

## CHAPTER 6

### Actions Against the Trust Territory

#### SECTIONS

- § 601.           **Claims permitted in trial division; Set-offs, counterclaims, etc.; Jury; Funds for payments of judgments.**
- § 602.           **Exceptions.**
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**§ 601. Claims permitted in trial division; Set-offs, counterclaims, etc.; Jury; Funds for payments of judgments.**

(1)       Actions upon the following claims may be brought against the Government of the Trust Territory in the Trial Division of the High Court which shall have exclusive original jurisdiction thereof:

(a)       civil actions against the Government of the Trust Territory for the recovery of any tax alleged to have been erroneously or illegally collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the tax laws.

(b)       any other civil action or claim accruing on or after September 23, 1967, against the Government of the Trust Territory founded upon any law of this jurisdiction or any regulation issued under such law, or upon any express or implied contract with the Government of the Trust Territory, or for liquidated or unliquidated damages in cases not sounding in tort.

(c)       civil actions against the Government of the Trust Territory on claims for money damages, accruing on or after September 23, 1967, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the Government of the Trust Territory, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(2)       In any claim or proceeding brought pursuant to this section, the Trial Division of the High Court's jurisdiction shall extend to any set-off, counterclaim, or other claim or demand whatever on the part of the Government of the Trust Territory against any plaintiff commencing an action under this section.

(3)       Notwithstanding the provisions of chapter 8 of title 5 or any District legislation that may be adopted pursuant thereto, all actions brought under this section shall be tried by the court without a jury.

(4)       Judgments rendered pursuant to this section shall be paid from such funds as may be appropriated by the Congress of Micronesia or the Congress of the United States for that purpose.

**Source:** TT Code 1966 Ch. 5; TT Code 1970, 6 TTC 251; TT Code 1980, 6 TTC 251.

**§ 602. Exceptions.**

The Trial Division of the High Court shall not have jurisdiction under the foregoing section 601 of:

(1) any civil action or claim for a pension;

(2) any claim based on an act or omission of an employee of the Government, exercising due care, in the execution of a law or regulation, whether or not such law or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of any agency or employee of the Government, whether or not the discretion involved be abused;

(3) any claim arising in respect of the detention of any goods or merchandise by any officer of customs or excise or any other law enforcement officer;

(4) any claim for damages caused by the imposition or establishment of a quarantine by the Government of the Trust Territory or any agency thereof;

(5) any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse or process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(6) any claim arising outside of the Trust Territory.

**Source:** TT Code 1966 Ch. 5; TT Code 1970, 6 TTC 252; TT Code 1980, 6 TTC 252.

**§ 603. Actions in tort.**

Actions may be brought against the Government of the Trust Territory, which shall be liable to the same extent as a private person under like circumstances, for tort claims; provided, that the Government of the Trust Territory shall not be liable for interest prior to judgment or for punitive damages.

**Source:** TT Code 1966 Ch. 5; TT Code 1970, 6 TTC 253; TT Code 1980, 6 TTC 253.

**Case annotations:** The Trust Territory Government is not immune from suit in the Truk State Court because the High Court has overturned the doctrine of sovereign immunity accepted by that court in the past. *Suda v. Trust Territory*, 3 FSM R. 12, 14 (Truk S. Ct. Tr. 1985).

The Trust Territory of the Pacific Islands is a political entity possessing many of the attributes of an independent nation, and is to be regarded as a sovereign for the purpose of the statute of limitations. *FSM Dev. Bank v. Yap Shipping Coop.*, 3 FSM R. 84, 86 (Yap 1987).