

## CHAPTER 2

### Federated States of Micronesia Citizenship

#### SECTIONS

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#### **§ 201. Short title.**

This chapter is known and may be cited as the Citizenship and Naturalization Act.

**Source:** PL 1-75 § 1.

**Cross-reference:** For constitutional provisions on FSM Citizenship, see FSM Const., art. III. Art. III states as follows:

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.

For constitutional provision on the power of the FSM Congress to regulate, see FSM Const., art. IX, § 2(c).

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

The statutory provisions on TT citizenship are found in [chapter 1 of title 7 of the FSM Code](#). The statutory provisions on FSM citizenship are found in [chapter 2 of title 7](#) of this code.

**Case annotations:** Citizenship may affect, among other legal interests, rights to own land, to engage in business or be employed, and even to reside within the FSM. [In re Sproat, 2 FSM Intrm. 1](#), 6 (Pon. 1985).

Art. III, §§ 1 and 2, of FSM Constitution are self-executing and do not contemplate, or imply the need for, court action to confirm citizenship where no challenge exists. [In re Sproat, 2 FSM Intrm. 1](#), 7 (Pon. 1985).

Where there exists an actual controversy involving a concrete threat to citizenship rights and interests, FSM Supreme Court could be constitutionally required to determine whether a person is or is not a citizen. [In re Sproat, 2 FSM Intrm. 1](#), 7 (Pon. 1985).

## **§ 202. Citizenship.**

(1) For all official purposes, a citizen of the Federated States of Micronesia as defined by the relevant provisions of this chapter shall be referred to as a "Micronesian citizen" or, in the alternative, "Micronesian".

(2) The following are citizens of the Federated States of Micronesia:

(a) a person who is a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of the Constitution and a domiciliary of a district ratifying the Constitution of the Federated States of Micronesia;

(b) a person born, at any time, of parents one or both of whom are citizens of the Federated States of Micronesia; and

(c) a person who becomes a citizen pursuant to section 4 or 5 of article III of the Constitution.

**Source:** PL § 1-75 § 2; PL 9-73 § 1.

**Cross-reference:** For constitutional provisions on FSM Citizenship, see FSM Const., art. III. The provisions of the Constitution are found in Part I of this code. For statutory provisions on Trust Territory citizenship, see chapter 1 of this title.

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, 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/>.

**Case annotation:** The Citizenship and Naturalization Act places primary responsibility for administrative implementation upon the President, and contemplates that the Executive Branch, not the Judiciary, normally will determine and certify citizenship. *In re Sproat*, 2 FSM R. 1, 7 (Pon. 1985).

### **§ 203. Dual citizenship is prohibited.**

A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within three years of his eighteenth birthday, or within three years of the effective date of the Constitution, whichever is later, register his intent to remain a citizen of the Federated States of Micronesia with the President or his designee in a manner and form prescribed by law or regulation and renounce his citizenship of another nation. If he fails to comply with this section, he becomes a national of the Federated States of Micronesia.

**Source:** PL 1-75 § 3.

**Cross-reference:** For identical constitutional provision, see FSM Const., art. III, § 3. The provisions of the FSM Constitution are found in Part I of this code.

### **§ 204. Naturalization.**

(1) A person may be naturalized as a citizen of the Federated States of Micronesia in a manner or form prescribed by laws or regulation if the person:

(a) shall have lawfully resided within the Federated States of Micronesia, whether prior or subsequent to the effective date of the Constitution, for at least five years immediately preceding the date of filing his petition for naturalization;

(b) is a child of a citizen, or is a national, of the Federated States of Micronesia;

(c) upon naturalization, shall have renounced previous citizenship and allegiance to any and all foreign powers and rulers, and submitted positive and verifiable documentary evidence of said renunciations, and taken an oath of allegiance in a manner and form prescribed by law or regulation;

(d) has competence in at least one of the indigenous languages of the Federated States of Micronesia evidenced by passing a language examination prepared and administered by the President or his designee; and

(e) has not been convicted of a felony as defined by the laws of the place where conviction took place.

(2) The President, on Congress' recommendation by bill, may naturalize a person as a citizen of the

Federated States of Micronesia in a manner or form prescribed by law or regulation if the person:

- (a) is in compliance with the criteria set out in subsections 204(1)(a), (c), (d) and (e), of this section;  
and
- (b) is a spouse of a citizen of the Federated States of Micronesia.

**Source:** PL 1-75 § 4; PL 15-28 § 1.

**Cross-reference:** For provisions on Trust Territory naturalized citizenship, see section 102 of this title. For constitutional provisions on FSM Citizenship, see FSM Const., art. III. For constitutional provision on the power of the FSM Congress to regulate naturalization and citizenship, see FSM Const., art. IX, § 2(c).

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

**Editor's note:** PL 1-75, section 11, provides that this section shall take effect upon the termination of the Trusteeship Agreement.

**Case annotation:** The Citizenship and Naturalization Act places primary responsibility for administrative implementation upon the President, and contemplates that the Executive Branch, not the Judiciary, normally will determine and certify citizenship. *In re Sproat*, 2 FSM R. 1, 7 (Pon. 1985).

Until 7 F.S.M.C. 204 goes into effect, it may be appropriate to take a liberal view in determining when a court ruling on citizenship status may be required to prevent injustice or to permit an individual to proceed with his own business or personal affairs. *In re Sproat*, 2 FSM R. 1, 8 (Pon. 1985).

### **§ 205. Naturalization rights and duties—Cancellation.**

(1) The rights and duties of persons who have become citizens of the Federated States of Micronesia by naturalization shall be the same as those of persons who are citizens of the Federated States of Micronesia except as otherwise provided by the Constitution.

(2) Naturalization may be cancelled within five years of discovery that naturalization was obtained through concealment of a material fact or willful misrepresentation in applying for naturalization. Cancellation shall be by court order. Upon cancellation of naturalization under this section, such person shall be divested of all real property obtained in the Federated States of Micronesia and be provided just compensation for such property. Disposition of such property shall be in accordance with law.

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**Source:** PL 1-75 § 5.

**Cross-reference:** For provisions on Trust Territory naturalized citizenship, see section 102 of this title. For constitutional provisions on FSM Citizenship, see FSM Const., art. III. For constitutional provision on the power of the FSM Congress to regulate naturalization and citizenship, see FSM Const., art. IX, § 2(c).

**Editor's note:** PL 1-75, section 11, provides that this section shall take effect upon the termination of the Trusteeship Agreement.

**Case annotations:** Art. III, §§ 1 and 2, of FSM Constitution are self-executing and do not contemplate, or imply need for, court action to confirm citizenship where no challenge exists. *In re Sproat*, 2 FSM Intrm. 1, 7 (Pon. 1985).

### **§ 206. Loss of citizenship.**

(1) No citizen of the Federated States of Micronesia may be deprived of his citizenship unless subsequent to attaining such citizenship:

(a) he shall voluntarily obtain naturalization in a foreign state upon his own application;

(b) he shall voluntarily take an oath or make an affirmation or other formal declaration of allegiance to a foreign state or political subdivision thereof;

(c) he shall voluntarily enter, or serve in, the armed forces of a foreign state, provided, however, that he may serve in the Armed Forces of the United States of America without loss of citizenship during the remainder of the Trusteeship Agreement, any future relationship of free association with the United States, and thereafter as may be required by his prior enlistment or contract;

(d) he shall vote in a political election in a foreign state where a prerequisite to such a vote is citizenship of that foreign state; or

(e) he shall, if over 18 years of age, voluntarily make a formal renunciation of the Federated States of Micronesia citizenship.

(2) Whenever the loss of Federated States of Micronesia citizenship is put in issue in any action or proceeding, the person or party claiming that such loss occurred must establish such claim by a preponderance of the evidence.

**Source:** PL 1-75 § 6.

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

**Case annotation:** Courts in the United States have ruled on citizenship status where that status determines the propriety of official administrative action and administrative remedies have been exhausted. *In re Sproat*, 2 FSM R. 1, 7 (Pon. 1985).

**§ 207. Regulations.**

The President may, from time to time, issue such regulations as are reasonably necessary to implement the provisions of this chapter.

**Source:** PL 1-75 § 8.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

**§ 208. Penalties.**

Any person who obtains naturalization through concealment of a material fact or willful misrepresentation in applying for naturalization, upon conviction thereof, shall be imprisoned for a period of not more than two years, or fined not more than \$10,000, or both.

**Source:** PL 1-75 § 9.