

CHAPTER 3.**MANAGEMENT AND DEVELOPMENT OF LOCAL FISHERIES****ARRANGEMENT OF SECTIONS**

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An Act to provide for the development and management of Local Fisheries. [This Chapter codifies Part IV of P.L. 1997-60]

Commencement: 13 October 1997
Source: P.L. 1997-60

§301. Short Title.

This Chapter may be cited as the Management and Development of Local Fisheries Act".
[Short title supplied by Commissioner during codification.]

§302. Management and development of local fisheries.

(1) The Authority may take measures for the management and development of local fisheries including in internal waters and within five miles of the baseline from which the territorial sea of any atoll or island is measured.

(2) A Local Government Council may take measures for the management and development of local fisheries in its internal waters and within its waters up to five miles seaward of the baseline from which the territorial sea is measured, in accordance with this Title.

(3) Before any measures are taken pursuant to Subsection (1), the Director shall ensure that consultations are held with any Local Government Council affected by the proposed measures, and as appropriate convene public hearings.

(4) Each Local Government Council shall, as much as possible, cooperate in the development of local fisheries for the proper management and development of the fisheries resources for the benefit of the people of the Republic of the Marshall Islands.

(5) Subject to Subsections (1) and (3), each Local Government Council shall be responsible for the management, development and sustainable use, in accordance with this Title, of the reef and

inshore fisheries within its waters, extending up to five miles seaward from the baseline from which the territorial sea is measured. [P.L. 1997-60, §43.]

§303. Duties of Local Government Councils in the management and development of fisheries.

(1) Each Local Government Council, in managing, developing and ensuring sustainable use of its waters, shall have the following duties:

(a) preparation of fishery management plans, with the assistance and advice of the Authority, for any fishery in the municipal waters, consistent with any overall management plan or objective of the Authority;

(b) recommend that the Authority promulgate regulations regarding:

(i) fishing operations; and

(ii) the issuance of fishing licenses or permits for the designated fishery;

(c) adopt Ordinances, in accordance with this Title, for the management, development and sustainable use of the marine resources within its waters; and

(d) perform such other functions as may be delegated by the Authority. [P.L. 1997-60, §44.]

§304. Powers of a Local Government Council in the management and development of fisheries.

(1) A Local Government Council shall have the following powers in respect of its waters, and shall exercise them consistently with fisheries management and development measures or policy adopted by the Authority, and in accordance with this Title and relevant laws:

(a) fisheries management, development and sustainable use, including the establishment of marine protected areas;

(b) recommend to the Authority the declaration of a designated local fishery in accordance with Section 306;

(c) adopt Ordinances for fisheries management and development in accordance with Sections 308 and 309; and

(d) issue fishing licenses for species which may also be licensed by the Authority in accordance with Section 308.

(2) In exercising any of its powers, the Local Government Council shall first consult with the Director, who shall advise the Local Government Council if its proposed action is inconsistent with overall fisheries management or relevant laws or will be detrimental to any marine resource.

(3) If any Local Government Council in exercising any of its powers:

(a) does not consult with the Director in accordance with Subsection (2);

(b) consults with the Director in accordance with Subsection (2), who advises the Local Government Council that its proposed action is inconsistent with overall fisheries management or relevant laws or will be detrimental to any marine resource, and the Local Government Council does not take such advice into account,

any action taken by a Local Government Council in the exercise of such power shall have no force in law, and any Ordinance or other legal instrument applicable to or promulgated by a Local Government Council as the result of the exercise of such power shall be null and void. [P.L. 1997-60, §45.]

§306. Establishment of a local fisheries committee.

A Local Government Council may establish such local fisheries committee or other body as may be necessary to assist in carrying out its responsibilities under this Title. [P.L. 1997-60, §46.]

§306. Designated local fishery.

(1) A designated local fishery may be declared within the waters of a Local Government Council for purposes of delegating management responsibility to a Local Government Council in accordance with this Title.

(2) A fishery may, with the concurrence of the Local Government Council and the Authority, be declared a designated fishery in accordance with the following procedures:

(a) The Local Government Council may propose a designated fishery to the Director, who shall, after consultations as appropriate with persons who may be affected by such designation and others he may think fit, advise the Local Government Council in writing whether the proposal for a designated local fishery is approved by the Authority;

(b) Upon notification of the Director's approval, the Local Government Council shall proclaim by notice the designated local fishery;

(c) The Director may, after consultations as appropriate with the relevant Local Government Council, persons who may be affected and others he may think fit, request the Authority to proclaim a designated local fishery; and

(d) Upon receiving such request from the Director and an indication of consensus pursuant to consultations, the Authority shall proclaim the designated fishery.

(3) Notice of designation shall include, but is not limited to:

(a) a description of the fishery;

(b) where appropriate, a description of the boundaries of the fishery or fishery area by reference to geographical coordinates, boundary markers or natural features;

(c) the Local Government Council responsible for the management of the fishery;

(d) where appropriate, the species or class of fish which is to be managed; and

(e) the date the designated local fishery takes effect. [P.L. 1997-60, §47.]

§307. Fishery management plan.

(1) A fishery management plan shall be prepared, with the assistance and advice of the Authority, for each designated local fishery and may be prepared for any other fishery in its waters by the relevant Local Government Council.

(2) A management plan shall include:

(a) a description of the fishery by reference to area, fish species, fishing methods and the present state of exploitation;

(b) the objectives to be achieved;

(c) an outline of the strategy to achieve these objectives;

(d) a method for evaluating the effectiveness of the management plan; and

(e) a date to review the performance of the Local Government Council by the Authority.

(3) In addition to the requirements in Subsection (2), a management plan may also include:

(a) provision for permits or registration which may include but is not limited to boats,

gear, fishermen or any other means of managing fishing;

(b) provision for issuing permits for sport fishing or diving;

(c) limitations to be applied to fishing operations; and

(d) allocation of permit fees, resource rent, catch or other benefit accruing from the use of the fishery.

(4) In preparing a review of a management plan, the Local Government Council has a duty to consult with all those who may be directly affected including traditional leaders, fishers and holders of traditional rights.

(5) Each management plan, and each review, shall be submitted for approval to the Authority, and shall be implemented upon such approval in writing. [P.L. 1997-60, §48.]

§308. Local Government Council Fisheries Management Ordinance.

(1) A Local Government Council may adopt an Ordinance for management, development or sustainable use of a fishery in its waters, hereafter “Fisheries Management Ordinance”.

(2) A Fisheries Management Ordinance may:

(a) provide for licenses to be required and issued in accordance with this Title and procedures described in Section 309 for:

(i) fishing or any farm of fishing operation;

(ii) fish cultivation or culture; (iii) sport fishing; and

(iv) diving;

(b) prescribe the conditions and fees, if any, to be attached to any license issued by the Local Government Council;

(c) prescribe requirements for license issuance, suspension or denial;

(d) regulate or limit fishing operations and the conduct of fishing operations;

(e) require the registration of fishers, boats and fishing gear;

(f) allow closed or open seasons to be declared by resolution, indicating the requirements for adopting such a resolution and publication procedures; and

(g) provide for other matters consistent with the management plan. [P.L. 1997-60, §49.]

§309. Procedures for Fisheries Management Ordinances.

(1) A Local Government Council intending to introduce a Fisheries Management Ordinance shall first consult with the Director or his designee and the Attorney-General or his designee to determine whether it is consistent with fisheries management of the Authority, and appropriate for the fishery and marine environment.

(2) The Director and the Attorney-General or their respective designees shall be invited to any public hearings which may be held by the Local Government Council prior to its deliberations.

(3) The proposed Ordinance and recommendations of the Director and Attorney-General shall be submitted to the Local Government Council for approval, which shall only be given upon the recommendation of the Attorney-General and Director. [P.L. 1997-60, §50.]

§310. Appeal to Mayor.

(1) Any person who is affected by any decision of a Local Government Council may appeal to the Mayor in writing within thirty (30) days of the date of that decision.

- (2) The Mayor shall, after consultation with the Local Government Council
 - (a) confirm, alter or reverse such decision;
 - (b) inform, in writing, the Local Government Council of his decision and the effective date of that decision within thirty (30) days of receiving the appeal. [P.L. 1997-60, §51.]

§311. Director's participation in Local Government Council meetings.

- (1) The Director or his designee, or any Fisheries Officer shall be entitled to advise any Local Government Council and address any meeting of a Local Government Council.
- (2) The Director may require a Local Government Council to convene a meeting of any of its members in order that he or his designee may address the members at a place, time and date as he may specify.
- (3) Each Local Government Council shall:
 - (a) ensure that the Director is informed of its actions and decisions in relation to fisheries management and development;
 - (b) transmit to the Director copies of any resolutions, notices, declarations or other decisions taken in relation to fisheries management and development Agencies. [P.L. 1997-60, §52.]

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