

THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA

PREAMBLE

WE, THE PEOPLE OF MICRONESIA, exercising our inherent sovereignty, do hereby establish this Constitution of the Federated States of Micronesia.

With this Constitution, we affirm our common wish to live together in peace and harmony, to preserve the heritage of the past, and to protect the promise of the future.

To make one nation of many islands, we respect the diversity of our cultures. Our differences enrich us. The seas bring us together, they do not separate us. Our islands sustain us, our island nation enlarges us and makes us stronger.

Our ancestors, who made their homes on these islands, displaced no other people. We, who remain, wish no other home than this. Having known war, we hope for peace. Having been divided, we wish unity. Having been ruled, we seek freedom.

Micronesia began in the days when man explored seas in rafts and canoes. The Micronesian nation is born in an age when men voyage among stars; our world itself is an island. We extend to all nations what we seek from each: peace, friendship, cooperation, and love in our common humanity. With this Constitution we, who have been the wards of other nations, become the proud guardian of our own islands, now and forever.

ARTICLE I

Territory of Micronesia

Section 1. The territory of the Federated States of Micronesia is comprised of the Districts of the Micronesian archipelago that ratify this Constitution. Unless limited by international treaty obligations assumed by the Federated States of Micronesia, or by its own act, the waters connecting the islands of the archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

ARTICLE II

Supremacy

Section 1. This Constitution is the expression of the sovereignty of the people and is the supreme law of the Federated States of Micronesia. An act of the Government in conflict with this Constitution is invalid to the extent of conflict.

ARTICLE III

Citizenship

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.

Section 4. A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.

Section 5. A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent

jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

Section 6. This Article may be applied retroactively.

ARTICLE IV Declaration of Rights

Section 1. No law may deny or impair freedom of expression, peaceable assembly, association, or petition.

Section 2. No law may be passed respecting an establishment of religion or impairing the free exercise of religion, except that assistance may be provided to parochial schools for non-religious purposes.

Section 3. A person may not be deprived of life, liberty, or property without due process of law, or be denied the equal protection of the laws.

Section 4. Equal protection of the laws may not be denied or impaired on account of sex, race, ancestry, national origin, language, or social status.

Section 5. The right of the people to be secure in their persons, houses, papers, and other possessions against unreasonable search, seizure, or invasion of privacy may not be violated. A warrant may not issue except on probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

Section 6. The defendant in a criminal case has a right to a speedy public trial, to be informed of the nature of the accusation, to have counsel for his defense, to be confronted with the witnesses against him, and to compel attendance of witnesses in his behalf.

Section 7. A person may not be compelled to give evidence that may be used against him in a criminal case, or be twice put in jeopardy for the same offense.

Section 8. Excessive bail may not be required, excessive fines imposed, or cruel and unusual punishments inflicted. The writ of habeas corpus may not be suspended unless required for public safety in cases of rebellion or invasion.

Section 9. Capital punishment is prohibited.

Section 10. Slavery and involuntary servitude are prohibited except to punish crime.

Section 11. A bill of attainder or ex post facto law may not be passed.

Section 12. A citizen of the Federated States of Micronesia may travel and migrate within the Federated States.

Section 13. Imprisonment for debt is prohibited.

ARTICLE V Traditional Rights

Section 1. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by statute.

Section 2. The traditions of the people of the Federated States of Micronesia may be protected by statute. If challenged as violative of Article IV, protection of Micronesian tradition shall be considered a compelling social purpose warranting such governmental action.

Section 3. The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The constitution of a state having traditional leaders may provide for an active, functional role for them.

ARTICLE VI Suffrage

Section 1. A citizen 18 years of age may vote in national elections. The Congress shall prescribe a minimum period of local residence and provide for voter registration, disqualification for conviction of crime, and disqualification for mental incompetence or insanity. Voting shall be secret.

ARTICLE VII Levels of Government

Section 1. The three levels of government in the Federated States of Micronesia are national, state, and local. A state is not required to establish a new local government where none exists on the effective date of this Constitution.

Section 2. A state shall have a democratic constitution.

ARTICLE VIII Powers of Government

Section 1. A power expressly delegated to the national government, or a power of such an indisputably national character as to be beyond the power of a state to control, is a national power.

Section 2. A power not expressly delegated to the national government or prohibited to the states is a state power.

Section 3. State and local governments are prohibited from imposing taxes which restrict interstate commerce.

ARTICLE IX Legislative

Section 1. The legislative power of the national government is vested in the Congress of the Federated States of Micronesia.

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

- (a) to provide for the national defense;
- (b) to ratify treaties;
- (c) to regulate immigration, emigration, naturalization, and citizenship;
- (d) to impose taxes, duties, and tariffs based on imports;
- (e) to impose taxes on income;

(f) to issue and regulate currency;

(g) to regulate banking, foreign and interstate commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, and patents and copyrights;

(h) to regulate navigation and shipping except within lagoons, lakes, and rivers;

(i) to establish usury limits on major loans;

(j) to provide for a national postal system;

(k) to acquire and govern new territory;

(l) to govern the area set aside as the national capital;

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines;

(n) to establish and regulate a national public service system;

(o) to impeach and remove the President, Vice-President, and justices of the Supreme Court;

(p) to define national crimes and prescribe penalties, having due regard for local custom and tradition;

(q) to override a Presidential veto by not less than a 3/4 vote of all the state delegations, each delegation casting one vote; and

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

Section 3. The following powers may be exercised concurrently by Congress and the states:

- (a) to appropriate public funds;
- (b) to borrow money on the public credit; and
- (c) to establish systems of social security and public welfare.

Section 4. A treaty is ratified by vote of 2/3 of the members of Congress, except that a treaty delegating major powers of government of the Federated States of Micronesia to another government shall also require majority approval by the legislatures of 2/3 of the states.

Section 5. National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected.

Section 6. Net revenue derived from ocean floor mineral resources exploited under Section 2(m) shall be divided equally between the national government and the appropriate state government.

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.

Section 8. The Congress consists of one member elected at large from each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. Members elected on the basis of state equality serve for a 4-year term, and all other members for 2 years. Each member has one vote, except on the final reading of bills. Congressional elections are held biennially as provided by statute.

Section 9. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election and has been a citizen of the Federated States of Micronesia for at least 15 years, and a resident of the state from which he is elected for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.

Section 10. At least every 10 years Congress shall reapportion itself. A state is entitled to at least one member of Congress on the basis of population in addition to the member elected at large. A state shall apportion itself by law into single member congressional districts. Each district shall be approximately equal in population after giving due regard to language, cultural, and geographic differences.

Section 11. A state may provide that one of its seats is set aside for a traditional leader who shall be chosen as provided by statute for a two-year term, in lieu of one representative elected on the basis of population. The number of congressional districts shall be reduced and reapportioned accordingly.

Section 12. A vacancy in Congress is filled for the unexpired term. In the absence of provision by law, an unexpired term is filled by special election, except that an unexpired term of less than one year is filled by appointment by the state chief executive.

Section 13. A member of Congress may not hold another public office or employment. During the term for which he is elected and three years thereafter, a member may not be elected or appointed to a public office or employment created by national statute during his term. A member may not engage in any activity which conflicts with the proper discharge of his duties. The Congress may prescribe further restrictions.

Section 14. The Congress may prescribe an annual salary and allowances for members. An increase of salary may not apply to the Congress enacting it.

Section 15. A member of Congress is privileged from arrest during his attendance at Congress and while going to and from sessions, except for treason, felony, or breach of the peace. A member answers only to Congress for his statements in Congress.

Section 16. The Congress shall meet in regular, public session as prescribed by statute. A special session may be convened at the call of the President of the Federated States of Micronesia, or by the presiding officer on the written request of 2/3 of the members.

Section 17.

(a) The Congress shall be the sole judge of the elections and qualifications of its members, may discipline a member, and, by 2/3 vote, may suspend or expel a member.

(b) The Congress may determine its own rules of procedure and choose a presiding officer from among its members.

(c) The Congress may compel the attendance and testimony of witnesses and the production of documents or other matters before Congress or any of its committees.

Section 18. A majority of the members is a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

Section 19. The Congress shall keep and publish a journal of its proceedings. A roll call vote entered on the journal shall be taken at the request of 1/5 of the members present. Legislative proceedings shall be conducted in the English language. A member may use his own language if not fluent in English, and Congress shall provide translation.

Section 20. To become law, a bill must pass 2 readings on separate days. To pass first reading a 2/3 vote of all members is required. On final reading each state delegation shall cast one vote and a 2/3 vote of all the delegations is required. All votes shall be entered on the journal.

Section 21.

(a) The Congress may make no law except by statute and may enact no statute except by bill. The enacting clause of a bill is "BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:" A bill may embrace but one subject expressed in its title. A provision outside the subject expressed in the title is void.

(b) A law may not be amended or revised by reference to its title only. The law as revised or section as amended shall be published and re-enacted at full length.

Section 22. A bill passed by Congress shall be presented to the President for approval. If he disapproves of the bill, he shall return it with his objections to Congress within 10 days. If Congress has 10 or less days remaining in its session, or has adjourned, he shall return the bill within 30 days after presentation. If the President does not return a bill within the appropriate period, it becomes law as if approved.

ARTICLE X

Executive

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. He is elected by Congress for a term of four years by a majority vote of all the members. He may not serve for more than 2 consecutive terms.

Section 2. The following powers are expressly delegated to the President:

(a) to faithfully execute and implement the provisions of this Constitution and all national laws;

(b) to receive all ambassadors and to conduct foreign affairs and the national defense in accordance with national law;

(c) to grant pardons and reprieves, except that the chief executive of each state shall have this power concurrently with respect to persons convicted under state law; and

(d) with the advice and consent of Congress, to appoint ambassadors; all judges of the Supreme Court and other courts prescribed by statute; the principal officers of executive departments in the national government; and such other officers as may be provided for by statute. Ambassadors and principal officers serve at the pleasure of the President.

Section 3. The President:

(a) is head of state of the Federated States of Micronesia;

(b) may make recommendations to Congress, and shall make an annual report to Congress on the state of the nation; and

(c) shall perform such duties as may be provided by statute.

Section 4. A person is ineligible to become President unless he is a member of Congress for a 4-year term, a citizen of the Federated States of Micronesia by birth, and a resident of the Federated States of Micronesia for at least 15 years.

Section 5. After the election of the President, the Vice-President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He may not be a resident of the same state. After the election of the President and the Vice-President, vacancies in Congress shall be declared.

Section 6. If the office of the President is vacant, or the President is unable to perform his duties, the Vice-President becomes President. The Congress shall provide by statute for the succession in the event both offices are vacant, or either or both officers are unable to discharge their duties.

Section 7. The compensation of the President or Vice-President may not be increased or reduced during his term. They may hold no other office and may receive no other compensation from the Federated States of Micronesia or from a state.

Section 8. Executive departments shall be established by statute.

Section 9.

(a) If required to preserve public peace, health, or safety, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war, or insurrection, the President may declare a state of emergency and issue appropriate decrees.

(b) A civil right may be impaired only to the extent actually required for the preservation of peace, health, or safety. A declaration of emergency may not impair the power of the judiciary except that the declaration shall be free from judicial interference for 30 days after it is first issued.

(c) Within 30 days after the declaration of emergency, the Congress of the Federated States of Micronesia shall convene at the call of its presiding officer or the President to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms, is revoked, or extended, a declaration of emergency is effective for 30 days.

ARTICLE XI

Judicial

Section 1. The judicial power of the national government is vested in a Supreme Court and inferior courts established by statute.

Section 2. The Supreme Court is a court of record and the highest court in the nation. It consists of the Chief Justice and not more than 5 associate justices. Each justice is a member of both the trial division and the appellate division, except that sessions of the trial division may be held by one justice. No justice may sit with the appellate division in a case heard by him in the trial division. At least 3 justices shall hear and decide appeals. Decision is by a majority of those sitting.

Section 3. The Chief Justice and associate justices of the Supreme Court are appointed by the President with the approval of 2/3 of Congress. Justices serve during good behavior.

Section 4. If the Chief Justice is unable to perform his duties he shall appoint an associate justice to act in his stead. If the office is vacant, or the Chief Justice fails to make the appointment, the President shall appoint an associate justice to act as Chief Justice until the vacancy is filled or the Chief Justice resumes his duties.

Section 5. The qualifications and compensation of justices and other judges may be prescribed by statute. Compensation of judges may not be diminished during their terms of office unless all salaries prescribed by statute are reduced by a uniform percentage.

Section 6.

(a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.

(b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, and between a state or a citizen thereof, and a foreign state, citizen, or subject.

(c) When jurisdiction is concurrent, the proper court may be prescribed by statute.

Section 7. The appellate division of the Supreme Court may review cases heard in the national courts, and cases heard in state or local courts if they require interpretation of this Constitution, national law, or a treaty. If a state constitution permits, the appellate division of the Supreme Court may review other cases on appeal from the highest state court in which a decision may be had.

Section 8. When a case in a state or local court involves a substantial question requiring the interpretation of the Constitution, national law, or a treaty, on application of a party or on its own motion the court shall certify the question to the appellate division of the Supreme Court. The appellate division of the Supreme Court may decide the case or remand it for further proceedings.

Section 9. The Chief Justice is the chief administrator of the national judicial system and may appoint an administrative officer who is exempt from civil service. The Chief Justice shall make and publish and may amend rules governing national courts, and by rule may:

(a) divide the inferior national courts and the trial division of the Supreme Court into geographical or functional divisions;

(b) assign judges among the divisions of a court and give special assignments to retired Supreme Court justices and judges of state and other courts;

(c) establish rules of procedure and evidence;

(d) govern the transfer of cases between state and national courts;

(e) govern the admission to practice and discipline of attorneys and the retirement of judges; and

(f) otherwise provide for the administration of the national judiciary. Judicial rules may be amended by statute.

Section 10. The Congress shall contribute to the financial support of state judicial systems and may provide other assistance.

Section 11. Court decisions shall be consistent with this Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia. In rendering a decision, a court shall consult and apply sources of the Federated States of Micronesia.

ARTICLE XII

Finance

Section 1.

(a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.

(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

Section 2.

(a) The President shall submit an annual budget to Congress at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other money available to the national government for the next fiscal year, together with additional information that Congress may require. The Congress may alter the budget in any respect.

(b) No appropriation bills, except those recommended by the President for immediate passage, or to cover the operating expenses of Congress, may be passed on final reading until the bill appropriating money for the budget has been enacted.

(c) The President may item veto an appropriation in any bill passed by Congress, and the procedure in such case shall be the same as for disapproval of an entire bill by the President.

Section 3.

(a) The Public Auditor is appointed by the President with the advice and consent of Congress. He serves for a term of 4 years and until a successor is confirmed.

(b) The Public Auditor shall inspect and audit accounts in every branch, department, agency or statutory authority of the national government and in other public legal entities or nonprofit organizations receiving public funds from the national government. Additional duties may be prescribed by statute.

(c) The Public Auditor shall be independent of administrative control except that he shall report at least once a year to Congress. His salary may not be reduced during his term of office.

(d) The Congress may remove the Public Auditor from office for cause by 2/3 vote. In that event the Chief Justice shall appoint an acting Public Auditor until a successor is confirmed.

ARTICLE XIII

General Provisions

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

Section 2. Radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the national government of the Federated States of Micronesia.

Section 3. It is the solemn obligation of the national and state governments to uphold the provisions of this Constitution and to advance the principles of unity upon which this Constitution is founded.

Section 4. A noncitizen, or a corporation not wholly owned by citizens, may not acquire title to land or waters in Micronesia.

Section 5. A lease agreement for the use of land for an indefinite term by a noncitizen, a corporation not wholly owned by citizens, or any government is prohibited.

Section 6. The national government of the Federated States of Micronesia shall seek renegotiation of any agreement for the use of land to which the Government of the United States of America is a party.

Section 7. On assuming office, all public officials shall take an oath to uphold, promote, and support the laws and the Constitution as prescribed by statute.

ARTICLE XIV

Amendments

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

ARTICLE XV

Transition

Section 1. A statute of the Trust Territory continues in effect except to the extent it is inconsistent with this Constitution, or is amended or repealed. A writ, action, suit, proceeding, civil or criminal liability, prosecution, judgment, sentence, order, decree, appeal, cause of action, defense, contract, claim, demand, title, or right continues unaffected except as modified in accordance with the provisions of this Constitution.

Section 2. A right, obligation, liability, or contract of the Government of the Trust Territory is assumed by the Federated States of Micronesia except to the extent it directly affects or benefits a government of a District not ratifying this Constitution.

Section 3. An interest in property held by the Government of the Trust Territory is transferred to the Federated States of Micronesia for retention or distribution in accordance with this Constitution.

Section 4. A local government and its agencies may continue to exist even though its charter or powers are inconsistent with this Constitution. To promote an orderly transition to the provisions of this Constitution, and until state governments are established, Congress shall provide for the resolution of inconsistencies between local government charters and powers, and this Constitution. This provision ceases to be effective 5 years after the effective date of this Constitution.

Section 5. The Congress may provide for a smooth and orderly transition to government under this Constitution.

Section 6. In the first congressional election, congressional districts are apportioned among the states as follows: Kusaie - 1; Marianas - 2; Marshalls - 4; Palau - 2; Ponape - 3; Truk - 5; Yap - 1. If Kusaie is not a state at the time of the first election, 4 members shall be elected on the basis of population in Ponape.

ARTICLE XVI

Effective Date

Section 1. This Constitution takes effect 1 year after ratification unless the Congress of Micronesia by joint resolution specifies an earlier date. If a provision of this Constitution is held to be in fundamental conflict with the United Nations Charter or the Trusteeship Agreement between the United States of America and the United Nations, the provision does not become effective until the date of termination of the Trusteeship Agreement.