

## CHAPTER 7

### Impeachment and Removal

#### SECTIONS

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#### **§ 701. Definitions.**

For the purposes of this chapter, unless otherwise required by the context:

(1) "Bribery" means any act prohibited by section 531 of title 11 of this code.

(2) "Conduct involving corruption in office" means any act prohibited by either chapter 5 or chapter 13 of title 11 of this code; PROVIDED, however, that any action prohibited by section 531 of title 11 of this code shall be considered bribery rather than conduct involving corruption in office.

(3) "Official" means the President of the Federated States of Micronesia, the Vice-President of the Federated States of Micronesia, or a Justice of the Supreme Court of the Federated States of Micronesia.

(4) "Treason" means any act prohibited by section 401 of title 11 of this code.

**Source:** PL 5-19 § 2, modified.

**Cross-reference:** FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

The provisions of the Constitution are found in Part I 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 FSM Supreme Court and the Judiciary are found in title 4 of this code.

Chapter 5 of title 11 (Crimes) of this code is on offenses against public administration. Chapter 13 of title 11 (Crimes) of this code is on conflict of interest. Section 531 of title 11 (Crimes) of this code is on bribery in official and political matters.

### **§ 702. Resolution; Probability; Notification.**

- (1) Impeachment proceedings must be initiated by a resolution of Congress. An impeachment resolution:
  - (a) Shall state that the Congress has found that it is probable that the accused official committed an act of treason, bribery, or conduct involving corruption in office;
  - (b) Shall plainly describe each alleged instance of treason, bribery, or conduct involving corruption in office for which the Congress has made a finding of probability; and
  - (c) Shall provide or state the location of documentary evidence of each alleged instance of treason, bribery, or conduct involving corruption in office for which Congress has made a finding of probability.
- (2) For purposes of this section, it is probable that an act occurred if it is more likely than not that the act occurred.
- (3) A finding of probability in an impeachment resolution shall not be subject to judicial review.
- (4) An affirmative vote of two-thirds of the Members of Congress is required to pass an impeachment resolution.
- (5) If Congress passes an impeachment resolution, the Speaker shall notify the accused official and present him with a copy of the resolution.

**Source:** PL 5-19 § 3.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 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 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/>.

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

### **§ 703. Impeached official's status.**

Upon receipt of an impeachment resolution pursuant to section 702 of this chapter, an official shall not exercise the powers and duties of office, shall not receive Government compensation or benefits, and shall not use Government property.

**Source:** PL 5-19 § 4.

**Cross-reference:** FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

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

### **§ 704. Prosecutor.**

The Speaker shall appoint and employ an impartial, competent person who is not holding a National Government public office or National Government employment to prosecute a resolution of impeachment before the Congress. The Legislative Counsel of the Congress of the Federated States of Micronesia and his staff shall advise the Speaker and the Congress during proceedings pursuant to this chapter.

**Source:** PL 5-19 § 5.

### **§ 705. Impeached official's counsel.**

Persons holding public office may not serve as an impeached official's counsel or assist the official in impeachment proceedings. For purposes of this section, testifying as a witness on the official's behalf shall not be considered to be assisting the official.

**Source:** PL 5-19 § 6.

**§ 706. Trial.**

- (1) An impeached official has the right to counsel, to be confronted with the witnesses against him, and to compel a witness to testify.
- (2) The Speaker or a Member of Congress designated by the Speaker shall conduct the trial of an impeached official.
- (3) To the extent consistent with law, trial on the impeachment resolution is pursuant to the Supreme Court of the Federated States of Micronesia's rules of criminal procedure and evidence, except that the Congress may, by rule, provide for other or different rules.

**Source:** PL 5-19 § 7.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The official website of the Congress of the Federated States of Micronesia is found at <http://www.fsmcongress.fm/>.

The FSM Supreme Court website can be found at <http://www.fmsupremecourt.org/>.

**§ 707. Vote.**

- (1) The Congress shall listen to the evidence presented by the prosecutor and the impeached official, and at the conclusion of proceedings meet to consider the evidence and reach a judgment.
- (2) Whether the deliberations of Congress are public shall be determined by a majority vote of the Members present.
- (3) The vote on the judgment shall be public and by call of the roll.
- (4) Proof beyond a reasonable doubt is necessary to establish a judgment of guilty.
- (5) The Congress shall express its vote by a written judgment, certified by the Speaker and the Clerk, which shall plainly state a judgment of guilty or not guilty. A two-thirds vote of the Members of Congress is required for a judgment of guilty. If the Congress reaches a judgment of guilty, the judgment shall express the consequences of the judgment for the impeached official which shall be removal from office. An impeached official who by virtue of Congress' judgment of not guilty resumes his Government duties shall be entitled to receive compensation deferred pursuant to section 703 of this chapter.
- (6) The Speaker shall promptly inform the President, the Vice President, the Chief Justice of the Supreme Court, the Attorney General, the Governors of each State, and the public of the Congress' judgment and its consequences. If one of these persons is the impeached official and another person is lawfully acting in his place, the Speaker shall inform the person who is so acting of the Congress' judgment and its consequences.

**Source:** PL 5-19 § 8.

**Cross-reference:** FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

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

### **§ 708. Review.**

When the President or Vice-President is removed from office, the Supreme Court shall review the decision. When a Justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one State court judge from each State appointed by the State chief executive. The special tribunal shall meet at the call of the President.

**Source:** PL 5-19 § 9.

**Cross-reference:** FSM Const., art. IX, § 7 states as follows:

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

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