources within the Republic, both living and non-living. The MIMRA has power to regulate foreign fishing activity, including in relation to pollution and the export of fish, and conservation initiatives within the Fishery Waters.

#### *Fisheries Act 1997 [51 MIRC Ch. 5]*

Section 202 vests exclusive management and control over living and non-living resources within the Fishery Waters, in the Government. The Act sets out the powers of the Authority in managing fisheries and the guiding principles for the sustainable and sound management of these resources.

- Section 205 Authority may determine the level of fishing with respect to any stock of fish and allocations of fishing rights.
- Section 207 The Director of the Authority shall prioritise, prepare, keep under review and be responsible for the implementation of plans for the management and development of other fisheries in the fishery waters as may be practicable.
- Section 208 Authority may make measures for the conservation and management of fish in the Fishery Waters. Such measures shall be based on a precautionary approach consistent with applicable national and international standards.
- Sections 223-224  
Defines specific types of fishing practices that are prohibited, such as use of prohibited fishing gear and driftnet fishing.
- Part II Contains provisions for the trade, commercial sale and export of fish, fish products and other marine resources.

#### ***Fisheries Access and Licencing Act 1997 [51 MIRC Ch. 4]***

This Act governs the issuance of fishing licencing and access agreements for foreign and domestic based fishing and related activities.

#### ***Management and Development of Local Fisheries Act 1997 [51 MIRC Ch. 3]***

The Management and Development of Local Fisheries Act affirms the power of the MIMRA on the management and development of local fisheries.

Key provisions of the Act include:

- Section 302 Local fisheries can be managed and developed in internal waters and in the territorial sea within five miles of the baseline by both the Authority and Local Government Councils.
- Section 303 Sets out the duties and principles that should guide the Local Government Council activities while managing and developing local fisheries, and ensuring sustainable use of the waters.
- Section 304 Recognises the powers that the Local Government Council can exercise in order to sustainably manage the fisheries under its control.
- Section 303 The Act requires each Local Government Council fishery management plan to be prepared for each designated local fishery, with the assistance and advice of the MIMRA.

#### **Mining and Minerals**

The EPA has responsibility for the management of activities relating to the exploration and exploitation of mineral resources the *National Environmental Protection Act 1984*. Under section 129, the EPA has responsibilities to recommend basic policy on the management and conservation of the country's natural resources in order to obtain the optimum benefits and to preserve the same for future generations.



In addition, the *Earth Moving Regulations* assists with environmental oversight of mineral extraction occurring on land, coral reefs or lagoon bottoms by providing for the control and management of land-based mining activities.

## WASTE MANAGEMENT AND POLLUTION

---

Waste management and control of pollution in the RMI rest mostly with the EPA, whose functions include prevention of pollution. The *National Environmental Protection Act 1984*, and associated solid waste management (SWM) regulations approved in 1989, provides the legal and policy framework for the management of solid waste in RMI.

### 4.1. Littering

#### *Littering Act 1982 [35 MIRC Ch. 2]*

The *Littering Act 1982* applies to “unauthorised dumping, throwing away, placing or leaving of refuse of any kind, or any object or substance which tends to pollute, mar or deface, and includes a vehicle or part of a vehicle”. As this was passed prior to the *National Environment Protection Act 1984*, which established the EPA, the EPA does not enforce this Act. Section 205 provides powers of arrest to a police officer or peace officer under the *Local Government Act*.

### 4.2. Waste and Pollution

#### *National Environmental Protection Act 1984 [35 MIRC Ch. 1]*

Waste is included in the definition of pollution as set out in the *National Environmental Protection Act 1984*, which defines pollution as “any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by the discharge, emission or deposit of wastes so as to affect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, aquatic life or to plants of every description”.

The provisions in relation to pollution also apply to waste. However, waste is defined more specifically as including any matter prescribed by regulation to be waste, and any matter whether liquid, solid, gaseous, or radioactive which is discharged, emitted or deposited in the environment in such volume, component or manner as to cause an alteration of the environment.

Section 126 prescribes one of the EPA’s duties as recommending to the President, the extent to which the discharge of wastes may be permitted without detriment to the quality of the environment. The Act gives the EPA enforcement powers in relation to violations of the Act, such as the discharge of waste or pollutants in the environment.

#### *RMI Ports Authority Act 2003 [22 MIRC Ch. 1]*

This Act establishes the RMI Ports Authority as an entity to operate the country’s ports including seaports and airports. The Authority is required to take all practical steps to prevent pollution of the water reservoir adjacent to the Amata Kabua International Airport in Majuro. The Authority has a general obligation in carrying out its functions to comply with RMI law, in particular the *Environmental Protection Act*.

#### *Solid Waste Regulations 1989*

The *Solid Waste Regulations 1989* were passed pursuant to the *National Environmental Protection Act 1984*. The Act defines solid waste as including liquid waste materials such as waste oil, pesticides, paints, solvents and hazardous waste.

The regulations provide minimum standards governing the design, construction, installation, operation and maintenance of solid waste storage, collection and disposal systems. Part VI also prescribes standards for solid waste disposal facilities.

#### *Toilet Facilities and Sewage Disposal Regulations 1990*

The *Toilet Facilities and Sewage Disposal Regulations 1990* were promulgated pursuant to the *National Environmental Protection Act 1984*. It prescribes standards for the construction of sewage systems and septic tanks in public buildings and dwellings. Under regulation 13, building constructions require a permit from the Environmental Protection Authority. Applications for a permit shall be made in accordance with regulation 14. Regulation 15 empowers the EPA to impose special conditions or special requirements when granting a permit.

Article 37 prohibits disposal of treated, semi-treated or untreated sewage into pounds, wells, reservoirs or body of water or on the ground unless it a special permit is obtained from the EPA indicating that such activity is necessary for economic and social value or research purposes, and it poses no public health hazard.

### **4.3. Hazardous Waste and Pollution**

As mentioned above in the *Solid Waste Regulations 1989*, the definition of solid waste includes hazardous waste. Hazardous waste is defined as “any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because such wastes are non-degradable or persistent in nature, or because they can be lethal, or because they may otherwise cause or tend to cause detrimental cumulative effects”.

#### *Solid Waste Regulations 1989*

Regulation 33 poses an obligation on any person desiring to dispose of hazardous waste materials to notify the EPA of their intention, and prohibits them from disposing the waste until written approval is received from the EPA.

Regulation 34 requires that infectious and pathological wastes from medical, veterinary and other facilities to be incinerated, sterilised or otherwise rendered safe before removal from these facilities for final disposal. Toxic, caustic, volatile and flammable chemical waste must also be incinerated or disposed of in a manner approved by the EPA before final disposal. Regulation 34 also requires that any person proposing a new activity or modification to an existing activity which may cause the generation of hazardous wastes must submit a hazardous waste management plan to the EPA before the activity begins. Regulation 34 also imposes a generally expressed obligation to adopt all practical measures to reduce waste quantities and to reuse or recycle waste oil to the maximum extent possible and, where it can be demonstrated that wastage is necessary, disposal methods shall be approved by the Authority.

#### *Pesticides and Persistent Organic Pollutants (POPS) Regulations 2004*

The purpose of these regulations is to establish a system of control over the importation, distribution, sale, and use of pesticides by persons within the RMI, and to ban or restrict the use of twelve of the world's most highly toxic persistent organic pollutants (POPS) targeted by the United Nations *Stockholm Convention on Persistent Organic Pollutants*. The targeted POPS include certain pesticides, industrial chemical and unintentional chemical by-products.

Regulation 6 sets out the unlawful acts which include importing, selling, distributing or receiving any pesticide or POP which is adulterated or misbranded and any banned pesticide or POP. Part III provides for the certification of applicators, as proof of competence in the use and handling of pesticides. Part V outlines the records that are required to be kept by certain parties, including commercial applicators and licenced dealers.

#### 4.4. Marine Water Pollution

##### *Civil Liability for Oil Pollution Damage Act [47 MIRC Ch 6]*

This Act gives legal effect to portions of the *International Convention on Civil Liability for Oil Pollution Damage*, adopted at Brussels on 29 November 1969, as amended by the 1976 Protocol.

##### *Marine Water Quality Regulations 1992*

The *Marine Water Quality Regulations 1992* were promulgated pursuant to the *National Environmental Protection Act 1984* for the purpose of identifying the uses for which marine waters shall be maintained and protected, to specify the water quality standards required to maintain designated uses, and to prescribe regulations for implementing, achieving and maintaining the specified marine water quality.

Substantive provisions of the Act include:

- |         |  |
|---------|--|
| Part II | Establishes a system for classifying marine waters according to their use, which is expressly stated not to involve zoning. Basic criteria for all marine waters are set out and specific water quality criteria are established for each class of waters.   |
| Reg. 18 | Any point source of discharge shall be in violation of these regulations unless it has received a Marshall Islands Pollution Discharge Elimination System (MIPDES) permit.   |
| Reg. 27 | Any person who initiates any point-source and non-point sources of pollution must first obtain written approval that the project will not directly or indirectly impair any beneficial uses of the affected marine waters.   |
| Reg. 30 | The regulations provide that storage, disposal or allowing the accumulation of any hazardous substances in such a way that they may enter marine waters is a violation of the regulations unless written approval is obtained from the EPA. In the event of an accidental spill or discharge, the responsible person shall notify the RMI EPA within 24 hours and taken 'reasonable mitigation measures'. Failure to do so constitutes a separate offence. |
| Reg. 31 | Covers oil pollution prevention measures from both onshore and offshore facilities. Owners or operators of onshore and offshore facilities that could reasonably be expected to discharge oil are required to prepare a Spill Prevention Control and Countermeasure Plan.  |
| Part IX | The EPA is responsible for enforcement.  |

## OTHER

---

### 5.1. Disaster Risk Management

There is no direct mention of climate change in RMI legislation. However, the legal framework has some instruments in place to address its impacts in the best manner.

#### *Disaster Assistance Act 1987 [7 MIRC Ch. 10]*

This Act makes provisions for the following:

- to reduce vulnerability of people and communities of the Republic to damage, injury, and loss of life and property resulting from natural or manmade catastrophes;
- to clarify the role of the Cabinet and local governments in the prevention of, preparation for, response to, and recovery from disaster; and
- to authorise and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery between agencies.

The *Emergencies Act 1979* [7 MIRC Ch 11] supplements this by providing for matters concerning emergencies, and to authorise advancement of expenditures from the General Fund in emergencies.

#### *Fire Control Act [7 MIRC Ch. 7]*

The *Fire Control Act* regulates the control of fires used in the clearing of land in the Republic. Section 702 prohibits the use of fire to clear land without the prior written permission of the Chief Secretary.

### 5.2. National Heritage

#### *Historic Preservation Act 1991 [45 MIRC Ch.2]*

The *Historic Preservation Act 1991* promotes the preservation of the historic and cultural heritage of RMI and establishes the Historic Preservation Office. Functions of the Office include the following:

- issue or denial of permits relating to the use, access, and development of land containing cultural and historic properties, and for the taking of any artifact of cultural or historical significance from RMI for cultural exchange, scientific identification, or donation to the bona fide non-profit organisation;
- the identification and recording of cultural and historic properties;
- undertaking surveys;
- formulating cultural and heritage preservation plans; and
- developing a list of traditional cultural material prohibited from export.

Five sets of Regulations supplement the Act:

- *Regulations Governing Access to Prehistoric and Historic Submerged Resources;*
- *Regulations Governing Land Modification Activities;*
- *Regulations Governing the Conduct of Archaeological and Anthropological Research in the Republic;*
- *Regulations Governing the Disposition of Archaeologically Recovered Human Remains;* and
- *Regulations Governing the Taking and Export of Artifacts.*

These regulations govern access to prehistoric and historic submerged resources, land modification activities, the acquisition and export of artifacts, archaeological and anthropological research including regulations relating to archaeologically recovered human remains.

## MULTILATERAL ENVIRONMENTAL AGREEMENTS

INTERNATIONAL ENVIRONMENTAL INSTRUMENT	STATUS
Convention on Biological Diversity (CBD)	R
<ul style="list-style-type: none"> <li>Cartagena Protocol on Biosafety</li> <li>Nagoya Protocol on Access and Benefit-Sharing</li> </ul>	A A
Convention on International Trade in Endangered Species (CITES)	-
Convention on Migratory Species (CMS)	-
Convention on Wetlands (RAMSAR)	R
World Heritage Convention (WHC)	A
WASTE AND POLLUTION	
Hazardous waste and pollution	
Basel Convention	A
Rotterdam Convention	A
Stockholm Convention	A
Atmospheric Pollution	
Vienna Convention	A
<ul style="list-style-type: none"> <li>Montreal Protocol</li> </ul>	A
Ship-based pollution	
UNCLOS (Part XII : Protection and Preservation of the Marine Environment)	A
London Convention - Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter	-
<ul style="list-style-type: none"> <li>London Protocol</li> </ul>	
CLIMATE CHANGE	
UNFCCC	A
<ul style="list-style-type: none"> <li>Kyoto Protocol</li> </ul>	R
LAND DEGRADATION	
UNCCD	A
REGIONAL AGREEMENTS	
STATUS	
Waigani Convention	-
Noumea Convention	R
<ul style="list-style-type: none"> <li>Dumping Protocol</li> <li>Emergencies Protocol</li> </ul>	R R

Ratification (R), Acceptance (Ac), Accession (A), Signed (S),