

TITLE 1 GENERAL PROVISIONS

CHAPTERS

- 1 Bill of Rights (§§ 101-114)**
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SUBCHAPTERS

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Editor's note: Users of this 2014 FSM Code Annotated (FSMCA) should refer to the Introduction to this Code for a complete description of how the 2014 FSMCA was updated and published, and for other information on the legal status of this Code and its provisions.

TITLE 1 - GENERAL PROVISIONS

CHAPTER 1
Bill of Rights

SECTIONS

- § 101. Freedom of religion, speech and press; Right of assembly and petition.**
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- § 103. Unreasonable search and seizure.**
- § 104. Due process of law; Double jeopardy; Self-incrimination; Trial; Assistance of counsel; Capital punishment.**
- § 105. Bills of attainder, etc.**
- § 106. Excessive bail; Excessive fines; Cruel and unusual punishments.**
- § 107. Discrimination on account of race, sex, language or religion; Equal protection.**
- § 108. Freedom of migration and movement.**
- § 109. Education.**
- § 110. Imprisonment for failure to discharge contractual obligation.**
- § 111. Writ of *habeas corpus*.**
- § 112. Quartering of soldiers.**
- § 113. Trade and property rights.**
- § 114. Local customs.**

Case annotation: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the FSM Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 101. Freedom of religion, speech and press; Right of assembly and petition.

No law shall be enacted in the Trust Territory respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition the Government for a redress of grievances.

Source: TT Code 1966 § 1; TT Code 1970, 1 TTC 1; TT Code 1980, 1 TTC 1.

Cross-reference: FSM Const., art. IV, §§ 1, 2. The provisions of the Constitution are found in Part I of this code.

§ 102. Slavery and involuntary servitude.

Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist in the Trust Territory.

Source: TT Code 1966 § 2; TT Code 1970, 1 TTC 2; TT Code 1980, 1 TTC 2.

Cross-reference: FSM Const., art. IV, § 10. The provisions of the Constitution are found in Part I of this code.

§ 103. Unreasonable search and seizure.

The rights of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

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Source: TT Code 1966 § 3; TT Code 1970, 1 TTC 3; TT Code 1980, 1 TTC 3.

Cross-reference: FSM Const., art. IV, § 5. The provisions of the Constitution are found in Part I of this code.

For provisions on Searches and Seizures, see chapter 3 of title 12 (Criminal Procedure) of this code; for provisions on Seizure and Forfeiture Proceedings, see subchapter II of chapter 3 (Regulation of Foreign Vessels) of title 19 (Admiralty and Maritime) of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

The principal difference between FSM Const., art. IV, § 5 and 1 F.S.M.C. 103 is that the Constitution, in addition to prohibiting unreasonable searches and seizures also contains a prohibition against invasions of privacy. *FSM v. George*, 1 FSM R. 449, 455 n. 1 (Kos. 1984).

§ 104. Due process of law; Double jeopardy; Self-incrimination; Trial; Assistance of counsel; Capital punishment.

No person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall any person be compelled in any criminal case to be a witness against himself. In all criminal prosecutions the accused shall enjoy the right to a speedy public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense. No crime under the laws of the Trust Territory shall be punishable by death.

Source: TT Code 1966 § 4; TT Code 1970, 1 TTC 4; TT Code 1980, 1 TTC 4.

Cross-reference: FSM Const., art. IV, §§ 3, 6, 7, 9. The provisions of the Constitution are found in Part I of this code.

For provisions on Rights of Persons Arrested, see § 218 of title 12 (Criminal Procedure) of this code; for provisions on Rights of Defendants Enumerated, see § 401 of title 12 (Criminal Procedure) of this code; for provisions on eminent domain, see title 56 (Government Property Acquisition) of this code.

Case annotations: Statutory provisions which carried over from Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 105. Bills of attainder, etc.

No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall be enacted.

Source: TT Code 1966 § 5; TT Code 1970, 1 TTC 5; TT Code 1980, 1 TTC 5.

Cross-reference: FSM Const., art. IV, § 11. The provisions of the Constitution are found in Part I of this code.

§ 106. Excessive bail; Excessive fines; Cruel and unusual punishments.

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Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Source: TT Code 1966 § 6; TT Code 1970, 1 TTC 6; TT Code 1980, 1 TTC 6.

Cross-reference: FSM Const., art. IV, § 8. The provisions of the Constitution are found in Part I of this code.

For provisions on Sentencing, see chapter 12 of title 11 (Crimes) of this code; for provisions on Bail, see chapter 6 of title 12 (Criminal Procedure) of this code.

§ 107. Discrimination on account of race, sex, language, or religion; Equal protection.

No law shall be enacted in the Trust Territory which discriminates against any person on account of race, sex, language, or religion, nor shall the equal protection of the laws be denied.

Source: TT Code 1966 § 7; TT Code 1970, 1 TTC 7; TT Code 1980, 1 TTC 7.

Cross-reference: FSM Const., art. IV, § 4. The provisions of the Constitution are found in Part I of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 108. Freedom of migration and movement.

Subject only to the requirements of public order and security, the inhabitants of the Trust Territory shall be accorded freedom of migration and movement within the Trust Territory.

Source: TT Code 1966 § 8; TT Code 1970, 1 TTC 8; TT Code 1980, 1 TTC 8.

Cross-reference: FSM Const., art. IV, § 12. The provisions of the Constitution are found in Part I of this code.

§ 109. Education.

Free elementary education shall be provided throughout the Trust Territory.

Source: TT Code 1966 § 9; TT Code 1970, 1 TTC 9; TT Code 1980, 1 TTC 9.

Cross-reference: FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

For statutory provisions relating to Education, see of title 40 of this code.

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§ 110. Imprisonment for failure to discharge contractual obligation.

No person shall be imprisoned solely for failure to discharge a contractual obligation.

Source: TT Code 1966 § 10; TT Code 1970, 1 TTC 10; TT Code 1980, 1 TTC 10.

Cross-reference: FSM Const., art. IV, § 13. The provisions of the Constitution are found in Part I of this code.

§ 111. Writ of *habeas corpus*.

The privilege of the writ of *habeas corpus* shall not be suspended unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

Source: TT Code 1966 § 11; TT Code 1970, 1 TTC 11; TT Code 1980, 1 TTC 11.

Cross-reference: FSM Const., art. IV, § 8. The provisions of the Constitution are found in Part I of this code.

For general provisions relating to *habeas corpus*, see §§ 1503 to 1510 of title 6 (Crimes) of this code.

Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

§ 112. Quartering of soldiers.

No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Source: TT Code 1966 § 12; TT Code 1970, 1 TTC 12; TT Code 1980, 1 TTC 12.

§ 113. Trade and property rights.

Subject to applicable laws of the Trust Territory, the High Commissioner may restrict or forbid the acquisition of interests in real property and in business enterprises by persons who are not citizens of the Trust Territory.

Source: TT Code 1966 § 13; COM PL 3C-50 § 20; TT Code 1970, 1 TTC 13; TT Code 1980, 1 TTC 13.

§ 114. Local customs.

Due recognition shall be given to local customs in providing a system of law, and nothing in this chapter shall be construed to limit or invalidate any part of the existing customary law, except as otherwise provided by law.

Source: TT Code 1966 § 14; TT Code 1970, 1 TTC 14; TT Code 1980, 1 TTC 14.

Cross-reference: For constitutional guarantee of traditional rights, see FSM Const., art. V and art. XI, § 11. The provisions of the Constitution are found in Part I of this code.

For the statutory provision on Local Customs; Customary Law, see § 202 of this title; for provisions on recognition of local custom in annulment, divorce or adoption proceedings, see § 1614 of title 6 (Judicial Procedure) of this code; for provisions on recognition of local custom in criminal prosecutions, see § 108 of title 11 (Crimes) of this code; for provisions on local custom in criminal sentencing, see § 1203 of title 11 (Crimes) of this code.

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Case annotations: Statutory provisions which carried over from the Trust Territory Code and were reproduced and referred to as a "Bill of Rights" in 1 F.S.M.C. 101-114, may retain some residual vitality in the unlikely event that they furnish protections beyond those available under the Constitution's Declaration of Rights. *FSM v. George*, 1 FSM R. 449, 454-55 (Kos. 1984).

Under appropriate circumstances customary law may assume importance equal to or greater than particular written provisions in the National Criminal Code. 11 F.S.M.C. 108; *FSM v. Mudong*, 1 FSM R. 135, 139-40 (Pon. 1982).

Customary law is placed in neither an overriding nor inferior position by the FSM Constitution and statutes. *FSM v. Mudong*, 1 FSM R. 135, 139 (Pon. 1982).

Even where the parties have not asserted that any principle of custom or tradition applies, the Court has an obligation of its own to consider custom and tradition. *Semens v. Continental Air Lines, Inc. (I)*, 2 FSM R. 131, 140 (Pon. 1985).

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CHAPTER 2
Interpretation of Law and Code

SUBCHAPTER I
General

SECTIONS

- § 201. **Additional laws applicable to Trust Territory.**
- § 202. **Local customs; Customary law.**
- § 203. **Applicability of common law.**
- § 204. **Repeal of Spanish, German, and Japanese laws.**
- § 205. **Land law not affected.**
- § 206. **Existing interim regulations and orders, etc.**
- § 207. **Words denoting number, etc.**
- § 208. **Words and phrases, generally.**
- § 209. **English language text to prevail.**
- § 210. **Classification and arrangement of titles, etc.**
- § 211. **Construction of code.**
- § 212. **Severability of provisions.**
- § 213. **Numbering of laws.**

SUBCHAPTER II
Code of the Federated States of Micronesia

SECTIONS

- § 220. **Code of the Federated States of Micronesia: Statement of Intent.**
- § 221. **Designation of code.**
- § 222. **Adoption as positive law.**
- § 223. **Other documents not adopted.**
- § 224. **Laws unaffected.**
- § 225. **Rights and liabilities unaffected.**
- § 226. **Government authority unaffected.**
- § 227. **State law reaffirmed.**
- § 228. **Technical amendment of prior law.**
- § 229. **Future amendments: citations.**
- § 230. **Supplements as part of code.**
- § 231. **Repealer.**
- § 232. **Authorization for publication of 1997 edition of F.S.M.C.**
- § 233. **Contents of 1997 edition of F.S.M.C.**
- § 234. **Laws unaffected by 1997 publication.**

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

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The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

SUBCHAPTER I General

§201. Additional laws applicable to Trust Territory.

The following are declared to be in full force and to have the effect of law in the Trust Territory:

- (1) the Trusteeship Agreement;
- (2) such laws of the United States as shall, by their own force, be in effect in the Trust Territory, including the Executive orders of the President and orders of the Secretary of the Interior;
- (3) laws of the Trust Territory and amendments thereto;
- (4) district orders heretofore promulgated by the district administrators of the Trust Territory and emergency district orders promulgated by the district administrators in accordance with former section 108 of title 1 of the Trust Territory Code;
- (5) the acts of legislative bodies convened under charter from the High Commissioner when these acts are approved by the High Commissioner or otherwise become law as may be provided by charter or the laws and regulations of the Trust Territory; and,
- (6) duly enacted municipal ordinances.

Source: TT Code 1966 § 20; TT Code 1970, 1 TTC 101; TT Code 1980, 1 TTC 101.

Editor's note: Former 1 TTC 108 dealt with authority to promulgate emergency district orders.

§202. Local customs; Customary law.

The customs of the inhabitants of the Trust Territory not in conflict with the laws of the Trust Territory or the laws of the United States in effect in the Trust Territory shall be preserved. The recognized customary law of the various parts of the Trust Territory, in matters in which it is applicable, as determined by the courts, shall have the full force and effect of law so far as such customary law is not in conflict with the laws mentioned in section 201 of this chapter.

Source: TT Code 1966 § 21, TT Code 1970, 1 TTC 102; TT Code 1980, 1 TTC 102.

Editor's note: The phrases "or the laws of the United States in effect in the Trust Territory" and ", in matters in which it is applicable, as determined by the courts," were contained in the 1966 edition of the Trust Territory Code, but were deleted from the 1970 and 1980 editions.

Cross-reference: For constitutional guarantee of traditional rights, see FSM Const., art. V. The provisions of the Constitution are found in Part I of this code.

For other provisions on continuation of customary law, see § 114 of this title; for provisions on recognition of local custom in criminal prosecutions, see § 108 of title 11 (Crimes) of this code; and for provisions on local custom in criminal sentencing, see § 1203 of title 11 (Crimes) of this code.

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Case annotations: Customary law is placed in neither an overriding nor inferior position by the FSM Constitution and statutes. *FSM v. Mudong*, 1 FSM R. 135, 139 (Pon. 1982).

Under appropriate circumstances customary law may assume importance equal to or greater than particular written provisions in the National Criminal Code. 11 F.S.M.C. 108; *FSM v. Mudong*, 1 FSM R. 135, 139-40 (Pon. 1982).

§ 203. Applicability of common law.

The rules of the common law, as expressed in the restatements of the law approved by the American Law Institute and, to the extent not so expressed, as generally understood and applied in the United States, shall be the rules of decision in the courts of the Trust Territory in applicable cases, in the absence of written law applicable under section 201 of this chapter or local customary law applicable under section 202 of this chapter to the contrary and except as otherwise provided in section 205 of this chapter; provided, that no person shall be subject to criminal prosecution except under the written law of the Trust Territory or recognized local customary law not inconsistent therewith.

Source: TT Code 1966 § 22, TT Code 1970, 1 TTC 103; TT Code 1980, 1 TTC 103.

Case annotations: By its terms, 1 F.S.M.C. 203 pointing to the Restatements as a guide for determining and applying the common law applies only to "courts of the Trust Territory". Since only courts established by the Trust Territory administration existed when the section was issued, it plainly was intended only for those courts at that time. *Rauzi v. FSM*, 2 FSM R.8, 14 (Pon. 1985).

In absence of any persuasive considerations to the contrary, it is logical to conclude that 1 F.S.M.C. 203 pointing to the Restatements as a guide for determining and applying the common law applies only to courts of the Trust Territory, not to courts of the FSM or the various states. *Rauzi v. FSM*, 2 FSM R.8, 14(Pon. 1985).

FSM Supreme Court can and should consider the Restatement and reasoning of courts in United States and other jurisdiction in arriving at its own decisions although it is not bound by those decisions and must not fall into the error of adopting the reasoning of those decisions without independently considering suitability of that reasoning for the FSM. *Rauzi v. FSM*, 2 FSM R. 8, 14-15 (Pon. 1985).

1 F.S.M.C. 203, with its sweeping mandate that the Restatements and other common law rules as applied in the United States be the "rules of decision," would lure the courts in a direction other than that illuminated by the Constitution's Judicial Guidance Provisions, FSM Const., art. XI , § 11, which identifies as the guiding star, not the Restatement or decisions of United States courts concerning common law, but the fundamental principle that decisions must be "consistent with the Constitution, Micronesian custom and tradition, and the social and geographical configuration of Micronesia." *Rauzi v. FSM*, 2 FSM R. 8, 14 (Pon. 1985).

Common law principles may be drawn from statutes as well as court decisions. While the common law is articulated through court decisions, it has its source in legislative action as well as court decisions. *Rauzi v. FSM*, 2 FSM R. 8, 17(Pon. 1985).

The Micronesian Constitutional Convention anticipated that judges in the new constitutional court system would find it necessary to draw on experience and decisions of courts in other nations to develop a common law of the FSM. The framers recognized the desirability of such a search and amended the earlier draft of the provision to be sure to leave it open to the constitutional courts to do so. Nonetheless, judges now are not to consider the relationship between the common law of the United States and the legal system here in the same way that relationship was viewed prior to self-government. *Semens v. Continental Air Lines, Inc. (I)*, 2 FSM R. 131, 139 (Pon. 1985).

Common law decisions of United States are an appropriate source of guidance for this court for contract and tort issues unresolved by statutes, decisions of constitutional courts here, or custom and tradition in the FSM. Review of decisions of courts of the U.S., and any other jurisdictions, must proceed however against the background of

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"pertinent aspects of Micronesian society and culture." *Semens v. Continental Air Lines, Inc. (I)*, 2 FSM R. 131, 140 (Pon. 1985).

United States statutes regarding ships' mortgages will not be adopted as the common law of the FSM, because their purposes are not applicable to the FSM and because their changing nature and complexity are not conducive to forming the basis of the common law of this nation. *Federal Bus. Dev. Bank v. S.S. Thorfinn*, 4 FSM R. 57, 59-60 (Truk 1989).

Where there are no directly controlling statutes, cases or other authorities in the FSM, it may be helpful to look to law of other jurisdictions, especially the U.S., in formulating general principles for use in resolving legal issues bearing upon rights of public employees and officers, in part because structures of public employment within the FSM are based upon comparable governmental models existing in the U.S. *Sohl v. FSM*, 4 FSM R. 186, 191 (Pon. 1990).

Statutory changes overruling previous judicial rulings may fundamentally alter the general law in the area newly governed by statute. *Federal Bus. Dev. Bank v. S.S. Thorfinn*, 4 FSM R. 367, 372 (App. 1990).

Comparative negligence, which has displaced contributory negligence in most jurisdictions in the United States, should be given careful consideration by courts even though the Restatement (Second of Torts) refers only to contributory negligence and is silent about comparative negligence. There is reason to doubt that the FSM Supreme Court is bound by 1 F.S.M.C. 203 pointing to the Restatements as a guide for determining and applying the common law. *Ray v. Elec. Contracting Corp.*, 2 FSM R. 21, 23 n.1 (App. 1985).

§ 204. Repeal of Spanish, German, and Japanese laws.

All laws, regulations, orders, and ordinances heretofore enacted, issued, made, or promulgated by Spanish, German, or Japanese authority which are still in force in the Trust Territory are hereby repealed except as provided in section 205 of this chapter; provided, however, that nothing in this code shall change the effect of local custom which may have been included within the scope of laws, regulations, orders, or ordinances enacted, issued, made, or promulgated as aforesaid.

Source: TT Code 1966 § 23, TT Code 1970, 1 TTC 104; TT Code 1980, 1 TTC 104.

§ 205. Land law not affected.

The law concerning ownership, use, inheritance, and transfer of land in effect in any part of the Trust Territory on December 1, 1941, shall remain in full force and effect to the extent that it has been or may hereafter be changed by express written enactment made under authority of the Trust Territory.

Source: TT Code 1966 § 24, TT Code 1970, 1 TTC 105; TT Code 1980, 1 TTC 105.

§ 206. Existing interim regulations and orders, etc.

The provisions of this code, to the extent that they are substantially the same as prior interim regulations of the Trust Territory, are to be construed as a continuation thereof, and not as new enactments. All interim regulations and amendments thereto, heretofore enacted or made, which are contained in this code are to be deemed to have taken effect and come into force on the date of original publication thereof or on the date expressly provided in such interim regulation or amendments thereto. All proclamations, regulations, orders, and directives of the United States military Government, all civil administration orders (except existing district orders), and all interim regulations, amendments and supplements thereto, which are not contained in this code are hereby expressly repealed.

Source: TT Code 1966 § 26, TT Code 1970, 1 TTC 106; TT Code 1980, 1 TTC 106.

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§ 207. Words denoting number, etc.

As used in this code or in any Act of the Congress of Micronesia, unless it is otherwise provided or the context requires a different construction, application, or meaning:

- (1) words importing the singular include and apply to several persons, parties or things;
- (2) words importing the plural include the singular;
- (3) words importing the masculine gender include the feminine; and
- (4) words used in the present tense include the future.

Source: COM PL 4C-28 § 1; TT Code 1980, 1 TTC 152.

§ 208. Words and phrases generally.

Words and phrases, as used in this code or in any Act of the Congress or in any regulation issued pursuant thereto shall be read with their context and shall be construed according to the common and approved usage of the English language. Technical words and phrases and such other words and phrases as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to their peculiar and appropriate meaning.

Source: COM PL 4C-28 § 1; TT Code 1980, 1 TTC 153.

§209. English language text to prevail.

Whenever any provision of this code or any law, ordinance, regulation, document, or instrument adopted pursuant thereto shall have been translated in whole or in summary from English to a local language should there be a possible difference of interpretation between the English text and the local translation the English language text shall prevail and govern in the decision of all cases, except as provided in former section 105 of title 4 of the Trust Territory Code.

Source: COM PL 4C-28 § 1; TT Code 1980, 1 TTC 154.

Editor's note: Former 4 TTC 105 dealt with construing municipal ordinances.

§ 210. Classification and arrangement of titles, etc.

The classification of the titles, chapters, subchapters, and sections of this code, and the headings thereto, are made for the purpose of convenient reference and orderly arrangement, and no implication, inference, or presumption of a legislative construction shall be drawn therefrom.

Source: COM PL 4C-28 § 1; TT Code 1980, 1 TTC 155.

Editor's note: Nonsubstantive revisions have been made in this 2014 codification for format consistency. These changes are not intended and do not make any substantive changes to a law. These revisions include, but are not limited to: changing the word "Act" to the applicable word "subchapter", "chapter", "subtitle", or "title"; adding the words "of this section", "of this chapter", or "of this code" after references to specific subsections or sections; replacing references to "the Code of the Federated States of Micronesia" with "of this code"; changing numbering or lettering of subsections to comport with standard code format; using written numbers for numbers ten and below (e.g., "one", "two", etc.); using numerals instead of written numbers for numbers over ten (e.g., "11", "12", etc.); changing "Federated States of Micronesia" to its abbreviation "FSM" and making other abbreviations where appropriate; changing capitalization; italicizing subsection and paragraph headings; and changing "FSMC" to its citation form "F.S.M.C.".

§ 211. Construction of code.

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The provisions of this code shall be construed according to the fair construction of their terms, with a view to effect its object and to promote justice.

Source: COM PL 4C-28 § 1; TT Code 1980, 1 TTC 156.

Case annotations: Where there is a conflict between a statute of general application to numerous agencies or situations, such as the APA, and a statute specifically aimed at a particular agency or procedure, such as the National Election Code, the more particularized provision will prevail. This rule is based upon recognition that the legislative body, in enacting the law of specific application, is better focused and speaks more directly to the affected agency and procedure. *Olter v. National Election Comm'r*, 3 FSM R. 123, 129 (App. 1987).

Even if some deference is accorded to the legal judgment of an agency, the courts must remain the final authority on issues of statutory construction. *Olter v. National Election Comm'r*, 3 FSM R. 123, 132 (App. 1987).

Any court deference to another decision-maker on a legal question is a departure from the norm and may occur only when there is sound reason. *Olter v. National Election Comm'r*, 3 FSM R. 123, 132, 134 (App. 1987).

In reviewing the statutory interpretation of an agency authorized to implement the particular statute, the court should not defer but is under an affirmative duty to make its own determination as to the meaning of the statute when there is no indication that Congress intended the court to defer, when no particular scientific or other expertise is required for administration of the act, and when the interpretation does not involve mere routine operating decisions, but instead represents a fundamental policy decision having constitutional implications. *Carlos v. FSM*, 4 FSM R. 17, 25 (App. 1989).

§ 212. Severability of provisions.

If any provision of this code or amendments or additions hereto, or the application thereof to any person, thing, or circumstances is held invalid, the invalidity does not affect the provisions or application of this code or the amendments or additions that can be given effect without the invalid provisions or application, and to this end the provisions of this code and the amendments or additions thereto are severable.

Source: COM PL 4C-28 § 1; TT Code 1980, 1 TTC 157.

§ 213. Numbering of laws.

(1) Public laws shall be assigned a number by the High Commissioner as they become law, with or without his signature, in the order in which they become law. Numbers of public laws enacted by the First Regular Session, 1965, Congress of Micronesia, shall be preceded by the figure "1-"; numbers of public laws enacted by the Second Regular Session, 1966, Congress of Micronesia, shall be preceded by the figure "2-"; numbers of public laws enacted by the Third Regular Session, 1967, Congress of Micronesia, shall be preceded by the figure "3-"; numbers of laws enacted by the Fourth Regular Session, 1968, Congress of Micronesia, shall be preceded by the figure "4-"; numbers of public laws enacted by the Third Congress of Micronesia shall be preceded by the figure "3C-"; numbers of public laws enacted by the Fourth Congress of Micronesia shall be preceded by the figure "4C-"F; numbers of public laws enacted by the Fifth and succeeding Congresses shall be preceded by an arabic numeral representing the number of the Congress, followed by a hyphen, such as "5-".

(2) Private laws enacted by the Congress of the Federated States of Micronesia shall be numbered in the same manner as public laws, as set forth in subsection (3) of this section, except that such laws shall be known as private laws and not as public laws.

(3) Bills enacted by the Congress of the Federated States of Micronesia shall be assigned a number by the President of the Federated States of Micronesia as they become law, with or without his

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approval, in the order in which they become law. Public laws enacted by the First Congress of the Federated States of Micronesia shall be preceded by the figure "1" followed by a hyphen. Public laws enacted by subsequent Congresses shall be preceded by an arabic numeral representing the number of the appropriate Congress, followed by a hyphen, such as "2-".

Source: TT Code 1980, 2 TTC 164; PL 1-33 § 1.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The official website of the FSM Congress contains the public laws enacted by the FSM Congress at <http://www.fsmcongress.fm/>.

Case annotations: A fundamental principle of statutory interpretation is that where a statute can be read in two ways, one raising constitutional issues and the other interpreting the language as affecting matters clearly within the constitutional reach of Congress, the latter interpretation should prevail so that the constitutional issue is avoided. *FSM v. Boaz (II)*, 1 FSM R. 28, 32 (Pon. 1981).

When interpreting a statute, courts should try to avoid interpretations which may bring the constitutionality of the statute into doubt. *Tosie v. Tosie*, 1 FSM R. 149, 157 (Kos. 1982).

While courts will not refuse to pass on the constitutionality of statutes in a proceeding in which such a determination is involved, needless consideration of attacks on their validity and unnecessary decisions striking down statutes will be avoided. Legislative acts are presumed to be constitutional; where fairly possible a construction of a statute will be made that avoids constitutional questions. *Truk v. Hartman*, 1 FSM R. 174, 180-81 (Truk 1982).

Courts should avoid, where possible, selecting interpretations of a statute which may bring into doubt the constitutionality of that statute. *In re Otokichy*, 1 FSM R. 183, 190 (App. 1982).

Constitutional issues should not be decided if the statute in question may be interpreted in such a way as clearly to conform with constitutional requirements. *Suldan v. FSM (I)*, 1 FSM R. 201, 205 (Pon. 1982).

A court should not decide a constitutional issue when there remains a possibility that an administrative decision will obviate the need for a court decision. *Suldan v. FSM (I)*, 1 FSM R. 201, 205 (Pon. 1982).

The Constitution does not contemplate that FSM citizens must first petition any person or body outside the FSM as a condition to consideration of their constitutional claims by courts established under this Constitution. *In re Iriarte (II)*, 1 FSM R. 255, 267 (Pon. 1983).

If construction of a statute by which a serious doubt of constitutionality may be avoided is fairly possible, a court should adopt that construction. *Suldan v. FSM (II)*, 1 FSM R. 339, 358 (Pon. 1983).

If a dispute properly may be resolved on statutory grounds without reaching potential constitutional issues and without discussing constitutional principles, the court should do so. *FSM v. Edward*, 3 FSM R. 224, 230 (Pon. 1987).

No clause in the FSM Constitution is equivalent to the eleventh amendment of the United States Constitution, which generally bars citizens from using U.S. federal courts to seek monetary damages against states. *Edward v. Pohnpei*, 3 FSM R. 350, 361 (Pon. 1988).

When dealing with statutes, before discussing constitutional issues a court must first address any threshold issues of statutory interpretation which may obviate the need for a constitutional ruling. *Michelsen v. FSM*, 3 FSM R. 416, 419 (Pon. 1988).

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The appellate court will not decide a constitutional issue if not raised below and because unnecessary constitutional adjudication is to be avoided. *Jonah v. FSM*, 5 FSM R. 308, 313 (App. 1992).

The Chapman rule, which holds that a constitutional error can be found harmless only when it is harmless beyond a reasonable doubt, is suitable for the FSM. *Jonah v. FSM*, 5 FSM R. 308, 314 (App. 1992).

A statute is repealed by implication by a constitutional provision when the legislature, under the new constitutional provision, no longer has the present right to enact statutes substantially similar to the statute in question. *FSM v. Jano*, 6 FSM R. 9, 11 (Pon. 1993).

SUBCHAPTER II Code of the Federated States of Micronesia

§ 220. Code of the Federated States of Micronesia; Statement of Intent.

This section is intended to effect a codification of the general and permanent National laws of the Federated States of Micronesia and is not intended to effect any substantive changes therein.

Source: PL 10-25 § 2.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendars, and other information of the court, the constitution and code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, and other Congressional information at <http://www.fsmcongress.fm/>.

Editor's note: PL 10-25 codifies most of the provisions of PL 2-48 which was the public law which originally effectuated a codification of the laws of the Nation (effective date, May 24, 1982). A copy of PL 2-48 can be found in the Introduction to Original 1982 Code. This was done because the provisions of PL 2-48 were permanent in nature and should be part of the code. PL 9-62 was enacted to do this, but the problem with PL 9-62 was that it placed all of the provisions of PL 2-48 within a single section of the code, with each section of PL 2-48 being numbered a subsection of the section. This would have made for a very lengthy and awkward section, and would have been inconsistent with the current formatting of the code. Section 1 of PL 10-25, therefore, repealed what had been codified in section 1 of PL 9-62 as subchapter II of chapter 2 of this title in its entirety. PL 10-25, then set out each of the sections of PL 2-48 as a separately numbered section of subchapter II of chapter 2 of this title.

Case annotations: PL 2-48, promulgating the codification of the FSM statutes and speaking only of "All enacted law of the Interim Congress of Micronesia . . . and all enacted law of the Congress of the Federated States of Micronesia" as "readopted and reenacted as positive law of the Federated States of Micronesia," may not be interpreted as an attempt to repeal or purge the Trust Territory law from the law of the Federated States of Micronesia. *Joker v. FSM*, 2 FSM R. 38, 43 (App. 1985).

In approving the current codification of laws, the Congress "readopted and reenacted as positive law" those portions of the Code relating to laws enacted by the FSM Congress or the Interim Congress of the Federated States of Micronesia. For such laws then the Code itself indisputably is the official version. In the event of conflict between

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the Code and the language of the statute as reported in other sources, including congressional journals, the Code would be deemed accurate and would prevail. *FSM v. George*, 2 FSM R. 88, 91 (Kos. 1985).

In declining to "reenact" in PL 2-48, provisions originating with High Commissioners or Congress of Micronesia, Congress seems to have been motivated by transitional considerations rather than a desire to withhold official status from those laws. *FSM v. George*, 2 FSM R. 88, 92 (Kos. 1985).

The FSM Code was adopted by Congress to facilitate "law making and legal research," since Congress recognized that a "single body of laws" was "needed to organize all applicable statutes into one source". *FSM v. George*, 2 FSM R. 88, 92 (Kos. 1985).

The Code of the Federated States of Micronesia is intended by Congress to be regarded as the official and controlling version of the language of any legislation reported in the Code. *FSM v. George*, 2 FSM R. 88, 92 (Kos. 1985).

The Code will determine the content of statutory language to be enforced, although other sources such as congressional journals and even the original version of the statute might be consulted to indicate legislative intent when the language in the Code is ambiguous. *FSM v. George*, 2 FSM R. 88, 92 (Kos. 1985).

§ 221. Designation of code.

The attached manuscript is incorporated by reference herein and is hereby designated as the "Code of the Federated States of Micronesia". This code contains the National laws of the Federated States of Micronesia and is prepared under the authority of the Congress of the Federated States of Micronesia, by contract between the National Government of the Federated States of Micronesia and the Book Publishing Company of Seattle, Washington.

Source: PL 10-25 § 3.

§ 222. Adoption as positive law.

(1) All enacted law of the Interim Congress of the Federated States of Micronesia, except for Public Law No. IC-28, and all enacted law of the Congress of the Federated States of Micronesia which are incorporated in part II of the attached manuscript are hereby readopted and reenacted as positive law of the Federated States of Micronesia in the form appearing in the manuscript.

(2) All enacted law which is readopted and reenacted pursuant to subsection (1) of this section is hereby repealed in its prior form.

Source: PL 10-25 § 4.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The FSM Supreme Court website contains the Code of the Federated States of Micronesia and other court information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contain the public laws enacted by the FSM Congress and other congressional information at <http://www.fsmcongress.fm/>.

Case annotations: PL 2-48, promulgating the codification of the FSM statutes and speaking only of "All enacted law of the Interim Congress of Micronesia . . . and all enacted law of the Congress of the Federated States of Micronesia" as "readopted and reenacted as positive law of the Federated States of Micronesia," may not be interpreted as an attempt to repeal or purge the Trust Territory law from the law of the Federated States of Micronesia. *Joker v. FSM*, 2 FSM R. 38, 43 (App. 1985).

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In approving the current codification of laws, the Congress "readopted and reenacted as positive law" those portions of the Code relating to laws enacted by the FSM Congress or the Interim Congress of the Federated States of Micronesia. For such laws then the Code itself indisputably is the official version. In the event of conflict between the Code and the language of the statute as reported in other sources, including congressional journals, the Code would be deemed accurate and would prevail. *FSM v. George*, 2 FSM R. 88, 91 (Kos. 1985).

In declining to "reenact" in PL 2-48, provisions originating with High Commissioners or Congress of Micronesia, Congress seems to have been motivated by transitional considerations rather than a desire to withhold official status from those laws. *FSM v. George*, 2 FSM R. 88, 92 (Kos. 1985).

§ 223. Other documents not adopted.

The inclusion in part III of the attached manuscript of the documents relating to the Government of the Trust Territory of the Pacific Islands is not to be construed as an adoption of those documents or as recognition of their efficacy in the Federated States of Micronesia.

Source: PL 10-25 § 5.

Cross-reference: Certain Governmental Authority documents are found in Part IV of this code.

Case annotations: PL 2-48, promulgating the codification of the FSM statutes and speaking only of "All enacted law of the Interim Congress of Micronesia . . . and all enacted law of the Congress of the Federated States of Micronesia" as "readopted and reenacted as positive law of the Federated States of Micronesia," may not be interpreted as an attempt to repeal or purge the Trust Territory law from the law of the Federated States of Micronesia. *Joker v. FSM*, 2 FSM R. 38, 43 (App. 1985).

In declining to "reenact" in PL 2-48, provisions originating with High Commissioners or Congress of Micronesia, Congress seems to have been motivated by transitional considerations rather than a desire to withhold official status from those laws. *FSM v. George*, 2 FSM R. 88, 92 (Kos. 1985).

§ 224. Laws unaffected.

Nothing in sections 220 through 231 of this subchapter affects the validity of either appropriation laws, other temporary National laws not included in this code, or laws enacted after October 1, 1981, by the Congress of the Federated States of Micronesia.

Source: PL 10-25 § 6.

§ 225. Rights and liabilities unaffected.

The repeal in subsection (2) of section 222 of this subchapter does not affect the status of any civil or criminal actions, rights, or liabilities existing before the repeal takes effect.

Source: PL 10-25 § 7.

§ 226. Government authority unaffected.

The republication in this code of Trust Territory laws and the retention of references therein to the authority of the Government of the Trust Territory of the Pacific Islands are not intended to alter, diminish, or in any way change or affect the authority of the National Government or the respective State governments of the Federated States of Micronesia over the subject of legislation included therein, as that authority has been established by the Constitution of the Federated States of Micronesia, the State charters or constitutions, and other applicable law.

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Source: PL 10-25 § 8.

Cross-reference: The FSM Constitution is found in Part I of this code. The constitutions of the states of Chuuk, Kosrae, Pohnpei, and Yap are found in Part III of this code. Certain Governmental Authority documents are found in Part IV of this code.

Case annotations: PL 2-48, promulgating the codification of the FSM statutes and speaking only of "All enacted law of the Interim Congress of Micronesia . . . and all enacted law of the Congress of the Federated States of Micronesia" as "readopted and reenacted as positive law of the Federated States of Micronesia," may not be interpreted as an attempt to repeal or purge the Trust Territory law from the law of the Federated States of Micronesia. *Joker v. FSM*, 2 FSM R. 38, 43 (App. 1985).

Under art. XV, § 1 of the Constitution a provision of the Trust Territory Code is repealed by subsequent statutory provision enacted by the Congress only if the statutory provisions in question are inconsistent or in conflict. Even if certain provisions are repealed, other provisions of that same statute may remain intact if the statute, without the deleted provision is self-sustaining and capable of separate enforcement. *FSM v. Boaz (II)*, 1 FSM R. 28, 29 (Pon. 1981).

An amendment or repeal of a Trust Territory statute by the Congress need not be explicit to be effective. If a Trust Territory statutory provision is inconsistent or in conflict with a statutory provision enacted by Congress, that provision is repealed by implication. *FSM v. Albert*, 1 FSM R. 14, 16 (Pon. 1981).

§ 227. State law reaffirmed.

The authority of the States of the Federated States of Micronesia with regard to those provisions of the Trust Territory Code within the jurisdiction of the States is unaffected and hereby reaffirmed.

Source: PL 10-25 § 9.

Cross-reference: The constitutions of the states of Chuuk, Kosrae, Pohnpei, and Yap are found in Part III of this code.

§ 228. Technical amendment of prior law.

Technical amendments to laws included in part II of this code, whether or not those laws are readopted and reenacted pursuant to section 222 of this subchapter, are hereby enacted regarding the following:

- (1) organization and numbering of titles, chapters, subchapters, sections, and other subparts;
- (2) changes in phraseology;
- (3) changes in introductory materials; and
- (4) correction of errors.

Source: PL 10-25 § 10.

§ 229. Future amendments; citations.

(1) Future amendments to laws included in part II of this code, whether or not those laws are readopted and reenacted pursuant to section 222 of this subchapter, shall be made with reference to such laws as they appear in this code.

(2) The preferred citation of laws included in part II of this code is as follows: first, the title number in Arabic numerals; second, "F.S.M.C."; and third, section number. Example: The citation of

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section 201, "Qualifications of Senators," of title 9, "National Elections," would appear as "9 F.S.M.C. 201".

Source: PL 10-25 § 11.

§ 230. Supplements as part of code.

(1) The laws contained in any current pocket parts or supplements to this code, printed and published under contract or otherwise as may be authorized by law, constitute *prima facie* a part of this code if the laws, as so contained, purport to represent reproductions of statutory amendments to this code, as stated in accompanying notes thereto.

(2) If pocket parts or supplements are published on a cumulative basis, then only the laws in the latest publication thereof constitute *prima facie* a part of this code.

(3) If any discrepancy arises between the text of a provision set out in the current supplement and that contained in the basic Act as separately printed and published by the President of the Federated States of Micronesia or his designee pursuant to the authority granted by law, the latter shall constitute the positive law and shall control.

Source: PL 10-25 § 12.

Editor's note: PL 10-25 codifies most of the provisions of PL 2-48 which was the public law which originally effectuated a codification of the laws of the Nation (effective date, May 24, 1982). A copy of PL 2-48 can be found in the Introduction to Original 1982 Code. This was done because the provisions of PL 2-48 were permanent in nature and should be part of the code. PL 9-62 was enacted to do this, but the problem with PL 9-62 was that it placed all of the provisions of PL 2-48 within a single section of the code, with each section of PL 2-48 being numbered a subsection of the section. This would have made for a very lengthy and awkward section, and would have been inconsistent with the current formatting of the code. Section 1 of PL 10-25, therefore, repealed what had been codified in section 1 of PL 9-62 as subchapter II of chapter 2 of this title in its entirety. PL 10-25, then set out each of the sections of PL 2-48 as a separately numbered section of subchapter II of chapter 2 of this title.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The FSM Supreme Court website contains the Code of the Federated States of Micronesia and other court information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contain the public laws enacted by the FSM Congress and other congressional information at <http://www.fsmcongress.fm/>.

§ 231. Repealer.

The Trust Territory Code to the extent it is not republished herein or reaffirmed as within the jurisdiction of the States by section 227 of this subchapter is hereby repealed in its entirety.

Source: PL 10-25 § 13.

§ 232. Authorization for publication of 1997 edition of F.S.M.C.

The publishing of the official 1997 edition of the Code of the Federated States of Micronesia (F.S.M.C.), pursuant to contract with the Congress of the Federated States of Micronesia is hereby authorized.

Source: PL 10-25 § 14.

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§ 233. Contents of 1997 edition of F.S.M.C.

The 1997 edition of the Code of the Federated States of Micronesia shall contain the general and permanent National laws codified as positive law in the original 1982 edition of the Code of the Federated States of Micronesia pursuant to sections 220 through 231 of this subchapter, supplemented and updated with any amendments or additions to the law requiring codification through the Ninth Congress of the Federated States of Micronesia.

Source: PL 10-25 § 15.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The FSM Supreme Court website contains the Code of the Federated States of Micronesia and other court information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contain the public laws enacted by the FSM Congress and other congressional information at <http://www.fsmcongress.fm/>.

§ 234. Laws unaffected by 1997 publication.

The supplementing and updating to the original 1982 F.S.M.C. in the First Supplement authorized by Public Law No. 4-33 and in this re-publication with subsequently enacted laws, shall not effect any substantive change to the law as enacted and as it became effective.

Source: PL 10-25 § 16.

Cross-reference: The provision on legal status of laws included in the F.S.M.C. enacted after the First Supplement are found in 1 F.S.M.C. 230. The First Supplement to this code was authorized pursuant to PL 4-33.

Editor's note: PL 10-25 was signed into law by the President of the Federated States of Micronesia on July 22, 1997.

TITLE 1 - GENERAL PROVISIONS

CHAPTER 3
Oath of Office

SECTIONS

§ 301. Form of oath or affirmation.

§ 301. Form of oath or affirmation.

The members of Congress, the President and Vice President, Judges, directors of Government departments, Public Auditor, and diplomatic representatives of the Federated States of Micronesia shall take the following oath or affirmation on assuming their respective offices:

"I solemnly swear (or affirm) that I will faithfully execute the Office of _____ of the Federated States of Micronesia, and will, to the best of my ability, uphold, promote, and support the laws and the Constitution of the Federated States of Micronesia, so help me God."

Source: PL IC-12 § 1.

TITLE 1 - GENERAL PROVISIONS

CHAPTER 4
Capital of the Federated States of Micronesia

SECTIONS

§ 411. Acceptance.

§ 412. Applicable laws.

Editor's note: PL 6-56 § 1 repealed the former chapter 4, "Capital of the Federated States of Micronesia," (§§ 401-408) in its entirety.

§ 411. Acceptance.

The Congress of the Federated States of Micronesia hereby accepts the territory described in "Quitclaim of Public Trust Land," dated January 15, 1985, Pohnpei State Public Lands Authority document number 7838, as "that certain real property located in Palikir Section, Sokehs Municipality, Pohnpei State, and more particularly described as follows: Parcel No. 017-B-01 as shown on Public Lands Authority Plat No. 017-B-00 dated January 15, 1985, containing an area of 134.288 acres of land more or less," and designates this area as the National Capital and the permanent seat of the Government of the Federated States of Micronesia.

Source: PL 6-42 § 1.

Editor's note: PL 6-42 became law on January 15, 1990 without the signature of the President. PL 6-56 § 1 repealed former chapter 4 of this title, "Capital of the Federated States of Micronesia," (§§ 401-408) in its entirety. PL 6-42 is codified herein as a law of permanent application pursuant to the authority provided by 1 F.S.M.C. 233.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 412. Applicable laws.

Unless and until changed by subsequent Acts of Congress, the National laws and the laws of the State of Pohnpei applicable to the area designated as the National Capital of the Federated States of Micronesia prior to its acceptance shall apply.

Source: PL 6-42 § 2.

Editor's note: PL 6-42 is codified herein as a law of permanent application pursuant to the authority provided by 1 F.S.M.C. 233.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

TITLE 1 - GENERAL PROVISIONS

CHAPTER 5
Flag

SECTIONS

- § 501. Design designated.**
§ 502. Display of flags.
§ 503. Desecration of flag.

§ 501. Design designated.

There shall be and there is hereby adopted an official flag of the Federated States of Micronesia, which shall consist of a circle of four white stars centered on a field of blue. The width of the flag of the Federated States of Micronesia shall bear a ratio to its length of 1 to 1.9, and the width of the flag to the width of a star the ratio of five to one. The flag may be reproduced for unofficial purposes, with different dimensions.

Source: TT Code 1966 § 15; TT Code 1970, 1 TTC 201; TT Code 1980, 1 TTC 201; PL IC-6 § 1.

§ 502. Display of flags.

(1) The flag of the Federated States of Micronesia shall be displayed in the open only from sunrise until sunset and during such hours shall be displayed only on buildings, flagstuffs, or halyards.

(2) The flag of the Federated States of Micronesia shall be hoisted briskly and lowered ceremoniously.

(3) No person shall display any other flag above or in a position of superior prominence or honor to the flag of the Federated States of Micronesia at any place within the Federated States of Micronesia; provided, that this subsection shall not apply to foreign embassies, consulates, diplomatic missions, or the offices of international agencies.

(4) The President may establish rules and procedures for the half-mast display of the flag of the Federated States of Micronesia and the use of the flag at official funerals.

Source: TT Code 1966 § 16; TT Code 1970, 1 TTC 202; TT Code 1980, 1 TTC 202; PL IC-6 § 2; PL 4-82 § 1.

§ 503. Desecration of flag.

(1) Any person who knowingly casts contempt upon any flag of the Federated States of Micronesia by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than \$100, or imprisoned for not more than six months, or both.

(2) The term "flag of the Federated States of Micronesia" as used in this section shall include an official flag of the Federated States of Micronesia, as described in section 501 of this title, or any reproduction thereof for official or unofficial purposes and having the same or different dimensions as the flag of the Federated States of Micronesia.

Source: COM PL 7-135 § 1; TT Code 1980, 1 TTC 203; PL IC-6 § 3.

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CHAPTER 6
Holidays

SECTIONS

- § 601. National holidays.**
§ 602. Conditions of observance.
§ 603. Other holidays.

§ 601. National holidays.

The following days shall be observed as national holidays throughout the Federated States of Micronesia:

- (1) the first day of January of each year, which is hereby designated as New Year's Day;
- (2) the tenth day of May of each year, which is hereby designated as Federated States of Micronesia Day to commemorate the effective date of the Constitution of the Federated States of Micronesia;
- (3) the third day of November of each year, which is hereby designated as Independence Day to commemorate the termination of the United Nations Trusteeship Agreement as it applied to the Federated States of Micronesia and the commencement of full self-government for the people of the Federated States of Micronesia;
- (4) the eleventh day of November of each year, which is hereby designated as FSM Veterans of Foreign Wars Day to commemorate those citizens of the Federated States of Micronesia serving in Foreign Wars through service in the armed forces of the United States of America;
- (5) the twenty-fifth day of December of each year, which is hereby designated as Christmas Day;
- (6) the twenty-fourth day of October of each year, which is hereby designated as United Nations Day; and
- (7) the thirty-first day of March of each year, which is hereby designated as Micronesian Culture and Tradition Day.

Source: TT Code 1966 §§ 17, 18; TT Code 1970, 1 TTC 251; TT Code 1980, 1 TTC 251; PL 4-86 § 1; PL 7-20 § 1; PL 13-38 § 1; PL 16-27 § 1.

Cross-reference: The provisions of the Constitution are found in Part I of this code.

§ 602. Conditions of observance.

All holidays set forth in section 601 of this chapter shall, if they occur on a Saturday, be observed on the preceding Friday, and shall, if they occur on a Sunday, be observed on the following Monday.

Source: PL 1-28 § 1; PL 4-86 § 2.

§ 603. Other holidays.

No holidays other than those set forth in section 601 of this chapter shall be observed by any employee or official of the National Government of the Federated States of Micronesia.

Source: PL 1-28 § 2; PL 4-86 § 3.

TITLE 1 - GENERAL PROVISIONS

CHAPTER 7
Amendment of the Constitution

SECTIONS

- § 701. Short title.**
- § 702. Methods of proposing constitutional amendments.**
- § 703. Format of constitutional amendment.**
- § 704. Ratification of constitutional amendments.**
- § 705. Notice of ratification – Effectiveness.**
- § 706. Implementation regulations.**

§ 701. Short title.

This chapter shall be known and may be cited as the "Constitutional Amendment Procedure Act."

Source: PL 2-51 § 1.

Cross-reference: FSM Const., art. XIV states as follows:

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states.

If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

The provisions of the Constitution are found in Part I of this code.

For amendments to the FSM Constitution made pursuant to the Constitutional Convention held in July/August, 1990, see FSM Constitution and constitutional amendments. These provisions and other information on the Constitution can be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

Case annotations: The National Constitutional Convention is given broad authority to revise the very foundation of government, and every institution and office of government may come within its reach. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 326 (App. 1990).

The nature of a constitutional convention as authorized by the FSM Constitution, with direct control of people over the identity of convention delegates, and ultimate acceptance of the products of the convention's efforts, and the fact that the framers view a constitutional convention as a standard and preferred amendment mechanism, preclude congressional control over the convention's decision-making. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 327 (App. 1990).

Congress has no power to specify voting requirements for Constitutional Convention and therefore any attempt to exercise this power so as to uphold tradition is also outside the powers of Congress under art. V, § 2 of the Constitution, which is not an independent source of congressional power but which merely confirms the power of Congress, in exercising national legislative powers, to make special provisions for Micronesian tradition. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 328 (App. 1990).

§ 702. Methods of proposing constitutional amendments.

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(1) There shall be three methods of proposing amendments to the Constitution of the Federated States of Micronesia:

(a) *Constitutional convention.* Upon application of the legislatures of three-fourths of the States, the Congress of the Federated States of Micronesia shall enact a law authorizing a constitutional convention for the purpose of proposing a specific amendment or amendments to the Constitution. At least every ten years, the Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?" A referendum on the question shall be held no later than May 10, 1989; or

(b) *Initiative petition.* A constitutional amendment may be proposed by a popular initiative petition signed by no less than ten percent of the registered voters in not less than three-fourths of the States. An initiative petition with the requisite number of signatures shall be transmitted by the election commissioner of each respective State as established in section 703(4) of this chapter, without delay to the President of the Federated States of Micronesia; or

(c) *Congressional Act.* A constitutional amendment may also be proposed by an Act of Congress pursuant to the provisions of article IX, sections 20 through 22 of the Constitution.

(2) No proposed constitutional amendment will be placed on the ballot in a general election for Members of the Congress of the Federated States of Micronesia unless it shall have been received by the President no later than 45 consecutive days prior to the date of said general election; provided, however, that nothing in this subsection shall prevent a proposed constitutional amendment from being placed on the ballot during a special election called by the President for that purpose.

Source: PL 2-51 § 2; PL 2-58 § 1.

Cross-reference: FSM Const., art. XIV. The provisions of the Constitution are found in Part I of this code.

For amendments to the FSM Constitution made pursuant to the Constitutional Convention held in July/August, 1990, see FSM Constitution and constitutional amendments. These provisions and other information on the Constitution can also be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on National Elections are found in title 9 of this code.

§ 703. Format of constitutional amendment.

The format of constitutional amendments shall be uniform as prescribed by the President, according to the following basic guidelines:

(1) Proposed constitutional amendments which have been received by the President, pursuant to section 702 of this chapter, shall be printed on ballots to be voted on simultaneously by all voters of the Federated States of Micronesia during a general election for the Members of the Congress of the Federated States of Micronesia or during a special election called by the President specifically for that purpose, unless the vote is called for at a different date pursuant to law.

(2) The proposed constitutional amendment shall cite the appropriate article of the Constitution by title and shall state at length the section or its subsection proposed to be amended, followed immediately by the question:

"Do you approve of this proposed amendment to the Constitution:

YES|_| NO|_|?"

(3) The proposed constitutional amendment shall be printed in English and shall also be translated into the major languages of the individual States as appropriate.

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(4) The President shall appoint an election commissioner for each of the States with the advice and consent of Congress, who shall, as soon as practicable after the election, certify and transmit the results of the votes cast on the amendment to the President and the Congress of the Federated States of Micronesia.

(5) The President of the Federated States of Micronesia shall be the judge as to the approval or disapproval of an amendment to the Constitution, subject to an override by the Congress by not less than a three-fourths vote of all the State delegations, with each State delegation casting one vote.

Source: PL 2-51 § 3; PL 6-105 § 1.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 704. Ratification of constitutional amendments.

(1) A proposed constitutional amendment is deemed to have been ratified if approved by three-fourths of the votes cast on that amendment in at least three-fourths of the States of the Federated States of Micronesia.

(2) In the event conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of the conflict.

(3) Once ratified, a constitutional amendment becomes part of the Constitution and is as effective as all other parts of the Constitution, against all States of the Federated States of Micronesia.

Source: PL 2-51 § 4.

Cross-reference: FSM Const., art. XIV states as follows:

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states.

If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

The provisions of the Constitution are found in Part I of this code.

For amendments to the FSM Constitution made pursuant to the Constitutional Convention held in July/August, 1990, see FSM Constitution and constitutional amendments. These provisions and other information on the Constitution can be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 705. Notice of ratification - Effectiveness.

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Upon receipt of the certified results of votes pursuant to section 703(4) of this chapter, and having made the determination that a constitutional amendment has been ratified in accordance with section 704(1) of this chapter, the President shall, no later than 15 days thereafter, issue a proclamation announcing the ratification of the amendment and that its effectiveness is retroactive to the date of the election.

Source: PL 2-51 § 5.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 706. Implementing regulations.

The President is hereby authorized to designate an agency within the executive branch to administer the provisions of this chapter with the power to issue implementing rules and regulations which, upon approval by the President, shall have the force and effect of law.

Source: PL 2-51 § 6.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code.

Editor's note: PL 10-25 codifies most of the provisions of PL 2-48 which was the public law which originally effectuated a codification of the laws of the Nation (effective date, May 24, 1982). A copy of PL 2-48 can be found in the Introduction to Original 1982 Code. This was done because the provisions of PL 2-48 were permanent in nature and should be part of the code. PL 9-62 was enacted to do this, but the problem with PL 9-62 was that it placed all of the provisions of PL 2-48 within a single section of the code, with each section of PL 2-48 being numbered a subsection of the section. This would have made for a very lengthy and awkward section, and would have been inconsistent with the current formatting of the code. Section 1 of PL 10-25, therefore, repealed what had been codified in section 1 of PL 9-62 as subchapter II of chapter 2 of this title in its entirety. PL 10-25, then set out each of the sections of PL 2-48 as a separately numbered section of subchapter II of chapter 2 of this title.

Case annotations: The National Constitutional Convention is given broad authority to revise the very foundation of government, and every institution and office of government may come within its reach. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 326 (App. 1990).

The nature of a constitutional convention as authorized by the FSM Constitution, with direct control of people over the identity of convention delegates, and ultimate acceptance of the products of the convention's efforts, and the fact that the framers view a constitutional convention as a standard and preferred amendment mechanism, preclude congressional control over the convention's decision-making. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 327 (App. 1990).

Congress has no power to specify voting requirements for Constitutional Convention and therefore any attempt to exercise this power so as to uphold tradition is also outside the powers of Congress under art. V, § 2 of the Constitution, which is not an independent source of congressional power but which merely confirms the power of Congress, in exercising national legislative powers, to make special provisions for Micronesian tradition. *Constitutional Convention 1990 v. President*, 4 FSM R. 320, 328 (App. 1990).

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CHAPTER 8
National Anthem

SECTIONS

- § 801. National anthem.**
§ 802. Conduct during playing.
§ 803. Singing of National anthem.

§ 801. National anthem.

The composition consisting of words and music known as "Patriots of Micronesia" is designated as the National anthem of the Federated States of Micronesia.

Source: PL 7-31 § 1.

Editor's note: PL 7-31 was signed into law by the President of the Federated States of Micronesia on December 10, 1991.

§ 802. Conduct during playing.

During rendition of the National anthem, all present should stand. During rendition of the National anthem when the flag of the Federated States of Micronesia is displayed, all present should stand and face the flag. Persons not in uniform should remove their headdress. Persons in military uniform should render the military salute at the first note of the National anthem and retain this position until the last note.

Source: PL 7-31 § 2.

§ 803. Singing of National anthem.

A recording of the National anthem shall be played and/or sung during formal functions and ceremonies.

Source: PL 7-31 § 3.

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CHAPTER 9
Admission of New States

SECTIONS

- § 901. Authorization.**
- § 902. Vote Required.**
- § 903. Consent.**
- § 904. Admission.**
- § 905. Bill Approving Admission.**
- § 906. Equal Footing Doctrine.**
- § 907. Interim Government.**
- § 908. Election of Representatives.**

Editor's note: This chapter was created by section 1 of PL 13-45 that was signed into law by the President of the Federated States of Micronesia Joseph J. Urusemal on July 6, 2004.

§ 901. Authorization.

New states may be formed and admitted into the Federated States of Micronesia in accordance with the provisions of article I of the Constitution of the Federated States of Micronesia and this chapter.

Source: PL 13-45 § 2.

Cross-reference: Art. I, sections 2, 3, and 4 of the Constitution states as follows:

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

The provisions of the FSM Constitution are found in Part I of this code.

For amendments to the FSM Constitution made pursuant to the Constitutional Convention held in July/August, 1990, see FSM Constitution and constitutional amendments. These provisions and other information on the Constitution can be found on the FSM Supreme Court website at <http://www.fsmsupremecourt.org/>.

The constitutions of the states of Chuuk, Kosrae, Pohnpei, and Yap are found in Part III of this code.

§ 902. Vote Required.

No new state shall be formed and admitted except upon the affirmative vote of a majority of the registered voters of the area seeking statehood and the approval, by resolution, of the Legislature of each existing state of the Federated States of Micronesia.

Source: PL 13-45 § 3.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

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The constitutions of the states of Chuuk, Kosrae, Pohnpei, and Yap are found in Part III of this code.

§ 903. Consent.

A new state shall not be formed from within the territory of an existing state, or by the juncture of two or more existing states or parts of states, except with the consent, by resolution, of the Legislature(s) of the State(s) concerned.

Source: PL 13-45 § 4.

Cross-reference: The constitutions of the states of Chuuk, Kosrae, Pohnpei, and Yap are found in Part III of this code.

§ 904. Admission.

New states may be formed and admitted into the Federated States of Micronesia upon the approval, by bill, of the Congress of the Federated States of Micronesia.

Source: PL 13-45 § 5.

Cross-reference: Art. I, sections 2, 3, and 4 of the Constitution states as follows:

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

The provisions of the FSM Constitution are found in Part I of this code.

The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 905. Bill Approving Admission.

Each bill approving the admission of a new state into the Federated States of Micronesia shall set forth the effective date of the admission of such state and such other matters as may be necessary to facilitate a smooth and orderly transition to statehood, including, but not limited to, the following:

- (1) delineating the territory and boundaries of the new state including marine boundaries;
- (2) providing for the establishment of an interim government;
- (3) setting the date by which a constitutional convention must take place in the new state and a constitution for the new state must be adopted;
- (4) the date(s) by which national, state, and local government elections must take place;
- (5) the principles and criteria for the equitable division of assets and liabilities between the new state, the predecessor entity, and the Federated States of Micronesia;
- (6) determining applicable law to apply pending adoption of the new state's constitution and establishment of all levels of government;
- (7) funding for specified transitional activities; and
- (8) any other matters contributing to a smooth and orderly transition.

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Source: PL 13-45 § 6.

Cross-reference: The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 906. Equal Footing Doctrine.

Each new state admitted into the Federated States of Micronesia shall be admitted on an equal footing with every other state and shall be subject to the same duties and obligations, and accorded the same rights and privileges, as every other state of the Federated States of Micronesia, as provided for in the Constitution of the Federated States of Micronesia.

Source: PL 13-45 § 7.

Cross-reference: Art. I, sections 2, 3, and 4 of the Constitution states as follows:

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

The provisions of the FSM Constitution are found in Part I of this code.

The constitutions of the states of Chuuk, Kosrae, Pohnpei, and Yap are found in Part III of this code.

§ 907. Interim Government.

The existing government(s) of the area approved for admission as a new state of the Federated States of Micronesia shall continue as the interim government(s) until such time as elections are held as set forth in the bill approving admission.

Source: PL 13-45 § 8.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

§ 908. Election of Representatives.

A new state shall hold general elections to elect representatives to the Congress of the Federated States of Micronesia within one year of the date of approval for admission into the Federated States of Micronesia.

Source: PL 13-45 § 9.

Cross-reference: The statutory provisions on National Elections are found in title 9 of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.