

CHAPTER 3.**NATIONAL TRAINING COUNCIL**

ARRANGEMENT OF SECTIONS

Section**PART I — PRELIMINARY**

§301. Short Title.

§302. Interpretation.

§303. Preference.

PART II— NATIONAL TRAINING COUNCIL

§304. Establishment of Council.

§305. Council-membership.

§306. Meetings, by-laws and procedures.

§307. Functions of Council.

§308. Annual Report.

§309. Director and Staff.

PART III- TRAINING

§310. Courses of training.

§311. Selection and placement of trainees.

Section

§312. Apprenticeship Training.

PART IV-FINANCE

§314. National Training Fund.

§315. Payments into the Fund.

§316. Payments out of the Fund.

§317. Bank Accounts.

§318. Accounts and Records.

§319. Borrowing.

PART V-MISCELLANEOUS

§320. Inspection and Records.

§321. Authorized Officers.

§322. Regulations.

§323. Transition.

An Act to repeal and replace the Industries Development Act 1981; to establish the National Training Council to provide vocational and other training programs for Marshallese citizens and expand human resources development in the Republic.

Commencement: October 15, 1991

Source: P.L. 1991-140

P.L. 2000-21

P.L. 2005-39

§301. Short Title.

This Chapter may be cited as the Industries Development Act, 1991. [P.L. 1991-140, §1.]

§302. Interpretation.

In this Chapter, unless the context otherwise indicates;

(a) “Apprentice” means a person who has entered into an agreement to work for an employer for a period of time to be determined by the council, for the purpose of learning the craft, trade or profession in which the employer agrees to instruct him.

(b) “Authorized officer” means a person appointed by the council in accordance with Section 321.

(c) “Contract of apprenticeship” means an apprenticeship agreement made under Section 313.

(d) “Council” means the National Training Council established under Section 304.

(e) “Designated trade or occupation” means a trade or occupation designated by the President for the purposes of this Chapter.

(f) “Director” means the Director of the Council appointed in accordance with Section 309.

(g) “Fund” means the National Training Fund established under Section 314.

(h) “President” as used herein, refers to the President of the Republic, or a member of Cabinet designated by the President to carry out the functions of the President under this Act.

[P.L. 1991-140, §2.][P.L. 2005-39]

§303. Preference.

In the administration of this Chapter, preference shall be given to citizens of the Republic, as permitted under Article II, Section 12(3) of the Constitution and in accordance with the principles of Section 104 of the Protection of Resident Workers Act, as amended(16MIRC 1). [P.L. 1991-140 §3.][The Industries Development Act 1981 was repealed by this Act][P.L. 1991-140, §23.]

PART II- NATIONAL TRAINING COUNCIL

§304. Establishment of Council.

(1) There is hereby established the National Training Council (hereinafter, “the Council”) to provide for vocational and other training and human resources development for the Republic.

(2) The Council:

(a) is a body corporate with perpetual succession;

(b) shall have a seal;

(c) may enter into contracts;

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

(e) for the purposes of its functions, has all the powers, functions, duties, and responsibilities of a corporation, provided that it shall not have the power to hold or convey real property.

(3) To the extent that the provisions of the Associations Law, P.L. 1990-91, as amended, are not inconsistent with this Chapter, they shall apply to the Council and its activities. [P.L. 1991-140, §4.]

§305. Council-membership.

The Council shall consist of the following seven (7) members:

(a) the Chief Secretary, who shall serve as Chairman of the Council;

(b) one member representing the Ministry of Resources and Development, who shall be appointed by the President ;

(c) one member representing the Economic Policy, Planning and Statistics Office, who shall be appointed by the President; and

(d) three (3) members from the general public who shall be appointed by the President, in the following manner:

(i) one representing employers;

(ii) one representing employees;

- (iii) one representing civil society;
 - (e) one member representing the Ministry of Education appointed by the President;
- [P.L. 1991-140, §5.][amended by P.L. 2005-39]

§306. Meetings, by-laws and procedures.

(1) The Council shall meet not less than four (4) times per year. The members shall be notified in writing by the Director or other person designated by the Council at least one week before the date of any meeting.

(2) Subject to this Chapter and any other law, the Council shall determine its own bylaws, which shall provide for a quorum and the conduct of meetings; the appointment and duties of a Vice-Chairman and Secretary of the Council; the appointment of any additional committees as the Council deems advisable to assist the Council in its functions; and any other matters relating to the Council and its operations and procedures which it deems appropriate. [P.L. 1991-140, §6.]

§307. Functions of Council.

The functions of the Council are:

- (a) to advise the President on all vocational and other training and education matters in relation to the needs of industries, commerce and services to promote economic development;
- (b) to provide, arrange, approve, regulate and advise on the training of persons through apprenticeship or otherwise, and to assist such persons who have completed training to find appropriate employment;
- (c) to enter into any contracts necessary out its functions under this Chapter;
- (d) to advise on and distribute information regarding training and human resources development to employers and the general public, including publication of notices in Government Gazette with respect to industries or trades to which the activities of the Council applies;
- (e) to develop incentives to encourage private individuals and organizations to participate in the programs of the Council;
- (f) to assist and contribute towards the cost of the administration and promotion of training programs, and to make grants available to providing training courses or facilities;
- (g) to establish standards and conduct testing of trainees;
- (h) to issue certificates, in such form and manner as it may decided upon the satisfactory completion of an apprenticeship, trade test or course of training;
- (i) submit an annual report to the Nitijela in accordance with Section 308; and;
- (j) to take all necessary steps to enable all trainees to participate in programs offered under the United States Registered Apprenticeship Program and any other international apprenticeship or like programs;
- (k) to perform such other functions provided in this Chapter and any regulations promulgated under this Chapter as are necessary for carrying out the purposes of this Chapter. [P.L. 1991-140, §7.][paragraph (a) amended by P.L. 2000-21, §2.][amended by P.L. 2005-39]

§308. Annual Report.

The Council shall submit a report to the Nitijela in its regular constitutional session by January 15th of each year, detailing its activities and the progress made in meeting the objectives of this Chapter, and may make recommendations to the Nitijela for any appropriate legislation or other action as necessary to provide for vocational and other training programs and human resources development in the Republic. [P.L. 1991-140, §8.]

§309. Director and staff.

(1) The Council shall appoint a Director of the Council on such terms and conditions as the Council, with the approval of the Minister, decides.

(2) The Director shall serve at the pleasure of the Council, and shall be responsible for assisting the Council in carrying out its functions and for the implementation of this Chapter.

(3) The Director may, with the prior approval of the Council, hire such staff, including technical and other advisors, as may be necessary to carry out the functions of the Council as provided in this Chapter. [P.L. 1991-140, §9.]

PART III - TRAINING

§310. Courses of training.

The President, in consultation with the Council, shall adopt regulations concerning the nature, duration and scope of any course of training provided under this Chapter. [P.L. 1991-140, §10.][P.L. 2005-39, substituting “Minister” with “President”.]

§311. Selection and placement of trainees.

The President, in consultation with the Council, shall adopt regulations for the selection of trainees in accordance with this Chapter. The regulations shall include, without limitation, a preference for citizens of the Republic in accordance with Section 303 of this Chapter, and provisions for the placement of trainees in each of the local governments in view of their employment and training needs. [P.L. 1991-140, §11.][P.L. 2005-39, substituting “Minister” with “President”.]

§312. Apprenticeship Training.

The President, in consultation with the Council, shall adopt regulations concerning the employment, training and remuneration of apprentices in any designated trade or occupation. [P.L. 1991-140, §12.][P.L. 2005-39, substituting “Minister” with “President”]

§313. Contract of apprenticeship.

(1) Any apprentice in any designated trade or occupation shall be employed under an agreement made between the Director on behalf of the Council, the apprentice and the employer, whereby the employer agrees to employ the apprentice, and the apprentice agrees to work for the employer for a specified period of training in accordance with this Chapter and regulations promulgated under this Chapter.

(2) The President, in consultation with the Council, shall adopt regulations prescribing the form, duration and any other necessary particulars of contracts of apprenticeship, including but not limited to:

(a) the release of any employer or apprentice from their respective obligations under

a contract; and

(b) the transfer of benefits and obligations of an employer under an apprenticeship agreement to another employer who is willing to undertake them. [P.L. 1991-140, §13.][P.L. 2005-39, substituting “Minister” with “President”]

PART IV - FINANCE

§314. National Training Fund.

(1) The National Training Fund (hereinafter, “the Fund”) is hereby established

(2) The Fund is a fund other than the Marshall Islands General Fund, within the meaning and for the purposes of Article XIII, Section 3(2) of the Constitution of the Marshall Islands. [P.L. 1991-140, §14.]

§315. Payments into the Fund.

(1) There shall be paid into the Fund:

(a) any amounts appropriated by the Nitijela for the purposes of the Council and this Chapter:

(b) monies received from the Secretary of Finance under the Non-Resident Workers (Fee) Act, 1987 (16 MIRC Chapter 2);

(c) in accordance with Section 319 of this Chapter, any monies, including gifts, grants, advances contributions and any other assistance which may be received, granted, given, bequeathed, endowed or in any manner received from any source for the purposes of this Chapter; and

(d) any other monies properly payable by or under any other law into the Fund.

(2) The Council shall maintain within the Fund a separate account with respect to each of the matters as are referred to in Subsection (1) of this Section. [P.L. 1991-140, §15.][P.L. 2005-39 amending para. (B)][P.L. 2005-39]

§316. Payments out of the Fund.

(1) Money may be paid out of the Fund only for the following purposes:

(a) providing for training, including vocational training, human resources development and related purposes of this Chapter;

(b) for the administration of this Chapter: and

(c) for carrying out such other functions of the Council as are provided for in this Chapter.

(2) A delegation under Article VIII, Section 8(1) of the Constitution to expend money out of the Fund is given to the President, who shall be satisfied that the withdrawal is made in accordance with this Chapter, any rules or regulations promulgated under this Chapter and any other applicable law. [P.L. 1991-140, §16.][P.L. 2005-39, substituting “Minister” with “President”]

§317. Bank accounts.

The Council shall open a bank account or accounts with a bank approved by the Ministry of Finance for the purposes provided for in this Chapter. [P.L. 1991-140, §17.]

§318. Accounts and records.

(1) The Council shall maintain proper accounts and records, in accordance with generally accepted accounting principles for government funds and to the satisfaction of the Secretary of Finance, of:

- (a) the National Training Fund; and
- (b) the disposition of monies made out of the Fund.

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

(3) The accounts and records maintained under Section (1) of this Section shall be audited by the Auditor-General as provided for under Article VIII, Section 15 of the Constitution.

(4) As soon as practicable after the end of each financial year, the Council shall transmit to the Minister:

- (a) a copy of the statement of accounts;
- (b) a copy of the report made thereon by the Auditor-General; and
- (c) a report containing details of the activities of the Council during the financial year. [P.L. 1991-140, §18.]

§319. Borrowing and contributions.

(1) With the approval of the Cabinet and subject to such conditions and within such limits as it imposes, and subject to this Section, the Council may borrow money for its purposes.

(2) Subject to the direction of the President and to this Section, the Council may accept gifts, grants, advances, contributions or other assistance for its purposes.

(3) No money may be borrowed by the Council, and no gift, grant, advance, contribution or other assistance may be accepted by the Council, from the Government or agency of another country, or from any other sources outside of the Republic, except through the Government of the Republic or with the concurrence of the Cabinet.

(4) Where any money is borrowed, or any gift, grant, advance, contribution or other assistance is received for a specific purpose or subject to any conditions, it may be expended or used only for that purpose or subject to those conditions. [P.L. 1991-140, §19.][Sub-section (2) amended by P. L. 2005-39]

PART V - MISCELLANEOUS**§320. Inspection of records.**

With respect to any employer of an apprentice or other trainee placed with such employer in accordance with this Chapter, the Council may inspect, during normal business hours and upon reasonable notice, any financial or other records as necessary, and may require the employer to maintain and produce records as approved by the Council, to enable the Council to carry out its function under this Chapter. [P.L. 1991-140, §20.]

§321. Authorized officers.

(1) The Council may appoint such persons as it deems necessary as authorized officers for any of the purposes of this Chapter.

(2) An authorized officer may:

(a) at any reasonable time during normal business hours enter premises where apprentices are trained to examine methods used in training and provide advice; and

(b) request for the production of records required to be maintained by an employer in accordance with Section 320.

(3) An authorized officer shall carry sufficient identification and evidence of his appointment by the Council when exercising his powers.

(4) In the event that an authorized officer, upon the inspection of an employer's premises or records, discovers violations of any apprenticeship or other training agreement, the officer shall report such fact in writing to the Council with a copy submitted to the employer. The employer shall be given a reasonable opportunity to correct such violation. An employer's failure to correct such violation within a reasonable time may result in the termination of such agreement. An employer's failure to allow an authorized officer to enter the employer's premises or inspect the employer's records may also result in the termination of such agreement. [P.L. 1991-140, §21.]

§322. Regulations.

The President, in consultation with the Council, shall promulgate such regulations as are necessary to implement this Chapter, including but not limited to the following:

(a) courses of training under Section

(b) the selection and placement of trainees under Section 311;

(c) apprenticeship training under Section 312;

(d) contracts of apprenticeship under Section 313;

(e) vocational and other training programs and education;

(f) human resources development; and

(g) any other objectives of this Chapter.

[P.L. 1991-140, §22.][P.L. 2005-39, substituting "Minister" with "President"]

§323. Transition.

(1) All acts, transactions, matters, and things done, determined, or entered into by the Manpower Training Program established under the Industries Development Act 1981 shall be deemed to have been done, determined, and entered into by the National Training Council established by this Chapter.

(2) All assets, liabilities, rights, and obligations of Manpower Training Program and the Manpower Training Program Fund established under the Industries Development Act 1981 and existing immediately before the effective date of this Chapter, are transferred to and are assets, liabilities, rights, and obligations of the National Training Council and the National Training Fund established by this Chapter. [P.L. 1991-140, §24.]

§324. Merger of Work Investment Act Program Activities

(1) All activities under the Work Investment Act program are hereby merged under, and shall become the activities and programs of the National Training Council.

(2) The members of the Board of Directors of the Work Investment Act program and the Members of the National Training Council are deemed to have tendered their resignations to Cabinet on the effective date of this Act (P.L. 2005-39)

(3) all employees of the Work Investment Act program and the National training Council are deemed to have tendered their resignations to their respective Boards on the effective date of this Act (P.L. 2005-39).

(4) The re-organization under subsection (1) herein shall be completed within thirty (30) days from the effective date of this Act (P.L. 2005-39).

(5) All employees of the Work Investment Act program and the National Training Council shall continue to perform their duties and responsibilities, and be compensated for work done during the thirty-day reorganization period.[New section inserted by P.L. 2005-39]