

CHAPTER 3.**ENDANGERED SPECIES****ARRANGEMENT OF SECTIONS****Section**

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An Act to provide for the protection of endangered species of fish, shellfish and game in the Republic and for matters connected therewith. [Section numbering style modified to conform to new Code format (Rev.2003)]

Source: COM P.L. 6-55 (1975)
45 TTC 1980

§301. Short title.

This Chapter is known and may be cited as the “Endangered Species Act 1975.” [COM P.L. 6-55, §1(1975); 45 TTC 1980, §101.]

§302. Interpretation.

As used in this Chapter, unless the context otherwise requires:

- (a) “animal” means any species of organism in the animal kingdom including, but not restricted to, mammals, birds, reptiles, amphibians, fish, clams, crustaceans and corals;
- (b) “commercial activity” means all activities of industry and trade including, but not limited to, buying or selling of commodities, and activities conducted for the purpose of facilitating such buying or selling;
- (c) “endangered species” means any species which is in danger of extinction throughout all or a significant portion of its range;

¹[Heading modified to reflect the laws remaining under this Title. [Tobolar Copra Processing Authority, re-codified as 10 MIRC Ch.13; Agriculture Supplies Account, re-codified as 11 MIRC Ch.14; Outer-Islands Boat Building Fund re-codified as 11 MIRC Ch.15. Remaining chapters re-numbered] Rev.2003]

(d) “export” means to remove from any land or water area under the jurisdiction of the Republic to any other place in the world;

(e) “import” means to land on, bring into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the Republic;

(f) “or parts thereof” means, in the case of animals and fish, hide, hair, bone, skeleton, teeth, feathers, skin, scales, tissues or internal organs; in the case of plants, the term means any root, leaf, stem, trunk, bark, fiber, seed, fruit, flower, tissue or extract;

(g) “person” means any individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, Department or instrumentality of the Government of the Marshall Islands or Local Government area;

(h) “plant” means any species of organism in the plant kingdom including, but not restricted to, trees, shrubs, flowers, grasses, algae and fungi;

(i) “possession” means the personal holding of any endangered or threatened species of plant or animal or parts thereof by any person, or possession of that species on his or her property, land, vehicle, home, place of business, or place of work;

(j) “Secretary”, when used alone, means the Secretary of Resources and Development of the Republic;

(k) “species” means any species or subspecies of scientifically described plant or animal;

(l) “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity;

(m) “threatened species” means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. [COM P.L. 6-55, §5(1975); 45 TTC 1980, §105, modified.]

§303. Findings.

The Nitijela has determined that certain species of plants and animals are threatened with or in danger of becoming extinct in the Republic. [COM P.L. 6-55, §2 (1975); 45 TTC 1980, §102, modified.]

§304. Policy.

The indigenous plants and animals of the Republic are of esthetic, ecological, historical, recreational, scientific, and economic value and it is the policy of the Government of the Marshall Islands to foster the well-being of these plants and animals by whatever means necessary to prevent the extinction of any species or subspecies from the islands of the Republic or the water surrounding them. [COM P.L. 6-55, §3(1975); 45 TTC 1980, §103, modified.]

§305. Administration of Chapter.

The provisions of this Chapter will be administered by the Secretary of Resources and Development. This administration of the Chapter will include the authority to set up conservation programs aimed at conserving endangered and threatened species. including research programs to adequately define which species are in fact endangered or threatened, and including, when necessary, the acquisition of land or aquatic habitat or interest therein for the conservation of resident endangered or threatened species. [COM P.L. 6-55, §4 (1975); 45 TTC 1980, §104, modified.]

§306. Prohibited acts.

It is prohibited for any person to take, engage in commercial activity with, hold possession of, or export any threatened or endangered species of plant or animal or parts thereof, so listed in this Chapter or in any regulations issued in accordance with this Chapter, except in accordance with the exceptions listed in Section 307 of this Chapter. [COM P.L. 6-55, §6 (1975); 45 TTC 1980, §106, modified.]

§307. Exceptions.

(1) This Chapter shall not apply to the taking, possession of, or export of species of endangered or threatened plants and animals or parts thereof for 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 in accordance with regulations governing the issuance of such permits.

(2) This Chapter shall not apply to any species of endangered or threatened plant or animal 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 Marshall Islands and in accordance with regulations issued in accordance with this Chapter for this purpose.

(3) This Chapter shall not apply to those species of endangered or threatened plants and animals or parts thereof which have been taken under authority of Subsection (1) of this Section and raised successfully in commercial quantities under controlled conditions of aquaculture, mariculture, game farming, agriculture or horticulture, providing that the individuals or quantity lots of these species or parts thereof are identified and identifiable as having been raised under these controlled conditions, such identification to be in accordance with regulations issued under this Chapter.

(4) This Chapter shall not apply in those cases where the Secretary has determined that the taking from certain islands of certain species of endangered or threatened plants or animals for subsistence food or for old traditional uses does not further endanger the species involved; provided, that the species or parts thereof involved are not subjected to commercial activity nor exported; and further provided, that this exception will only apply to the bonafide indigenous inhabitants of the islands excepted by the Secretary.

(5) This Chapter shall not apply to any person in innocent possession of any species of endangered or threatened plant or animal or parts thereof, except that such plants or animals or parts thereof will be confiscated by the Government of the Marshall Islands and disposed of in accordance with regulations issued under this Chapter.

(6) This Chapter will not apply to any non-living species of endangered or threatened plant or animal or parts thereof, if a person was in possession of same prior to this Chapter becoming law; and provided, that the person gives adequate evidence of such prior possession in accordance with criteria contained in regulations issued in accordance with this Chapter. [COM P.L. 6-55, §7 (1975); 45 TTC 1980, §107, modified.]

§308. Regulations.

The Secretary of Resources and Development shall issue regulations, subject to the approval of the Cabinet, applying to this Chapter and including a listing of the species of endangered and threatened plants and animals of the Republic. These regulations shall have the force and effect of law. [COM P.L. 6-55, §8 (1975); 45 TTC 1980, §108, modified.]

§309. Importation of endangered species.

In anticipation of international cooperation and reciprocity, it is prohibited to import into the Republic any species of endangered or threatened plant or animal or parts thereof which is listed by the convention on international trade in endangered species of wild fauna and flora. This list may be part of the regulations applying to this Chapter. [COM P. L. 6-55, §9 (1975); 45 TTC 1980, §109, modified.]

§310. Importation of exotic plants and animals.

Since exotic plants and animals not already established in the Republic can cause ecological upsets, compete with, prey upon, and introduce serious or devastating diseases which could further endanger indigenous plants and animals or drive them to extinction, it is prohibited to import such exotic plants and animals or parts thereof into the Republic except under permit by the Secretary as defined in the regulations authorized by this Chapter, except that beneficial insects and biological control microorganisms may be imported in accordance with the plant and animal quarantine laws of the Republic. [COM P.L. 6-55, §10 (1975); 45 TTC 1980, §110, modified.]

§311. Confiscation of plants, equipment, etc., for violations.

Any endangered species of plant or animal or parts thereof, held by any person in contravention of any of the other Sections of this Chapter, may be confiscated by the Government of the Marshall Islands and disposed of in accordance with the regulations applying to this Chapter, and further, any gun, weapon, spear, knife, trap, net, fishing gear, boat, engine, or vehicle used for the purpose of violating any of the provisions or regulations of this Chapter may be confiscated and disposed of by the Government of the Marshall Islands in accordance with the regulations applying to this Chapter. [COM P.L. 6-55, §11(1975); 45 TTC 1980, §111, modified.]

§312. Penalties for violation of Chapter.

Any person violating any of the provisions of this Chapter shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding one year, or both. [COM P.L. 6-55, §12(1975); 45 TTC 1980, §112, modified.]