

## **CHAPTER 2**

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**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.

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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/>.

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## 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.

**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 "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.

**§ 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.**

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 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).

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.

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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 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.

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**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 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.

**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 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.

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**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.

### **§ 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.