



# Federated States of Micronesia Consolidated Legislation - Revised Code 2014

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FEDERATED STATES OF MICRONESIA

ANNOTATED CODE 2014

TITLE 50  
← IMMIGRATION →

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CHAPTER 1  
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### § 101. Short title.

This chapter is known and may be cited as the “←Immigration→ Act.”

**Source:** PL 1-79 § 1; PL 1-130 § 1, modified.

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

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



...



(c) to regulate ←immigration→, emigration, naturalization, and citizenship;



...

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

**Editor's note:** Provisions of the  **Immigration**  Act relating to ports of entry are codified at chapter 2 of title 18 (Territory, Economic Zones and Ports of Entry).

**Case annotations:** The FSM Supreme Court and the FSM must not be lured into the role of mediator between visitors and their nations of citizenship. Only in the rarest of circumstances, if ever, would the court second-guess and scrutinize the conditions which other nations place upon offers of funds to their own citizens to assist those persons to comply with FSM  **immigration**  laws. *FSM v. Jorg*, 1 FSM R. 378, 385-86 (Pon. 1983).

A rule that treats aliens unequally to citizens involves  **immigration**  and foreign affairs. *Berman v. FSM Supreme Court (I)*, 5 FSM R. 364, 366 (Pon. 1992).

Congress and the President respectively have the power to regulate  **immigration**  and conduct foreign affairs while the Chief Justice may make rules governing the admission of attorneys. Therefore a rule of admission that treats aliens unequally promulgated by the Chief Justice implicates powers expressly delegated to other branches. *Berman v. FSM Supreme Court (I)*, 5 FSM R. 364, 366 (Pon. 1992).



**§ 102. Entry permits—Required.**



No noncitizen, vessel, or aircraft, unless specifically exempted by applicable law or regulations, shall enter or otherwise remain in the Federated States of



Micronesia without having been issued an appropriate entry permit except for officials, employees, and contractual personnel of foreign governments and governmental regional or international organizations, and their spouses, dependents and household members, to the extent the President or his designee determines such exemptions are granted by law or international treaty obligations of the Federated States of Micronesia. Entry permits to visit or otherwise remain in the Federated States of Micronesia shall be issued by the President in accordance with laws and regulations to be promulgated or issued pursuant to this chapter.

**Source:** TT Code 1966, § 667; TT Code 1970, 53 TTC 53(1), (2); TT Code 1980, 53 TTC 53(1), (2); PL 1-79 § 2; PL 1-130 § 2; PL 5-105 § 1.

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

**Case annotation:** The national government has the express authority to regulate international commerce. International commerce is also a power of such an indisputably national character as to be beyond the power of a state to control because the customs and  **immigration**  borders of the country are controlled by agencies of the national government. *FSM v. Fal*, 8 FSM R. 151, 154 (Yap 1997).

All aircraft entering FSM ports of entry are subject to  **immigration**  inspection, customs inspections, agricultural inspections and quarantines, and other administrative inspections authorized by law. In Chuuk, the Chuuk International Airport is the only port of entry for aircraft. *FSM v. Joseph*, 9 FSM R. 66, 70 (Chk. 1999).

The nature of the expressly delegated powers in article IX, section 2, of the Constitution including the powers to impose taxes, to provide for the national defense, ratify treaties, regulate  **immigration**  and citizenship, regulate

currency, foreign commerce and navigation, and to provide for a postal system strongly suggests that they are intended to be the exclusive province of the national government, since they call for a uniform nationally coordinated approach. *Innocenti v. Wainit*, 2 FSM R. 173, 181-82 (App. 1986).

**§ 103. Entry permits—Types.**

(1) A permit is not required for a person visiting for 30 days or less. For a visit in excess of 30 days, a permit may be issued for an additional period not to exceed 60 days; except that, with respect to citizens and nationals of the United States of America, for the effective period of the Compact of Free Association, and with respect to citizens and nationals of the Republic of the Marshall Islands and the Republic of Palau, a permit is not required for the duration of the visit, which shall not exceed 365 days.

(2) A visitor's permit for any lawful purpose, including performance of necessary services on a short-term contractual basis, may be issued for a period of specified duration reflecting the time necessary to accomplish the purpose.

(3) A student permit shall be issued for a specified duration reflecting a student's enrollment in a school or educational program.

(4) A foreign government official's permit may be issued to any official, employee, or contractual personnel of a foreign government or governmental regional or international organization who wishes to enter the Federated States of Micronesia for purposes of official governmental activities and who is not entitled to enter the Federated States of Micronesia without a permit under section 102 of this chapter.

(5) Notwithstanding any provision of subsections (1) and (2) of this section, a person entering the Federated States of Micronesia for the purpose of engaging in wholesale or retail sales of goods or services, or for the purpose of taking orders

for the purchase of goods or services, without establishing a place of habitation or a place of business within the Federated States of Micronesia, shall be issued a salesperson's permit; PROVIDED, however, that this subsection shall not apply to any person who has a foreign investor's permit pursuant to subsection (7) of this section.

(6) An alien worker's permit shall be issued to a noncitizen entering the Federated States of Micronesia upon compliance with all National laws relating to private or governmental employment for the period in which the employment of the alien worker is authorized by contract. The permit shall be renewed upon extension or renewal of the alien's lawful employment status.

(7) A foreign investor's entry permit shall be issued for a specified duration and may be renewed upon renewal or extension of such foreign investor's business permit.

(8) A researcher's entry permit shall be issued for research in the fields of endeavor that the President deems in the best interest of and for the well-being of the citizens of the Federated States of Micronesia; PROVIDED that the President receives from the researcher's intended place of stay prior permission for his entry. The President may attach thereto such conditions or restrictions as he deems necessary.

(9) A missionary's permit shall be issued to a duly ordained, licensed, and certified minister or clergyman.

(10) An entry permit shall be issued to a lawful spouse of a citizen.

(a) Subject to this section and any requirements set out in regulations issued pursuant to section 111 of this chapter, a spouse permit holder shall be permitted to undertake paid employment in the Federated States of Micronesia. In the absence of any regulations on this subject, a spouse permit holder shall be permitted to undertake paid employment in the Federated States of Micronesia only if he or she has been a resident of the Federated States of Micronesia for the five years prior to commencing employment and/or has been married to a citizen of the Federated States of Micronesia for the five years prior to commencing employment. For the avoidance of doubt, a spouse permit holder may undertake paid employment without obtaining a change of status approval pursuant to section 104 of this chapter, however, such employment must be obtained in accordance with the requirements for hiring non-resident workers contained in title 51 of this code.

(b) A spouse permit may be revoked or denied, in accordance with the provisions of this chapter, upon a finding that

(i) the parties are divorced, the parties are irreconcilably separated, or the citizen-spouse is deceased; and

(ii) the revocation or denial is in the best interests of the Federated States of Micronesia, provided that the spouse permit of a noncitizen surviving spouse of a deceased citizen who had been married to the citizen spouse for at least 20 years, regardless of place of residence during the marriage, shall not be revoked or denied unless the surviving spouse remarries a non-citizen.

(c) Except in extraordinary circumstances, no action to revoke or deny a spouse permit on the grounds of death of the citizen-spouse shall be taken for a period of six months from the date of death of the citizen-spouse.

(11) A dependent's entry permit may be issued to an unmarried child, under the age of 18, of a citizen or a noncitizen spouse, subject to the conditions in subsection (10) of this section.

(12) A spouse or unmarried child under the age of 18 of any noncitizen principal listed in this section, except subsection (11) of this section, may be issued an entry permit for the duration of the principal's entry permit and may be renewed upon renewal of the principal's entry permit.

**Source:** TT Code 1966, § 667 (part); TT Code 1970, 53 TTC 53(2), (3), 54; COM PL 5-8 § 1; TT Code 1980, 53 TTC 53(2), (3), 54; PL 1-79 §§ 2, 3; PL 1-130 § 3; PL 2-7 § 1; PL 4-109 § 7; PL 5-54 § 2; PL 5-105 § 2; PL 10-14, § 1; PL 12-65 § 1; PL 14-33 § 1; PL 15-27 § 1.

**Cross-reference:** Title 51 of this code is on Labor.

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 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, rules, and other Congressional information at <http://www.fsmcongress.fm/>.





**Editor's note:** In subsection (10)(a) of this section, the term "of the Code of the Federated States of Micronesia" is replaced by "of this code" for format consistency.

**Case annotations:** An alien must willfully fail to depart the FSM upon expiration of entry authorization to be guilty of a violation of 50 F.S.M.C. 112. Knowledge of the requirement to depart coupled with failure to depart is not enough. There must be an element of voluntariness or purposefulness in the noncitizen's conduct, which will generally require showing a reasonable opportunity to depart, voluntarily rejected, without some justification for the rejection beyond mere personal preferences. *FSM v. Jorg*, 1 FSM R. 378, 384 (Pon. 1983).

People who choose not to accept funds from their own government needed for departure on the basis that the terms of the offer are too stringent and cannot be met are guilty of willfully and lawfully remaining in the FSM after expiration of entry authorization in violation of 50 F.S.M.C. 112. *FSM v. Jorg*, 1 FSM R. 378, 387 (Pon. 1983).

All aircraft entering FSM ports of entry are subject to  **immigration**  inspection, customs inspections, agricultural inspections and quarantines, and other administrative inspections authorized by law. In Chuuk, the Chuuk International Airport is the only port of entry for aircraft. *FSM v. Joseph*, 9 FSM R. 66, 70 (Chk. 1999).

The Constitution's investment in the national government of the power to regulate  **immigration** , emigration, naturalization, and citizenship does not deprive the states of the ability to regulate employment within their own jurisdictions whenever such employment involves non-residents. To the degree that a state law regulating employment of non-resident workers does not directly conflict with national law, such state law is not preempted; and when there is

possible conflict, the state law should be construed so as to avoid such conflict. *Smith v. Nimea*, 17 FSM R. 333, 337-38 (Pon. 2011).

**§ 104. Entry permits—Duration; Habitual residence; Change of status.**



(1) *Duration.* Unless otherwise specified, all entry permits are limited to one year maximum period, with provision for renewal; except that, entry permits may be issued for a period not to exceed five years for individuals renewing spouse permits issued pursuant to subsection 103(10) of this chapter.



(2) *Habitual residence.*

(a) A noncitizen who remains in the Federated States of Micronesia as a visitor under section 103(1) of this chapter for one year or more shall be classified as a habitual resident.



(b) A habitual resident may be present in the Federated States of Micronesia only for 30 day visits as permitted by section 103(1) of this chapter or for a longer period of time as permitted by section 103(2), (3), (4), (5), (6), (7), (8), (9), (10), (11) or (12) of this chapter.



(3) *Change of Status.*

(a) The  **immigration**  status of a noncitizen entering the Federated States of Micronesia as a visitor under section 103(1) or 103(2) of this chapter may not be changed during his stay in the Federated States of Micronesia.

The  **immigration**  status of any noncitizen entering or residing in the Federated States of Micronesia under any other provision of this chapter may not

be changed during his stay in the Federated States of Micronesia, except in accordance with the provisions of this title.

(b) For a noncitizen to change status, he shall be required to apply for a permit reflecting his changed status and pay a fee, except that citizens and nationals of the United States of America, for the duration of the Compact of Free Association, and citizens and nationals of the Republic of the Marshall Islands or the Republic of Palau shall not be required to pay a fee to change  **immigration**  status.

(c) The amount of the fee required by subsection (b) of this section, which shall not be less than \$1,000, and the circumstances under which a change in  **immigration**  status may be granted shall be set forth in regulations issued pursuant to section 102(1) of title 17 of this code. Payment of such fee is required in addition to, and not as a substitute for, any requirements of the desired new status.

(d) The President may impose additional conditions for such change of status.

(4) *Waiver.* The provisions of this section shall not be waived by the President or his designee.

**Source:** TT Code 1966, § 667 (part); TT Code 1970, 53 TTC 53(3); PL 5-8 § 1; PL 1-130 § 3(11), (12); PL 2-7 § 1; PL 5-105 § 3; PL 7-23 § 1; PL 12-65 § 2; PL 14-33 § 2.

**Editor's note:** In subsection (3)(c) of this section, the term "of the Code of the Federated States of Micronesia" is replaced by "of this code" for format consistency.

**Cross-reference:** Title 17 of this code is on Administrative Procedure.

**§ 105. Entry permits—Applications.**

Application for a permit to enter the Federated States of Micronesia shall be made to the President and in such form and manner as he may prescribe from time to time.

**Source:** TT Code 1966, § 669; TT Code 1970, 53 TTC 55; TT Code 1980, 53 TTC 55; PL 1-79 § 4; PL 1-130 § 4.

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

**§ 106. Entry permits—Delegation of authority.**

The President may delegate his authority to issue entry permits and to permit entry into the Federated States of Micronesia of persons, vessels, and aircraft under the provisions of this chapter and regulations promulgated thereto.

**Source:** TT Code 1966, § 665; TT Code 1970, 53 TTC 52; COM PL 4C-48 § 7(12); TT Code 1980, 53 TTC 52; PL 1-79 § 5; PL 1-130 § 5.

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

**§ 107. Entry permits—Standards of exclusion and deportation.**

(1) The President may deny entry without a permit, deny renewal of entry without a permit, deny an entry permit, revoke or deny renewal of an entry permit, or deport any noncitizen for any of the following reasons:

(a) the willful furnishing of false, incomplete, or misleading material information in an application for a permit; or

(b) the advocacy of the unlawful overthrow of the Government of the Federated States of Micronesia; or

(c) commission of or attempt or preparation to commit an act of treason or armed insurrection against the Government of the Federated States of Micronesia or conspiring with or abetting or aiding another to commit such an act; or

(d) performing or attempting to perform duties or otherwise acting so as to serve the interests of another government to the detriment of the Government of the Federated States of Micronesia; or

(e) deliberate unauthorized disclosure of confidential Government information; or

(f) entry made on a counterfeit or false permit; or

(g) serious mental irresponsibility evidenced by having been adjudged insane or mentally irresponsible, or incompetent, or being a chronic alcoholic, or having

been treated for serious mental or neurological disorders or for chronic alcoholism;  
or

(h) addiction to the use of narcotic drugs; or



(i) carrying a serious communicable disease; or

(j) conviction of a felony or a crime involving moral turpitude as defined by the laws of the place where conviction took place; or

(k) a finding by the President that the entry of the applicant or his presence in the Federated States of Micronesia would not be in the best interest of the Government of the Federated States of Micronesia.

(2) The provisions of subsection (1) of this section shall apply to every person, except to the extent law or international treaty obligations of the Federated States of Micronesia provide otherwise.

**Source:** TT Code 1966, § 668; TT Code 1970, 53 TTC 56, 57; COM PL 5-8 §§ 2, 3; TT Code 1980, 53 TTC 56, 57; PL 1-79 § 6; PL 1-130 § 6; PL 5-105 § 4.



**Cross-reference:** The statutory provision on  **Immigration**  Laws and Presidential Authority are found in section 604 of title 10 (Foreign Relations) of this code. The statutory provisions on the President and the Executive are found in title 2 of this code.

**§ 108.**  **Immigration**  **inspection of vessels and aircraft.**

Incoming vessels shall be boarded by the officials authorized by the President who shall examine the Federated States of Micronesia documents of each passenger and if the passenger is eligible to enter the Federated States of Micronesia, shall affix to the passport or the Federated States of Micronesia entry permit an official stamp or other writing showing the date and place of entry. The same procedure shall be followed for passengers arriving on aircraft, except inspection shall take place after passengers have disembarked and prior to their departure from airport terminals.

**Source:** TT Code 1966, § 673; COM PL 3-30 § 1; TT Code 1970, 53 TTC 60; TT Code 1980, 53 TTC 60; PL 1-79 § 7; PL 1-130 § 7.

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

**Case annotation:** All aircraft entering FSM ports of entry are subject to  **immigration**  inspection, customs inspections, agricultural inspections and quarantines, and other administrative inspections authorized by law. In Chuuk, the Chuuk International Airport is the only port of entry for aircraft. *FSM v. Joseph*, 9 FSM R. 66, 70 (Chk. 1999).

Border searches and searches at the functional equivalent of a border are an exception to the warrant requirement of section 5 of the FSM Declaration of Rights. *FSM v. Joseph*, 9 FSM R. 66, 70 (Chk. 1999).

Passing through security screening and boarding a foreign-registered airplane in Pohnpei that has arrived from a foreign country without it and its cargo having cleared customs in the FSM and whose passengers have not

cleared ← **immigration** → in the FSM, unless they deplaned, is passing out of and across a functional border of the FSM. The same passenger landing in Chuuk and entering the customs inspection area is crossing a functional equivalent of a border back into the FSM. *FSM v. Joseph*, 9 FSM R. 66, 70-71 (Chk. 1999).

Because entering the Chuuk International Airport customs inspection area after deplaning from a through flight is crossing the functional equivalent of a border a warrantless search there is reasonable under section 5 of the FSM Declaration of Rights. This analysis is consistent with the geographical configuration of Micronesia, with the statutory schemes of agricultural inspection, and customs inspection. *FSM v. Joseph*, 9 FSM R. 66, 71 (Chk. 1999).

An airport inspection of arriving passengers and their luggage does not violate an FSM citizen's right to travel within the FSM and the right to privacy. *FSM v. Joseph*, 9 FSM R. 66, 71 (Chk. 1999).

Probable cause has not been provided that a crime has been committed and an application for a search warrant will be denied when the criminal law cited requires a showing that an individual threaten harm to a public official "with purpose to influence" a public official in a decision making capacity and the e-mails' language is ambiguous, and does not necessarily threaten harm to any public official and do not reference any decision, opinion, recommendation, vote, or other exercise of discretion by any FSM ← **Immigration** → personnel and even if the court were to read the e-mails as serious threats to do harm, there is no connection between the threatened harm and any action by ← **Immigration** → officials that could possibly be influenced. *In re FSM Nat'l Police Case No. NP 10-04-03*, 12 FSM R. 248, 251 (Pon. 2003).

#### **§ 109. Carrier responsibility; Denial of entry.**

(1) It shall be the responsibility of each and every carrier which is engaged in the transportation of persons into the Federated States of Micronesia to ensure that such persons hold the proper documents to effect lawful entry.



(2) Persons arriving at a Federated States of Micronesia port who fail to present the required entry documents shall be denied entry and shall be returned to the aircraft or not be allowed to disembark from the vessel.

**Source:** PL 1-130 § 12.

**§ 110. Noncitizen registration.**

The President shall by regulation provide for annual registration of noncitizens residing in the Federated States of Micronesia, except for those noncitizens who are exempted from registration by law or international treaty obligations of the Federated States of Micronesia as determined by the President or his designee.

**Source:** PL 1-130 § 16; PL 5-105 § 5.

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

**§ 111. Regulations.**

The President may, from time to time, issue regulations not inconsistent with law to implement this chapter.

**Source:** PL 1-79 § 12; PL 1-130 § 13.

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

**§ 112. Fees.**

In addition to any other fee required by the provisions of this chapter, each application for an entry permit or an entry permit renewal shall be accompanied by the payment of a fee. The President shall, by executive order or regulation, establish the amount of such fee and may establish different fees for application or renewal.

**Source:** PL 10-14 § 2; PL 12-65 § 3.

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



**§ 113. Entry Permit Revolving Fund.**

(1) There is created and established the Entry Permit Revolving Fund separate from the General Fund of the Federated States of Micronesia and all other funds.

(2) The purpose of the Entry Permit Revolving Fund is to establish an ongoing revolving fund to allow revenue from the issuance and renewal of entry permits and other relevant fees to be used for entry permit issuance and renewal, when so designated by the Congress of the Federated States of Micronesia, and for training FSM citizens to assume positions in the FSM workforce currently held by noncitizen workers.

(3) All revenues received from the issuance and renewal of entry permits and from the payment of any fee required under this chapter or chapter 1 of title 51 of this

code shall be deposited in the Entry Permit Revolving Fund. Any unexpended monies in the Entry Permit Revolving Fund shall not revert to the General Fund, nor lapse at the end of the fiscal year.

(4) The Entry Permit Revolving Fund shall be administered by the Chief of the Division of  **Immigration** , under the supervision of the Secretary of the Department of Justice. The Chief shall, not later than 30 days after the close of each governmental fiscal year, submit to the Secretary a complete report of the activities and condition of the Entry Permit Revolving Fund for the fiscal year just closed, and any plans for use of the Fund for the fiscal year just started. The Secretary shall, within 30 days of receipt of the report from the Chief, forward the report to the President and the Congress of the Federated States of Micronesia.

(5) The Public Auditor shall audit the Entry Permit Revolving Fund at such times as the Public Auditor deems appropriate.

**Source:** PL 10-14 § 3; as amended by PL 10-35 § 1; PL 12-65 § 4.

**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 Congress are found in title 3 of this code. Title 51 of this code is on Labor. The statutory provisions on the Public Auditor are found in chapter 5 of title 55 (Government Finance and Contracts) of this code. The statutory provisions on other revolving funds are found in chapter 6 (Funds) of title 55 of this code.

**Editor's note:** In subsection (3) of this section, the term "of the Code of the Federated States of Micronesia" is replaced by "of this code" for format consistency.

**§ 114. Penalties.**

(1) Any person who, not being a citizen of the Federated States of Micronesia, unlawfully enters or attempts to enter the Federated States of Micronesia or having lawfully entered, remains willfully and unlawfully after expiration or revocation of his entry authorization, or who violates by act or omission any provision of this chapter or regulations issued pursuant thereto, upon conviction thereof shall be imprisoned for a period of not more than two years, or fined not more than \$10,000, or both.

(2) In lieu of subsection (1) of this section or in addition thereto, any person who unlawfully enters the Federated States of Micronesia or having lawfully entered, willfully and unlawfully remains after expiration or revocation of his entry permit shall be subject to deportation after hearing upon application by the President or his designee to any competent court in the Federated States of Micronesia.

(3) Any carrier violating the provisions of section 109 of this chapter shall be fined \$500 per person for persons not allowed to disembark or returned to an aircraft.

(4) Any person who fails to comply with subsection (5) of section 103 of this chapter shall lack standing to bring an action in the Supreme Court of the Federated States of Micronesia for accounts due on sales made or contracts entered into during the period of noncompliance.

(5) Notwithstanding subsections (1) and (2) of this section, the President or his designee may issue a citation and collect a fee in such amount provided by regulations against any person who violates any provision of this chapter or regulations issued thereunder. The provisions of subsections (1) and (2) of this section shall apply if the defendant chooses to challenge the citation issued or the fee charged.

**Source:** TT Code 1966, § 680; TT Code 1970, 53 TTC 62; TT Code 1980, 53 TTC 62; PL 1-79 § 13; PL 1-130 § 4; PL 5-54 § 3; PL 5-105 § 6, modified; renumbered by PL 10-14 § 4; PL 11-21 § 1.

**Editor's note:** Subsection (3) of this section was suspended by the High Commissioner on January 19, 1981. See Secretarial Order 3039 § 4.



**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 are found in title 4 of this code.

**Case annotations:** An alien must willfully fail to depart the FSM upon expiration of entry authorization to be guilty of a violation of 50 F.S.M.C. 112. Knowledge of the requirement to depart coupled with failure to depart is not enough. There must be an element of voluntariness or purposefulness in the noncitizen's conduct, which will generally require showing a reasonable opportunity to depart, voluntarily rejected, without some justification for the rejection beyond mere personal preferences. *FSM v. Jorg*, 1 FSM R. 378, 384 (Pon. 1983).

People who choose not to accept funds from their own government needed for departure on the basis that the terms of the offer are too stringent and cannot be met are guilty of willfully and lawfully remaining in the FSM after expiration of entry authorization in violation of 50 F.S.M.C. 112. *FSM v. Jorg*, 1 FSM R. 378, 387 (Pon. 1983).

### **§ 115. Aircraft and sea vessel responsibilities for overtime.**



The operator of any aircraft or sea vessel landing at any airport or calling at any port in the Federated States of Micronesia shall be responsible for paying an amount equal to the actual costs to the National Government for overtime accrued by the officials responsible for carrying out the purposes of this title, chapter 4 of title 22, and chapter 2 of title 54 whenever such officials are required to carry out



their official duties relating to the aircraft or sea vessel at a time outside of the official's ordinary working hours. The respective heads of the Division of  **Immigration**  and Labor of the Department of Justice, the Agriculture Unit of the Department of Resources and Development, and the Division of Customs and Tax Administration of the Department of Finance and Administration shall determine the amount payable for each of their respective officials under this section and shall submit invoices to the operator of the aircraft or sea vessel for payment of such amounts on a prompt basis; PROVIDED, HOWEVER, in the case an aircraft or sea vessel's arrival is for one time only or is likely to occur at infrequent intervals the invoice shall be made as soon as possible after the arrival of the vessel or aircraft, including at the time of arrival itself as may be provided for by regulations. For purposes of this section, overtime means actual hours worked in excess of 40 actual hours per week worked by an official or employee of the National Government. The President shall ensure the promulgation of regulations consistent with this section.





**Source:** PL 7-38 § 1; renumbered by PL 10-14 § 4; PL 16-55 § 1.

**Cross-reference:** Chapter 2 of title 54 (Taxation and Customs) of this code is on Duties and Customs. Chapter 2 of title 22 (Agriculture and Livestock) is on Quarantines. The statutory provisions on the President and the Executive are found in title 2 of this code.



**§ 116. Hearing and appeal.**

(1) Any person aggrieved by a decision of the Division of  **Immigration**  and Labor shall be entitled to a hearing, as set forth in regulations issued pursuant to section 111 of this chapter. Unless otherwise required to preserve national security, hearings shall be conducted in accordance with the administrative procedures set forth in title 17 of this code, except that hearings may be conducted on an expedited basis when provided for by regulation.

(2) Regulations implementing subsection (1) of this section shall provide for an informal hearing before the officer in charge of the local  **immigration**  office. Appeals from the decision of the officer in charge of the

local  **immigration**  office shall be heard by a committee consisting of the Chief of  **Immigration**  or, in the event of a conflict of interest on the part of the Chief, his designee, the Secretary of the Department of Justice or his designee, and a representative of the Department of Foreign Affairs. The decisions of the appeal committee shall constitute final agency action for the purposes of title 17 of this code.

**Source:** PL 12-65 § 5.

**Case annotation:** If, on a hearing to determine extraditability the judge deems the evidence sufficient to sustain the charge under the treaty provisions, the judge shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of Foreign Affairs that a warrant may issue upon the requisition of the proper authorities of the foreign government, for the person's surrender according to the treaty's stipulations; and the judge shall issue his warrant for the commitment of the person to be extradited to the proper jail, there to remain until surrender is made. But when no witnesses testified at the hearing, there is no testimony to be transcribed and submitted to the Secretary of Foreign Affairs and counsel for the FSM summarized the papers it filed and when the necessary papers were admitted into evidence and are part of the record, the court will make the certification of sufficient evidence to sustain the charges, but will make no certification of testimony, and when the persons charged are already under house arrest and under FSM  **Immigration**  personnel's custody and supervision, no warrant will issue. *In re Extradition of Benny Law Boon Leng*, 13 FSM R. 370, 374 (Yap 2005).

**Editor's note:** In subsection (1) of this section, the term "of the Code of the Federated States of Micronesia" is replaced by "of this code" for format consistency.

## CHAPTER 2 Passports

## SECTIONS

§ 201. Passport issuance authority.

§ 202. Persons entitled to passports.

§ 203. Application.

§ 204. Fees.

§ 205. Duration of passports.

§ 206. Regulations.

§ 207. Passport Revolving Fund.

### § 201. Passport issuance authority.

The President or his designee may grant, issue, renew, verify, or revoke passports for and on behalf of the Federated States of Micronesia.

Source: PL 4-25 § 1.

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

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

...

(c) to regulate  **immigration** , emigration, naturalization, and citizenship;

...



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.

**§ 202. Persons entitled to passports.**

No passport shall be granted to any person other than a citizen of the Federated States of Micronesia.

**Source:** PL 4-25 § 2.

**Cross-reference:** The constitutional provisions on Citizenship are found in FSM Const., art. III. The provisions of the Constitution are found in Part I of this code. The statutory provisions on Citizenship are found in title 7 of this code.

**Case annotation:** As a general rule, a properly filed notice of appeal transfers jurisdiction from the trial court to the appellate court, but a specific provision in the rules will control rather than a general rule to the extent that they conflict. Thus an application for release after a judgment of conviction must be made in the first instance in the court appealed from and thereafter, if an appeal is pending, a motion for release, or for modification of the conditions of release, pending review may be made to the Chuuk State Supreme Court appellate division or to a justice thereof. So that when the defendant brought an earlier motion for stay pending appeal which was granted, he should have argued the release of his passport at that time when the issue was properly before the trial court, since the considerations a court is required to undertake when granting a release pending appeal involve contemplation and possible imposition of conditions for release. *Chuuk v. Billimon*, 17 FSM R. 313, 317 (Chk. S. Ct. Tr. 2010).

**§ 203. Application.**

An application for a passport shall be made in such form and with such information as may be required by the President or his designee. The application and its contents shall be sworn to by the applicant. The giving of any false or misleading information in the application may be grounds for denial of the passport.

**Source:** PL 4-25 § 3.

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

**§ 204. Fees.**

An application for a passport shall be accompanied by the payment of a fee. An application for renewal of a valid passport shall be accompanied by a fee. The President may by executive order or regulation establish different fees for application or renewal.

**Source:** PL 4-25 § 4; PL 14-28 § 1.

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

**§ 205. Duration of passports.**

(1) A passport issued after the effective date of this Act shall be valid for a period of five years from the date of issuance or renewal, except a shorter period of

validity may be established by regulation for minors, senior citizens, and holders of official and diplomatic passports.

(2) For the avoidance of doubt, all passports issued before the effective date of this Act shall be valid for a period of ten years.

**Source:** PL 4-25 § 5; PL 10-140 § 1; PL 14-28 § 2; PL 14-85 § 1.

**§ 206. Regulations.**

The President of the Federated States of Micronesia is authorized to promulgate regulations consistently with sections 201 through 205 of this chapter to effectuate the intent and purpose thereof.

**Source:** PL 4-25 § 6.



**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

**§ 207. Passport Revolving Fund.**

(1) There is created and established the Passport Revolving Fund, hereinafter referred to as the "Fund," separate from the General Fund of the Federated States of Micronesia and all other funds.

(2) The purpose of the Fund is to establish an ongoing revolving fund to allow appropriations for, and revenues from, the issuance and renewal of passports to be used for passport issuance and renewal.

(3) All future appropriations for, and revenues received from the issuance and renewal of passports shall be deposited in the Fund; provided, that at no time shall the total of monies in the Fund exceed \$100,000; and provided further, that any revenues received from the issuance and renewal of passports which would cause the total amount of monies in the Fund to exceed \$100,000 shall be deposited in the General Fund of the Federated States of Micronesia; except that during the fiscal year ending in September 2006, the total amount of monies in the Fund shall not exceed \$500,000. Any unexpended monies in this Fund shall not revert to the General Fund nor lapse at the end of the fiscal year.

(4) The Fund shall be administered by the Chief of the Division of  **Immigration** . The Chief shall, not later than 30 days after the close of each governmental fiscal year, submit to the Attorney General a complete report of the activities and condition of the Fund for the fiscal year just closed. The Attorney General shall, within 30 days of receipt of the report from the Chief, forward the report to the President and the Congress of the Federated States of Micronesia.

(5) The Public Auditor shall audit the Fund at such times as the Public Auditor deems appropriate.

**Source:** PL 4-68 § 1; PL 14-28 § 3.

**Cross-reference:** The statutory provisions on the Public Auditor are found in chapter 5 of title 55 (Government Finance and Contracts) of this code. The statutory provisions on other imprest and revolving funds are found in chapter 6 of title 55 (Government Finance and Contracts) of this code.

**Editor's note:** The last word in subsection (5) was changed from "appropriated" to "appropriate" to correct a typographical error.

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