

TITLE 2 - ELECTIONS AND REFERENDA
CHAPTER 5 - REFERENDUM (CONSTITUTIONAL AMENDMENT) ACT, 2018



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

REFERENDUM (CONSTITUTIONAL AMENDMENT) ACT
2018.

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CHAPTER 5 - REFERENDUM (CONSTITUTIONAL AMENDMENT) ACT, 2018



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

REFERENDUM (CONSTITUTIONAL AMENDMENT) ACT
2018.

AN ACT to provide for the holding of Referendum pursuant to paragraph (4) of Article XII of the Constitution.

Commencement:

March 15, 2018

Source:

P.L. 2018-69

§101. Short title.

This Act may be cited as the Referendum (Constitutional Amendment) Act 2018..

§102. Referendum.

- (1) There shall be conducted throughout the Republic of the Marshall Islands, pursuant to Article XII, Section 4, paragraph (4) of the Constitution, a national referendum among all qualified voters on the proposed amendments to the Constitution.
- (2) The referendum shall be conducted in accordance with the Election and Referenda Act of 1980.
- (3) The referendum shall be conducted on the date fixed by the Speaker in consultation with the Chief Electoral Officer.

§103. Proposed Amendments for Referendum.

The Proposed Amendments for Referendum are hereby listed under Schedule 1.

§104. Result of the Referendum.

- (1) In addition to making the official declaration of the results of the Referendum in accordance with Sections 185 and 189 of the Elections and Referenda Act, 1980 (2 MIRC Chapter 1), the Chief Electoral Officer shall also transmit the results to the Speaker of the Nitijela as soon as practicable.
- (2) Upon receiving the official results of the referendum from the Chief Electoral Officer, the Speaker shall, upon being satisfied that the amendments were approved in compliance with the requirements of the Constitution and applicable laws, certify that such amendments has been made pursuant to Article XII, Section 4, paragraph (4) of the Constitution, as having been submitted to the people by a Constitutional Convention and approved by two-thirds of the votes validly cast in a referendum of all qualified voters on the proposed amendments to the Constitution.

§105. Expenses for the Referendum.

The cost of holding the referendum shall not exceed \$650,000, as provided for under the Appropriations (Financial Year 2018) Act, or such other greater amount as may be provided for in accordance with applicable law.

§106. Effective date.

This Act shall take effect on the date of certification in accordance with the relevant provisions of the Constitution.

SCHEDULE**SCHEDULE SUBHEADING****(SECTION 103)****PROPOSED CONSTITUTIONAL AMENDMENTS****ELMOKOT NO. 1&22D2**

Elmokot No. 1&22D2, Article XI, DriAilinKein, Section 2, Armij Ro Remaron Erom Dri Ailin Kein, paragraph (1), subparagraph (b),ej oktak im kenono einwot in:

(b) bwe ear jokwe ilo Republic eo an Marshall Islands iumin juon tore eo ejjab ietlokjen 10 yio, im e ej jinen ak jemen juon ajiri eo ej armij in Republic eo an Marshall Islands, im ej palele ippen jinen ak jemen ajiri eo, eo im jinen ak jemen ej bareinwot armij in Republic eo an Marshall Islands.

Oktak Ko Rej Aikuj Kommon.

Article XIV, Men KoJabrewot, Section 1, Melele in Naan Ko, ej oktak ilo an kobalok naan kein, ko im rej kenono einwot in:

“palele” non un ko ikijien subparagraph (b) in paragraph (1) in Section 2 in Article XI, ej melelein juon palele eo ikotan juon eo ejjab citizen im juon eo ej citizen in Republic in, kabin kin kalimur ekkar non kien a ejjab koba palele ko kommon ekkar non manit.

Proposals No. 1 & 22D2, Article XI, Citizenship, Section 2, Citizenship by Registration, paragraph (1), subparagraph(b) is amended to read as follows:

(b) that he has been a resident in the Republic for not less than 10 years, is the parent of a child who is a citizen of the Republic, and is married to the parent of that child, which parent is also citizen of the Republic.

Consequential Amendment.

Article XIV, General, Section 1, Definitions, is amended by the inclusion of the following definition as follows:

“married” for purposes of subparagraph (b) of paragraph (1) of Section 2 of Article XI, means a marriage between a non-citizen and a citizen of the Republic solemnized pursuant to law but does not include a customary marriage.

ELMOKOT NO.14

Elmakot 14 - Article III, Section 1(2), Council an Iroij: Non ukot paragraph (2) im kalonlok uan Council an Iroij kin bar juon Iroij jenailin in Mili.

Article III Section 1(2) ej oktak einwot in:

“Council an Iroij enaj ejaak kin 5 ro rekkar jan bukon in ekaleel ko ilo Ralik Chain im 8 ro rekkar jen bukon in ekaleel ko ilo Ratak Chain i1o Marshall Islands ro kelet ir einwot in:

jen Ralik ejab koba Ujelang	4 Irojlaplap
jen Ugelang	1 Irojlaplap
jen Mili	2 Irojlaplap
jen Arno	1 Irojlaplap
jen Mejit	1 Irojlaplap
Jen Majuro	1 Irojlaplap
Jen Airok (Maloelap)	1 Irojlaplap
Jen Aur, Maloelap (im jab koba (Airok), Wotje, Utrik im Ailuk	1 Irojlaplap
Jen Likiep.	1 Owner

Proposal No. 14- Article III, Section 1(2), The Council of Iroij: To amend paragraph (2) by increasing the total membership of the Council of Iroij by the inclusion of one additional Iroij member from Mili Atoll.

Article III, Section 1(2) is amended to read as follows:

“The Council of Iroij shall consist of 5 eligible persons from districts of the Ralik Chain and 8 eligible persons from districts of the Ratak Chain of the Republic selected as follows:

<i>from the Ralik Chain excluding Ujelang.....</i>	<i>4 Iroiylaplaps</i>
<i>from Ujelang.....</i>	<i>1 Iroiylaplaps</i>
<i>from Mili.....</i>	<i>2 Iroiylaplaps</i>
<i>from Arno.....</i>	<i>1 Iroiylaplaps</i>
<i>from Mejit.....</i>	<i>1 Iroiylaplaps</i>
<i>from Majuro.....</i>	<i>1 Iroiylaplaps</i>
<i>from Airok (Maloelap).....</i>	<i>1 Iroiylaplaps</i>
<i>from Aur, Maloelap (excluding Airok), Wotje, Utrik and Ailuk....</i>	<i>1 Iroiylaplaps</i>
<i>.....</i>	<i>1 Iroiylaplaps</i>
<i>from Likiep.....</i>	<i>1 Owner”</i>

ELMOKOT NO. 16D3

Elmokot 16D2, Article VI, Section 4(3), ikijien Traditional Rights Court eo ej oktak im naj kenono einwot in:

- (3) Traditional Rights Court eo ewor an original jurisdiction non ronjake jabrewot abnono ko rejelet title ak jimwe im maron ko ion bwirej, ak jimwe im maron ko jet bedbed ion manit im jabrewot karkan manit im iminene ko ad ilo Republic eo an Marshall Islands.

Oktak Ko Rej Aikuj Kommon:

Paragraph (2) in Section 2 in Article VI, ikijien Supreme Court eo ej oktak ilo an kobalok jet naan kaal ilo subparagraph (c) im bwe naan ko ilo subparagraph (c) kiorenaj bed ilo juon subparagraph (d) kaal bwe Section 2 en kio kenono einwot in:

“(c) einwot juon jimwe jen jabrewot jemlok an Traditional Rights Court eo ilo an kojerbal eddo eo emoj komarone kake;

(d)...”

Innem subparagraph (c) eo kio enaj oktak im subparagraph (d).

Juon paragraph (6) kaal ej kobalok non Section 4 in Article VI, Traditional Rights Court eo, eo im ej kenono einwot in:

(6) Juon jemlokjen Traditional Rights Court eo maron appeal non Supreme Court eo, ekkar nan subparagraph (c) ilo paragraph (2) ilo Section 2 in Article in.

Proposal 16D2, Article VI, Section 4(3), The Traditional Rights Court: is amended to read as follows:

(3) The Traditional Rights Court shall have original jurisdiction to determine disputes relating to titles or to land rights or to other legal interests depending wholly or partly on customary law and traditional practice in the Republic of the Marshall Islands.

Consequential Amendments:

Paragraph (2) of Section 2 of Article VI relating to the Supreme Court is amended by the adding of new language to subparagraph (c) and the current language of subparagraph (c) becomes a new subparagraph (d) so that Section 2 now reads as follows:

“(c) as a matter of right from any final determination of the Traditional Rights Court in the exercise of its original jurisdiction.

(d)...”

And the language of current subparagraph (c) would then become (d).

A new paragraph (6) is added to Section 4, Article VI, Traditional Rights Court, to read as follows:

(6) A final determination of the Traditional Rights Court may be appealed to the Supreme Court, pursuant to subparagraph (c) of paragraph (2) of Section 2 of this Article.

ELMOKOT NO. 17D3

Article VII, Section 3(3), ikijien Attorney-General eo ej oktak einwot in:

Kobalok ibben jermal im maron ko jet lelok non e iumin Kien, Attorney-General eo enaj kabilok ikijien jabrewot melele ko ikijien jimwe im Kien koim elelok in Cabinet eo, President eo ak juon Minister, im enaj bokedro in kommoni, jermal ak kabojraki jabrewot makitkit ko ikijien juon jorren eo emoj kommone, ijellokin jermal ko kommoni jen office eo an Ombudsman ikijien mon, bwodin kojermal money ko an public, bwod in kojermal office, kakure maron ko an office eo, wiaboro, corruption, im jermal ko rejjab jimwe iumin kakien jen ro keletir ak rutiejro ilo Kien, im lale bwe kien ko ren jimwe im tiljok lori.

Oktak Ko Rej Aikuj Kommon:

Article XIV, Men KoJabrewot: Section 1, Melele in Naan Ko

“rutiej eo” ej melelein jabrewot ri jermal ilo Kien, tok jen jermal eo an ibben Kien, ej bed iumin jet eddo ko im ejako ibben kajojo armij ro im ekoba kajojo armij eo ej bed ilo jermal in tel ko ilo doulul ko ejaak kin kien, ak public corporation im doulul ko jet eierlok wot im ewor an eddo non kejbarok men ko mweien im jaan ko an public.

Article VII, Section 3(3), relating to the Attorney General, is amended as follows:

In addition to the other functions and powers conferred on him by law, the Attorney-General shall advise on legal matters referred to him by the Cabinet, the President or a Minister, and shall be responsible for instituting, conducting or discontinuing any proceedings for an offense alleged to have been committed, except for proceedings brought by

the office of the Ombudsman relating to fraud, misuse of public funds, misconduct in office, abuse of office, bribery, corruption, or other ethical conduct contrary to law by any elected or high officials, and for seeing to it that the laws are faithfully executed.

Consequential Amendments:

Article XIV, General: Section 1, Definitions:

“high officials” means any public officials who, because of his official status, is under special obligations that an ordinary person is not, and include any person in position of authority in public statutory or corporate bodies, entities, authorities who have fiduciary duties with respect to public property or monies.

ELMOKOT NO.18D3

Elmakot 18D3 - Article VII, ej oktak non kobaiklok juon Section 12 kaal ikijien Ombudsman, eo im enaj kenono einwot in:

Section 12. Ombudsman eo.

- (1) Speaker eo enaj jokelete im, kin weppen eo kalikare kin resolution an Nitijela eo, President eo enaj jiton juon Ombudsman eo an Republic eo an Marshall Islands.
- (2) Ombudsman eo enaj bed ilo office toon wot an jimwe an jermal, mae ien ej 72 an yio, ijelokin wot elane Ombudsman eo ejjab citizen in Republic in, emoj jitone non juon term in jermal eo juon yio ak aitoklok.
- (3) Ombudsman eo emaron, ilo jabrewot ien, kamoje jen office eo an ilo jeje kin eltan pein im jilkinlok non Speaker eo, botab, ejamin emakit ak bwijrak jen office ijellokin wot un im wawin ko ilo komakit juon dri ekajet an High Court ak an Supreme Court eo.
- (4) Elane office eo an Ombudsman eo ejelok kobban, ak ealikkar ke Ombudsman eo enaj kin jabrewot un jab maron in kommoni jermal ko an office eo an, inem Speaker eo enaj jokelete im President eo enaj jiton juon Acting Ombudsman; im Acting Ombudsman eo enaj

- wonmanlok wot im bok edro in jermal ko mae ien eo juon Ombudsman kaal emoj jitone im jino jermal, ak, bedbed ion un ko ilo tore eo, mae ien Ombudsman eo enaj bar maron in kommoni jermal ko an office eo an.
- (5) Juon armij eo ededelok an kar bok office einwot Ombudsman lok iman, jamin maron bar jitone non office ko jet ilo jermal ko an Marshall Islands ilo yio ko jilu elkin an jemlok an jermal einwot Ombudsman.
 - (6) Ombudsman eo ej aikuj in juon armij eo ekkar ikijien jelalokjen, imminene, im maron non kommoni jermal ko an Ombudsman.
 - (7) Wonen Ombudsman eo naj karoke kin kakien.
 - (8) Kobalok ibben jermal im maron ko lilok none iumin kakien, Ombudsman eo enaj etale im maron liakelok jabrewot jermal in mon, bwod in kojermal money ko an public, bwod in kojermal office, kakure maron ko an office eo, wia boro, corruption, im jermal ko rejjab jimwe iumin kakien jen ro keletir ak rutiej ro ilo Kien.
 - (9) Ilo an kommone jermal in etale ko an, Ombudsman eo enaj pad ibben maron kein:
 - (a) non buki im aini aolep kein kamol ko, ilo pepa ak naan, im non kajitokini aolep armij ro einwot ri-kamol, einwot an Ombudsman eo watokke ekkar im eaurok non boke ak kajitokini;
 - (b) non karok bwe aolep kein kamol ko (mekarta ilo jeje ak naan) jen rikamol ro ren kommon elkin bok kalimur non kwalok mol, im bwe kalimur in en ejelok oktak jen eo boke iman juon jikin ekajet ilo ien lelok kamol, im bwe en kommon kalimur in iman juon opija eo komarone jen ibben Ombudsman eo non an lelok kalimur non kajjo ian ri-kamolro;
 - (c) non kur jabrewot armij eo ej jokwe iloan Republic in non an lelok ak kadrelone jabrewot pepa in kamol k oak men ko jet rebed ibben, im non kajitokin armij in einwot juon ri-kamol ak kibebe bwe en kwalok pepa ak jabrewot men ko rebed ibben.
 - (d) Ilo jab kajekdron jabrewot ian eon ko ilo rule ko ikijien kein kamol ko, ko im ewor kitier, non kadrelone jabrewot kein kamol ko, ilo jeje ak naan, ko im rejamin maron in dreton ilo abonono ko im bwod ko nae kien ak ko jet;

- (10) Ombudsman eo emaron kommani edro ko an iumwin paragraph (8) ilo Section in kin e make ak ilo an kappeik officer ro an Public Service, ro im rej ilalin, ilo aer jerbali umwin karokko an ak jermal ko jet im ej kappeer kaki.
- (11) Ombudman eo enaj report non Nitijela eo iet tata juon alen ilo yio otemnej elane ej kwelok ilo regular session ko an ilo watok wewin an kommon jermal ko an iumin karok an Article in.
- (12) Ilo an kommane jermal ko an, Ombudsman eo enaj jamin bok an kabilok jen bar jabrewot ra an kien ak armij, ak enaj make beek wewin an jermal.

Oktak Ko Rej Aikuj Kommon:

Article XII, Section 2, paragraph 2 eo ej oktak bwe en kenono einwot in:

- (2) Paragraph (1) ilo Section naj aikuij kojerbale non:
 - (a) Council eo an Iroj;
 - (b) President im Vice-President eo;
 - (c) Nitijela eo;
 - (d) Speaker im Vice-Speaker eo;
 - (e) Cabinet eo;
 - (f) Supreme Court eo;
 - (g) High Court eo;
 - (h) Traditional Rights Court eo;
 - (i) Judicial Service Commission eo;
 - (j) Public Service Commission eo;
 - (k) Auditor-General eo;
 - (l) Ombudsman eo;
 - (m) Chief Secretary eo;
 - (n) Attorney-General eo;
 - (o) Secretary eo an Finance.

Proposal No. 18D3- Article VII, The Public Service, is amended by adding a new Section 12. Ombudsman, to read as follows:

Section 12. The Ombudsman.

- (1) *The Speaker shall nominate and, with the approval of the Nitijela, signified by resolution, the President shall appoint an Ombudsman of the Republic of the Marshall Islands.*
- (2) *The Ombudsman shall hold office during good behavior until he reaches the age of 72 years, unless, in the case of an Ombudsman who is not a citizen of the Republic, the Ombudsman has been appointed for a term of one or more years.*
- (3) *The Ombudsman may at any time resign his office by writing signed by him, addressed to the Speaker; but he shall not be removed or suspended from office except on the like grounds and in the like manner as a judge of the High Court or of the Supreme Court.*
- (4) *If the office of Ombudsman is vacant, or it appears that the Ombudsman is for any reason unable to perform the functions of his office, the Speaker shall nominate and the President shall appoint an Acting Ombudsman; and the Acting Ombudsman shall continue to perform those functions until a new Ombudsman is appointed and assumes office, or, as the case may be, until the Ombudsman is again able to perform the functions of his office.*
- (5) *A person who has held office as Ombudsman shall not be eligible for appointment to any other office in the service of the Republic within a period of 3 years after ceasing to hold the office of Ombudsman.*
- (6) *The Ombudsman must be a person qualified by education, experience, and character to discharge the functions of the Ombudsman.*
- (7) *The compensation of the Ombudsman shall be specifically prescribed by Act.*
- (8) *In addition to the other duties and powers conferred on him by law, the Ombudsman shall investigate and may prosecute any fraud, misuse of public funds, misconduct in office, abuse of office, bribery, corruption, or other ethical conduct contrary to law by elected or high officials.*
- (9) *In the course of his investigation, the Ombudsman shall have the following powers:*
 - (a) *to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Ombudsman may think it necessary or desirable to procure or examine;*
 - (b) *to require the evidence (whether written or oral) of any witness to be given on oath or affirmation, such oath or affirmation to be that which*

is required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Ombudsman an oath or affirmation to every such witness;

- (c) to summon any person residing in the Republic to give evidence or introduce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;*
 - (d) notwithstanding any of the provisions of the rules of evidence in force, to admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings.*
- (10) The Ombudsman may exercise his responsibilities under paragraph (8) of this Section either in person or through officers of the Public Service who are subordinate to him, acting in accordance with his general or special instructions.*
- (11) The Ombudsman shall report at least once annually to the Nitijela, at its regular session, on the performance of his functions under this Article.*
- (12) In the exercise of his functions, the Ombudsman shall not receive any direction from the President, the Cabinet or from any other authority or person, but shall act independently.*

Consequential Amendment:

Article XII. Section 2, paragraph 2 of the Constitution is amended to read as follow:

Section 2. Classification of Amendments.

(2) Paragraph (1) of this Section shall apply to:

- (a) the Council of Iroij;*
- (b) the President and Vice-President;*
- (c) the Nitijela;*
- (d) the Speaker and the Vice-Speaker;*
- (e) the Cabinet;*
- (f) the Supreme Court;*
- (g) the High Court;*
- (h) the Traditional Rights Court;*
- (i) the Judicial Service Commission;*
- (j) the Public Service Commission;*

- (k) *the Auditor-General;*
 (l) *the Ombudsman;*
 (m) *the Chief Secretary;*
 (n) *the Attorney-General;*
 (o) *the Secretary of Finance.*

ELMOKOT NO.19D2

Elmokot 19D2, Article IV, Raan Kommon Kien eo, Section 4, Ro Remaron in Jibarek, ej oktak ilo an kobatok juon paragraph (3) kaal eo im ej walok einwot in:

(3) Bwe jabrewot armij en maron in juon rijibarek ej aikuj wor an maron ion bwirej ilo ien eo ej lotak im ej aikuj juon natural born citizen.

Oktak Ko Rej Aikuj Kommon:

Article XIV, Men KoJabrewot, Section 1, Melelein Naan ko, ej oktak ilo an kobalok naan kein be en kenono einwot in:

“natural born citizen” melelein juon armij eo, ilo tore eo ej lotak tok, ewor an jowi ikijien jinen ak jemen im ej juon citizen ekkar non subparagraph (a) ilo paragraph (2) ilo Section 1 in Article XI.

Proposal 19D2, Article IV, The Legislature, Section 4, Qualifications of Candidates, is amended by adding a new paragraph(3) to read as follows:

(3) Any person who is qualified to be a candidate must have land rights by birth and be a natural born citizen.

Consequential Amendments:

Article XIV, General, Section 1, Definitions, is amended by adding the following definition:

“natural born citizen” means a person who, at the time of birth, has a jowi from his mother or father and is a citizen pursuant to subparagraph (a) of paragraph 2 of Section 1 of Article XI.

ELMOKOT NO. 21

Elmokot21: Article IV, Raan Kommon Kien eo, Section 2, Uan Nitijela eo, paragraph (1), ej oktak ilo kobailok “Enen Kio”, bwe en kenono einwot in:

“... Narikrik, Erikub, Jemo, Taka, Bikar, Bokak, Enenkio, Rongrik im Ailinginae naj kajojo iairo koba ilo bukin in ekalel eo, eo im ebaake tata ekkar non manit ak jabrewot karo kim lajrak ko ion bwirej.

Proposal No. 21- Article IV, The Legislature, Section 2, Membership of the Nitijela, paragraph (1), is amended to include “Enen Kio”, and to read as follows:

“ . . . Narikrik, Erikub, Jemo, Taka, Bikar, Bokak, Enenkio, Rongrik and Ailinginae shall each be included in the electoral district with which it is most closely associated, pursuant to the customary law or any traditional practice.”

ELMOKOT NO.24

Elmokot No. 24, Article III, Council an Iroj: Non ukot paragraph (2) non kobaiklok nan kein “Enewetak im” iman in nan in “Ujelang” ijoko jabrewot ej walok nan in “Ujelang” ilo section in bwe en walok einwot in “Enewetak im Ujelang”.

Article III, Section 1(2), ej oktak einwot in:

Section 1.Council an Iroj.

(2) Council an Iroj enaj ejaak kin 5 ro rekkar jen bukon in ekaleel ko ilo Ralik Chain im 7 ro rekkar jen bukon in ekaleel ko ilo Ratak Chain i1o Republic in ro keletir einwot in:

jen Ralik ejab koba Enewetak im Ujelang.....	4 Iroiylaplap
jen Enewetak im Ujelang.....	1 Iroiylaplap
jen Mili.....	1 Iroiylaplap
jen Arno.....	1 Iroiylaplap
jen Mejit.....	1 Iroiylaplap-
jen Majuro.....	1 Iroiylaplap
jen Airok (Maloelap).....	1 Iroiylaplap
jen Aur, Maloelap (im jab koba Airok), Wotje Utrik im Ailuk.....	1 Irotjlaplap
jen Likiep.....	1 Owner

Proposal No. 24 - Article III, Section 2, Council of Iroij: To amend Article III, Section 2, by adding the words “Enewetak and” immediately prior to the word “Ujelang” wherever the word “Ujelang” appears in this section so that it reads “Enewetak and Ujelang”.

Article III, Section 1(2) is amended to read as follows:

Section 1. The Council of Iroij.

(2) The Council of Iroij shall consist of 5 eligible persons from districts of the Ralik Chain and 7 eligible persons from districts of the Ratak Chain of the Republic selected as follows:

from the Ralik Chain excluding Enewetak and Ujelang.....	4 Iroiylaplaps
from Enewetak and Ujelang.....	1 Iroiylaplap
from Mili.....	1 Iroiylaplap
from Arno.....	1 Iroiylaplap
from Mejit.....	1 Iroiylaplap
from Majuro.....	1 Iroiylaplap
from Airok (Maloelap).....	1 Iroiylaplap
from Aur, Maloelap (excluding Airok), Wotje, Utrik and Ailuk.....	1 Iroiylaplap
from Likiep.....	1 Owner

