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An Act to prescribe the limits of Government of the Marshall Islands liability in contract and tort, and for related purposes.[section numbering style modified to reflect new numbering format]

Commencement: December 19, 1980  
 Source: P.L. 1980-19  
 P.L. 1986-2

**PART I - PRELIMINARY****§1001. Short Title.**

This Act may be cited as the "Government Liability Act 1980". [P.L. 1980-19, §1.]

**§1002. Application of this Act.**

(1) All tort and contract claims against the Government of the Marshall Islands shall be made pursuant to this Act.

(2) In this Act, the word "Government" means the Government of the Marshall Islands. [P.L. 1980-19, §2.]

**PART II- GOVERNMENT CONTRACTS**

**§1003. Validity of contracts.**

- (1) All contracts with the Government or any agency of the Government shall be:
  - (a) in writing;
  - (b) in the name of the Government;
  - © made pursuant to an appropriation, if the contract entails an expenditure of public money;
  - (d) certified in writing by the Secretary of Finance or his designee that an appropriation has been made for the full amount of the contract liability and that funds are available;
  - (e) approved in writing as to form and execution by the Attorney-General or his designee: and
  - (f) executed by a contracting officer authorized to sign on behalf of the Government.
- (2) Contracts which do not comply with Subsection (1) herein are void and unenforceable in law or equity, except that the Government has the right to recover any monies expended under such a contract.
- (3) The Secretary of Finance shall promulgate rules pertaining to purchase orders, and shall use such forms as are approved by the Attorney-General or his designee. [P.L.1980-19, §3.]

**§1004. Suits authorized.**

- (1) The Attorney-General may sue:
  - (a) to avoid the obligation of any contracting officer, department or agency to pay under contract; or
  - (b) to recover payments made, if services performed under the contract are so unsatisfactory or incomplete, or so inconsistent with the price that payment would involve unjust enrichment.
- (2) The contrary opinion of the contracting officer, department or agency involved does not affect the authority of the Attorney-General under this Section. [P.L. 1980-19, §4.]

**PART III - TORT LIABILITY****§1005. Limitation of liability.**

- (1) The Government shall not be liable for more than
  - (a) \$25,000 in any action for wrongful death;
  - (b) \$50,000 in any other tort action; or
  - © \$50,000 in the aggregate for any number of tort claims arising out of a single occurrence.
- (2) Awards or resettlements to multiple claimants which would exceed \$50,000 shall be fairly apportioned not to exceed \$50,000 in the aggregate.
- (3) If the Government is insured for a greater amount the liability shall be the same as the insurance coverage.
- (4) The Government shall not be liable for interest prior to judgment or for punitive damages. [P.L. 1980-19, §5.]

**§1006. Liability for employee's conduct.**

(1) Subject to Subsection (2) of this Section, the Government is liable for the torts of its officers, agents and employees, while working in the scope of their employment, under circumstances where the Government, if a private person, would be liable to the claimant.

(2) The Government is not liable for the following acts or omissions of its officers, agents, or employees:

(a) an act or omission of an officer, agent or employee exercising due care in the execution of a valid or invalid statute, regulation, or Cabinet order;

(b) the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

© the assessment or collection of taxes, or the detention of any goods or merchandise by any law enforcement, tax or customs officer;

(d) the imposition or establishment of a quarantine;

(e) an assault or battery, except an assault or battery committed by a policeman acting in the line of duty, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights; or

(f) denial of, or failure to make, a medical referral to a medical facility outside the Republic.

(3) The liability of the Government provided in Subsection (1) above for torts resulting from the acts or omissions of its officers, agents and employees while acting within the scope of their office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the officer, agents and employees, or their estate, whose act or omission gave rise to the claim.

(4) In this Act “officers, agents and employees” include officers, agents and employees of the Government and its agencies, and, subject to Cabinet approval in writing, persons acting for or on behalf of the Government, or its agencies, in an official or volunteer capacity, temporarily or permanently, whether with or without compensation. [P.L. 1980-19, §6; amended by P.L. 1986-2, §2, adding new Subsections (3) and (4).]

#### PART IV - CLAIMS AGAINST THE GOVERNMENT

##### **§1007. Filing of claims.**

All tort and contract claims against the Government shall be filed with the Attorney-General, and shall contain the following:

(a) the complete name and address of the claimant;

(b) the amount of damages or other relief claimed;

© a concise statement of the facts on which the claim is based, including the time, place and other circumstances, and the department or agency of the Government that is concerned;

(d) a copy of any contract or other instrument in writing upon which the claim is based;

(e) a statement, whether or not the claimant has received any payment on account of such claim, and, if so, the amount received;

(f) a statement, whether or not any third person has any interest in the claim, and, if so, the name and address of the person having the interest and the nature of the interest;

(g) if the claimant is an executor, administrator, guardian or other representative, appointed by a judicial tribunal, a duly certified copy of the record of appointment; and

(h) a statement, whether or not the claimant has any insurance covering the damage alleged

to have been suffered by him, and of any payments he has received from the insurance carrier. [P.L. 1980-19, §7.]

**§1008. Claim to be signed and sworn to.**

The claim shall be signed by the claimant and sworn to him before a person authorized to administer oaths. [P.L. 1980-19, §8.]

**§1009. Limitation of filing.**

All tort and contract claims must be filed with the Attorney-General within six (6) months from the date when the claim arose. [P.L. 1980-19, §9.]

**§1010. Investigation.**

The Attorney-General shall cause each claim to be investigated to determine its merits. [P.L. 1980-19, §10.]

**§1011. Ancillary powers of Attorney-General.**

In making his investigation, the Attorney-General, or a member of his staff designated by him, has the authority to administer oaths to claimants and witnesses, and to require the production of any books, records or documents that may be material or relative as evidence in connection with the claim. [P.L. 1980-19, §11.]

**§1012. Penalty for false swearing.**

If any claimant or witness swears falsely to any material fact in an investigation of a pending claim, the false swearing, whether by affidavit or orally, is a misdemeanor, and shall upon conviction be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both. [P.L. 1980-19, §12.]

**§1013. Hearing.**

The Attorney-General, or a member of his staff designated by him, may, in his discretion, conduct a formal hearing in connection with the investigation of any claim. [P.L. 1980-19, §13.]

**§1014. Settlement of claims.**

(1) The Attorney-General may arbitrate or settle any claim filed under this Part for \$3,000 or less with the approval of the Chief Secretary, and for more than \$3,000 with the approval of the Cabinet.

(2) The Attorney-General may recommend other relief if appropriate. [P.L. 1980-19, §14.]

**§1015. Actions against the Government.**

(1) A claimant may institute an action in contract or tort, for money damages only, against the Government, provided that:

(a) the claimant has been notified by certified mail that his claim has been rejected, in whole or in part; or

(b) three months have elapsed since the date of filing the claim under Section 1007 of this Act.

(2) Service of process shall be upon the Attorney-General. [P.L. 1980-19, §15.]

**§1016. Limitation on actions.**

No action shall be instituted for a sum in excess of the amount of the claim presented to the Attorney-General, unless the increased amount of the claim is shown to be based upon new evidence not reasonably discoverable at the time when the claim was filed with the Attorney-General. [P.L. 1980-19, §16.]

**§1017. No jury trial.**

Trial shall be without jury. [P.L. 1980-19, §17.]

**§1018. Interest, costs and attorney fees.**

(1) The Government is liable for interest only from the date of judgment, at the rate of six percent (6%), except that in an action on a contract the Government shall also be liable for pre-judgment interest at the rate of one-half of one percent (0.5%) per month.

(2) The Government is not liable for punitive damages or attorney fees. [P.L. 1980-19, §18.]

**§1019. Settlement of suits.**

Subject to the approval of the court in which the action is pending, the Attorney-General is authorized to settle a suit at any time before final judgment in the manner prescribed by Section 1014 of this Act. [P.L. 1980-19, §19.]

**§1020. Release.**

(1) Payments shall be made only upon receipt of a written release by the claimant in a form approved by the Attorney-General or his designee.

(2) Acceptance of a partial payment does not constitute a waiver of payment of the balance of the settlement of judgment. [P.L. 1980-19, §22.]

**§1021. Statute of limitations.**

Every tort or contract action is barred unless commenced within one year from the date the claim was filed with the Attorney-General under Section 1007 of this Act, or within six (6) months from the date of notification of rejection of the claim under Section 1015 of this Act. whichever is sooner. [P.L. 1980-19, §23.]

**PART V - MISCELLANEOUS****§1022. Penalties.**

(1) A person who knowingly presents, or attempts to present, a false or fraudulent claim, or a Government officer, agent or employee who knowingly participates, or assists, in the preparation or presentation of a false or fraudulent claim, or who knowingly enters or attempts to enter into a contract in violation of Section 1003 of this Act, or who knowingly makes or attempts to make a payment on a claim in violation of Part IV shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one year, or both.

(2) If a person convicted under this Section is a Government official, he shall forfeit his office. [P.L. 1980-19, §25.]

**§1023. Claim forfeited by fraud.**

Any person who intentionally submits a false claim or attempts to commit a fraud against the Government or its insurance carrier in the proof, statement, establishment, or allowance of any claim, or any part of any claim, forfeits the entire claim to the Government. [P.L. 1980-19, §26.]

**§1024. Protection of government assets.**

In furtherance of Article I, Section 4 of the Constitution of the Marshall Islands, no assets of the Government, any local government, any statutory authority or any entity in which the Government or any local government owns or controls a majority of the beneficial interest shall be seized, attached or subject to execution with respect to any claim or to satisfy any judgment. [P.L. 1986-2, §2; this Section has been renumbered.]