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Title 1.

General Provisions.

Chap. 1. Bill of Rights, §§ 1 to 14.
2. Future Legislation, §§ 51 to 56.
5. Flag and Flag Display, §§ 201 to 203.
7. Capital, § 351.

CHAPTER 1.

BILL OF RIGHTS.

Sec. 1. Freedom of religion, speech and press; right of assembly and petition. - No law shall be enacted in the Trust Territory respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition the government for a redress of grievances. (Code 1966, § 1; Code 1970, tit. 1, § 1.)

Sec. 2. Slavery and involuntary servitude. - Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist in the Trust Territory. (Code 1966, § 2; Code 1970, tit. 1, § 2.)

Sec. 3. Unreasonable search and seizure. - The rights of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. (Code 1966, § 3; Code 1970, tit. 1, § 3.)

Cross references. — Searches and seizures, 12 TTC ch. 3.
Seizure and forfeiture — Procedure, 19 TTC

Right protects only defendant's person or premises. — Where knife placed in evidence in criminal trial was not taken from defendant's person or premises, defendant has no reasonable ground to move for suppression as knife was not illegally obtained. Nichig v. Trust Territory, 1 TTR 409 (1958).
Requirement of probable cause. — Probable cause must be established before a search and seizure may be undertaken. In re Lizama, 5 TTR 645 (1972).

Where affidavit in support of motion to compel voice tests of certain suspects failed to establish that the proposed search and seizure was reasonable, did not show facts to indicate why suspicion was directed at named individuals rather than others and contained nothing other than a conclusory averment that

§ 4. Due process of law; double jeopardy; self-incrimination; trial; assistance of counsel; capital punishment. — No person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall any person be compelled in any criminal case to be a witness against himself. In all criminal prosecutions the accused shall enjoy the right to a speedy public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense. No crime under the laws of the Trust Territory shall be punishable by death. (Code 1966, § 4; Code 1970, tit. 1, § 4.)

Cross references. — Eminent domain, 10 TTC. Rights of persons arrested, see 12 TTC § 68. Rights of defendants, 12 TTC § 151.

NOTES

I. In General.
II. Procedure.
III. Police Power.
IV. Property.

I. IN GENERAL.

Effect—Prospective only. — This section should be given only prospective and not retrospective effect. Riveria v. Trust Territory, 4 TTR 140 (1968).

Due process protection. — No person in the Trust Territory may be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall any person be compelled in any criminal case to be a witness against himself. Fretamag v. Trust Territory, 2 TTR 413 (1963).

Right to fair trial. — Under the Trust Territory bill of rights every person charged with crime has an absolute right to a fair and impartial trial, and the duty rests upon the courts, and also upon the prosecuting authorities to see that this right is upheld and sustained. Lizama v. Trust Territory, 3 TTR 436 (1968).

Officials obligated to act fairly. — Due process and equal protection of laws clauses in bill of rights impose obligation on all officials to act reasonably and fairly in accordance with established principles of justice, and not make arbitrary choices or interfere with freedom of action of individuals any more than is reasonably necessary. Obligation applies to municipalities and well as to others. Mesechol v. Trust Territory, 2 TTR 84 (1969).

Protection does not guarantee success in court. — The mere fact that a person is unsuccessful in a court in a matter involving life, liberty, or property does not show that there has been a violation of due process of law guaranty. Figir v. Trust Territory, 4 TTR 368 (1969).

Proceeding which denies due process results in void judgment. — The general rule is that when the court has jurisdiction by law of the offense charged, and of the party so charged, its judgments are not nullities; however, an unconstitutional statute or a proceeding which denies the accused due process of law, is an exception to the general rule and accordingly results in a void judgment which is subject to collateral attack. Figir v. Trust Territory, 4 TTR 368 (1969).

Assignment of case by disqualified judge not violative of due process. — Action of chief justice who is disqualified from hearing case, in assigning case first to one judge then to

Administrative hearing required before deportation. — Failure on part of executive branch to provide an administrative hearing before applying for a deportation order does not constitute a denial of due process. Trust Territory v. Arce (App. Div., April, 1976).

Vague statutes violate due process. — A statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. Trust Territory v. Tarkong, 5 TTR 549 (1971).

The provisions of the abortion statute were so vague and indefinite that enforcement of it in case in question would have constituted a denial of due process of law as to the defendant. Trust Territory v. Tarkong, 5 TTR 252 (1970).

11 TTC 51, relating to abortion, was so vague and indefinite that its attempted enforcement in case in question constituted a denial of due process and it was, therefore, invalid. Trust Territory v. Tarkong, 5 TTR 252 (1970).

Due process protection — Same as provided in U.S. Constitution. — The interpretation and meaning of the due process and equal protection clauses of the United States Constitution are the same as the interpretation and meaning of the due process and equal protection clauses of the Trust Territory bill of rights. Di Stefano v. Di Stefano, 6 TTR 312 (1973).

Although the United States Constitution is not directly applicable to the Trust Territory, the constitutional provision as to due process is carried into the Code by section 4. Trust Territory v. Tarkong, 5 TTR 252 (1970).

Words of the due process clause, when used in the Trust Territory bill of rights, are presumed to have the same meaning as in the United States, in those situations to which they are applicable. Ichiro v. Bismark, 1 TTR 57 (1953).

The words “due process of law,” when used by Americans in the Trust Territory bill of rights, must be presumed to mean the same thing they do in the United States in those situations to which they are applicable. Purako v. Efou, 1 TTR 236 (1955).

Customary law limits fundamental rights. — Except as may otherwise be determined by the High Commissioner, the Trust Territory bill of rights is limited by existing customary law. Ichiro v. Bismark, 1 TTR 57 (1953).

In order to bring ordinance within exception of bill of rights regarding custom, ordinance must be either purely declaratory of present day customary law or merely place some limitation on it. Where ordinance purports to give wide power to newly created body and to revive type of penalty long in disuse, it does not come within exception of Trust Territory bill of rights regarding custom. Mesechol v. Trust Territory, 2 TTR 84 (1959).

U.S. provision for jury trial not applicable. — The United States constitutional provisions on subject of jury trial do not of themselves apply to Trust Territory, which has not been incorporated into the United States. Sechelong v. Trust Territory, 2 TTR 526 (1964).


No right to jury trial in Trust Territory. — Since there has been no specific action extending right of jury trial to Trust Territory, and provisions of this Code appear inconsistent with thought of jury trials, there is at present no right to trial by jury in the Trust Territory. Sechelon v. Trust Territory, 2 TTR 526 (1964).

Denial by court of request for trial by jury does not constitute a violation of rights to due process and equal protection. Right to trial by jury is conspicuous in its absence from section enumerating certain inalienable rights. Sonoda v. Trust Territory (App. Div., November, 1976).

II. PROCEDURE.

Opportunity to be heard essential. — An opportunity to be heard is an essential element of due process of law guaranteed by this section. Ichiro v. Bismark, 1 TTR 57 (1953).

Due process protection extends to employee of federally-funded program. — Where employee of government-run federally-funded aging program had a clear expectation of continued employment so long as the program was federally approved, funds were available, and his behavior was good, he had an interest in continued employment protected by procedural due process and was entitled to a hearing affording him opportunity to meet charges against him prior to dismissal. Curley v. Government, 6 TTR 409 (1973).

Grantee of authority subject to same due process guarantees as grantor. — Unless a contrary intention appears, a person in authority acting under a due process of law guarantee, who grants his discretionary powers to another, is presumed to intend that such authority will be exercised in accordance with such guarantee. Thus, when authorizing a district administrator to revoke parole, the High Commissioner was presumed to intend that such revocation would not be accomplished without notice and an opportunity to be heard being granted the parolee. Ichiro v. Bismark, 1 TTR 57 (1953).
Appellate review not required. — Procedural due process does not require appellate review. This is a principle which has been specifically applied to disciplinary proceedings Abrams v. Trust Territory High Court Disciplinary Panel (App. Div., May, 1977).

Party to disciplinary proceeding entitled to due process. — Disciplinary proceedings are not considered criminal or civil in nature, but are special proceedings, sui generis, in the nature of an inquiry concerning the conduct of an attorney as it relates to his fitness to practice law. Such proceedings are not for the purpose of punishment of the attorney but to protect the court and the public from persons unfit to practice a profession imbued with the public trust. Although such proceedings are sui generis, a party to them is entitled to procedural due process, i.e., notice of the charges and an opportunity to be heard. Abrams v. Trust Territory High Court Disciplinary Panel (App. Div., May, 1977).

Party in interest entitled to be heard concerning appointment of receiver. — Where real party in interest involved in placing corporation into receivership was not given opportunity to be heard prior to original appointment of receiver, an order denying a motion to vacate is appealable. In re Transpacific Lines, Inc. (App. Div., September, 1977).

Hearing after ex parte appointment of receiver not violative of due process. — While an ex parte appointment of a receiver may be void under certain circumstances, it is not necessarily void. Such an erroneous appointment may be cured if followed closely by a hearing on the merits. Any defect in the ex parte appointment may be subsequently cured. Where appellants have been given an extensive hearing after ex parte rendering of original order of appointment, appellants have not been deprived of any due process protections. In re Transpacific Lines, Inc. (App. Div., September, 1977).

To violate due process, proceeding must deny accused a fair trial. — Only when there has been such a failure in the proceedings that the accused is denied a fair trial can it be said there has been a denial of due process and that the resulting judgment is void and may be set aside on habeas corpus. Figir v. Trust Territory, 4 TTR 368 (1969).

Ball restrictions. — Where restrictions placed upon individual released on bail constitute restraint of liberty, relief is ordinarily obtainable by habeas corpus. Meyer v. Epsom, 3 TTR 54 (1965).

Individual cannot reasonably be restricted to a small part of area he was formerly allowed use of on Kwajalein Island, in manner closely approaching modified form of house arrest, while he is supposed to be at liberty on bail. Meyer v. Epsom, 3 TTR 54 (1965).

Habeas corpus reaches jurisdictional error only. — A writ of habeas corpus reaches jurisdictional error only and cannot properly be used to serve mere purpose of appeal or writ of error. Purako v. Efou, 1 TTR 236 (1955).

Due process extends to government employee concerning his employment. — Employee employed pursuant to contract with government had an interest in continued employment which was protected by due process of law, and could not be dismissed from employment, whether or not for valid reasons, by action which was arbitrary, discriminatory and a denial of fundamental property interests protected by the Trust Territory Code. Christensen v. M.O.C., 6 TTR 346 (1973).

Double jeopardy distinguished from res judicata. — The doctrine of res judicata is distinguishable from the double jeopardy provision barring two punishments for the same offense in that it precludes a second trial of the same facts between the same parties. Moolang v. Figir, 3 TTR 455 (1968).

Construed in accordance with fifth amendment. — Words of Trust Territory bill of rights prohibiting double jeopardy must be construed in accordance with judicial interpretation of these words in fifth amendment of the United States Constitution. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).

Erroneous reference by prosecution to law violated. — Where there is error in criminal prosecution in making reference to law violated, and penalties under one law are heavier than penalties under the other, court will eliminate provisions of sentence with regard to imprisonment to avoid possible prejudice and in interests of substantial justice. Temengil v. Trust Territory, 2 TTR 413 (1963).

Purpose of public trial. — Purpose of public trial is to protect rights of person accused of crime so that public may see he is fairly dealt with, and to keep judge aware of his responsibility, importance of his work, and fact public has right to know about it. Firetamag v. Trust Territory, 2 TTR 413 (1963).

Purpose of public trial in criminal case is defeated if the court is allowed to consider as evidence information passed to it privately or indirectly and not in regular course of judicial proceedings. Firetamag v. Trust Territory, 2 TTR 413 (1963).

Requirements of criminal proceedings. — Accused in criminal proceedings in the Trust Territory may only be convicted after trial before impartial court, on basis of information presented as provided by law before court and in presence of interested members of public, subject to certain exceptions involving minors.

Evidence in addition to confession required. — In order to convict accused in criminal case in the Trust Territory, there must be enough other evidence besides confession so that court is satisfied by confession and other evidence that accused has committed crime charged beyond reasonable doubt. Firetamag v. Trust Territory, 2 TTR 413 (1963).


Admissibility of confessions. — The mere fact that an accused was in custody of the police when he made his confession does not make it inadmissible; nor does any illegal detention there may have been after the confession was given make it inadmissible. Eram v. Trust Territory, 3 TTR 442 (1968).

Rights of accused under Miranda decision. — The Miranda decision concerning "custodial interrogation" requires that prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has right to the presence of an attorney, either retained or appointed, however, the person may waive those rights provided the waiver is made voluntarily, knowingly and intelligently. Trust Territory v. Poll, 3 TTR 387 (1968).

Under the Miranda decision the mere fact that an accused person may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned. Trust Territory v. Poll, 3 TTR 387 (1968).

Weight accorded to U.S. Supreme Court decisions. — Decision of the United States Supreme Court concerning protection against self-incrimination and the right to counsel are entitled to great weight as precedents from another jurisdiction and should be recognized as goals to be reached so far as they are applicable to conditions existing in the Trust Territory. Trust Territory v. Poll, 3 TTR 387 (1968).

Confessions. — Conviction resulting from use of coerced confession is no less void because accused testifies in proceedings that he never in fact confessed, voluntarily or involuntarily. Rungun v. Trust Territory, 1 TTR 601 (App. Div. 1957).

Where evidence falls far short of showing affirmatively that alleged confession is voluntary in fact, and confession is left in evidence after objection is raised to it in the criminal prosecution, the accused is prejudiced thereby and finding of guilt and sentence will be set aside. Haruo v. Trust Territory, 1 TTR 565 (App. Div. 1952).

In criminal prosecution, once it becomes clear to court that the accused's basic defense is that alleged confession is involuntary and untrue, it is the duty of the court to reopen question of whether confession is in fact voluntary, make a careful investigation into circumstances surrounding its giving, including consideration of experience and intelligence of accused, just as if objection to admission of confession had been made when it was originally offered or express motion had been made to strike it out. Haruo v. Trust Territory, 1 TTR 565 (App. Div. 1952).

It is not necessary in the Trust Territory courts for the prosecution to prove corpus delicti beyond reasonable doubt independent of accused's confession outside of court, but it is sufficient if the confession is corroborated by other substantial evidence and the court is satisfied beyond a reasonable doubt upon all the evidence, including the confession, that the accused committed the crime. Bisente v. Trust Territory, 1 TTR 327 (1957).

Effect of hearsay evidence. — Allowing prosecution in criminal trial to identify allegedly stolen property by reported statements of unnamed persons not made in court, deprives judge of opportunity to consider their behavior on witness stand in determining how fully and exactly they should be believed.

And where it is extremely doubtful whether trial court would have found the accused guilty without improperly received evidence which covers a vital point in the case, finding of guilt will be reversed on appeal. Borja v. Trust Territory, 1 TTR 280 (1955).

Postponement of trial. — Where criminal trial is completed within 18 days after incident involved, and accused consents to postponement, there is no basis for any claim of abuse of discretion by trial court. Figir v. Trust Territory, 3 TTR 127 (1966).

Postponement — Waiver of right to speedy trial objection. — By consenting to postponement of criminal trial, accused waives any objection he might otherwise have to delay as an interference with his right to speedy trial. Figir v. Trust Territory, 3 TTR 127 (1966).

Postponement not to be used to avoid trial. — In criminal proceedings, accused cannot consent either personally or through counsel to postponement of trial and then use postponement as ground for avoiding trial. Figir v. Trust Territory, 3 TTR 127 (1966).

Delays in prosecution not resulting in prejudice. — Where delays in prosecution of criminal case are due in part to absences of public defender, district attorney and essential
Factors in determining denial of speedy trial. — The four factors to be considered in determining whether defendant was denied a speedy trial are the length of the delay, defendant's assertion of a right to a speedy trial, the reason for the delay, and prejudice resulting from the delay. Trust Territory v. Ogo (App. Div., December, 1977).

In considering whether the length of delay is extraordinary, an additional consideration must be given in the Trust Territory. That consideration is the district in which the case is pending and the availability of a court and court personnel to hear the case. Trust Territory v. Este (App. Div., December, 1977).

In determining if defendant's right to a speedy trial has been violated, the circumstances of the case must be reviewed in light of the four factors which form the basis of any balancing test: length of the delay; defendant's assertion of his right; prejudice to the defendant; and the reason for the delay. Trust Territory v. Waayan (App. Div., December, 1977).

Demand for speedy trial. — Whether or not defendant asserts his right to a speedy trial is important in the Trust Territory. Since the High Court sits infrequently in Truk, it necessarily assigns priority to certain matters. If a defendant demands a speedy trial, this should have a direct effect on the lapse of time between arrest and trial. Without a demand for a speedy trial, the case is set behind other matters which may have been filed before. Trust Territory v. Este (App. Div., December, 1977).

Effect of substantial delay. — Where the delay from the date of the filing of the complaint to the date for trial is thirty-three months, this is a substantial delay which mandates a close review of the other balancing factors, viz., defendant's assertion of his right, prejudice to defendant, and the reason for the delay. Trust Territory v. Waayan (App. Div., December, 1977).

Determination of prejudice from delay. — In determining whether prejudice resulted from delay of trial, if there was no pre-trial incarceration, the other main factor the court must consider is whether the defense has been impaired by the delay. Trust Territory v. Este (App. Div., December, 1977).

Impairment of defense by delay. — Where the record is barren of any showing as to whether defense has been impaired by delay in trial, except that one co-defendant died before trial and it is not shown how the absence of co-defendant's testimony impaired the defense or, indeed, that co-defendant would have even testified, it has not been shown that the defense has been impaired by delay in the trial. Trust Territory v. Este (App. Div., December, 1977).

The general assertion that memories fade over a period of time is not in and of itself sufficient to demonstrate that the defense is impaired by delay in the trial. Trust Territory v. Este (App. Div., December, 1977).

Effect of lack of permanent judge. — Where case was heard in the Truk District where no high court justice has been permanently assigned for many years and where this has a direct effect on the length of time a case can go to trial, it cannot be said that a length of delay of 17 1/2 months from the arrest to trial was extraordinary. Trust Territory v. Este (App. Div., December, 1977).

Showing does not demonstrate scheme by prosecution to delay trial. — Where it is shown that delay of trial was a combination of the transfer of the case from the district court to the high court, amendments to the charges by the prosecutor, and the fact that a high court justice was not permanently assigned to Truk District there is no demonstration, in any way, that the delay was a scheme or plan by the prosecution to delay the trial to the detriment of defendant. Trust Territory v. Este (App. Div., December, 1977).

Delay held violative of defendant's rights. — Where the delay in a case rests not within the ambit of crowded court calendars, unavailability of witnesses, or similar delays generally considered beyond the control of the government, and where it could have been prevented by prompt action of all the representatives of the agencies which comprise the criminal justice system, defendant's right to speedy trial has been violated. Trust Territory v. Waayan (App. Div., December, 1977).

Weighing of factors causing delay. — Unintentional delays caused by courts or prosecutors are among the factors to be weighed less heavily than intentional delays calculated to hamper the defense, in determining whether constitutional right to speedy trial has been violated. Trust Territory v. Waayan (App. Div., December, 1977).

Failure to assert right to speedy trial. — The mere failure to assert one's right to a speedy trial does not necessarily imply waiver.
Waiver of right to speedy trial. — Where defendant's counsel was only appointed eight days prior to trial, defendant was not in a position to effectively assert or intelligently waive his right to a speedy trial. Therefore defendant is not considered to have waived his right to a speedy trial, and his failure to make the demand should not be weighed heavily against him. Trust Territory v. Waayan (App. Div., December, 1977).

Prejudice as factor in denial of speedy trial. — Prejudice, like the other balancing factors, is neither inherently necessary nor inherently sufficient for finding that the defendant's right to a speedy trial has been violated. Trust Territory v. Waayan (App. Div., December, 1977).

When right to speedy trial attaches. — It is well established that the right to a speedy trial attaches when the defendant is arrested or formerly charged with a crime. Trust Territory v. Waayan (App. Div., December, 1977).

Reasonable time for counsel to prepare. — Where the acts giving rise to the charges arose over two and one-half years prior to the appointment of counsel and counsel was given only eight days to prepare his defense, the period allowed counsel for preparation is unreasonable thereby denying defendant of his right to counsel. Trust Territory v. Waayan (App. Div., December, 1977).

Indigent's right to counsel. — Under the Miranda decision it is necessary to warn an accused person not only that he has a right to consult with an attorney but also that if he is indigent a lawyer will be appointed to represent him Trust Territory v. Poll, 3 TTR 387 (1968).

An indigent defendant in a criminal case has a right to court-appointed counsel at all stages of the proceedings, including an appeal. In re Application of Matagolai, 6 TTR 577 (1974).

Statutes allowing indigents free counsel at trial should not be read to imply bar free counsel for an appeal, and under the Trust Territory Code bill of rights an indigent has the right to free counsel for an appeal. In re Application of Matagolai, 6 TTR 577 (1974).

Duty of court to protect rights of accused who is represented by untrained counsel. — When accused in criminal prosecution is represented by counsel known to trial court not to be trained lawyer, court has same duty to protect accused against inadvertently waiving or losing benefit of essential rights that it would have if accused were without counsel. Haruo v. Trust Territory, 1 TTR 565 (App. Div. 1952).

Government to prosecute and defend citizens; accused entitled to attorney. — Trust Territory has assumed burden of prosecuting and defending Trust Territory citizens accused of serious crimes, and accused in criminal proceedings is entitled to competent attorney. Mendiola v. Trust Territory, 2 TTR 651 (App. Div. 1964).

Prosecutors to have reasonable notice of changing standards regarding right to counsel. — Court would apply traditional standards regarding right to counsel in the case of all confessions or admissions obtained by the police from persons in the Trust Territory until prosecuting authorities had reasonable notice of opinion changing standards. Trust Territory v. Poll, 3 TTR 387 (1968).

Right to counsel construed. — The Escobedo decision established that as far as state courts in the United States are concerned the right to counsel extends to those in custody on suspicion and not yet charged with a specific crime and that statements obtained from them after their request to consult counsel had been disregarded or denied by the police cannot be admitted in evidence against them. Trust Territory v. Poll, 3 TTR 387 (1968).

In court identification of accused. — Where the identification of the accused in court was not derived from any unfair or suggestive police procedure and it arose out of the circumstances surrounding the crime itself, the absence of the public defender or his representative did not improperly deprive the accused of counsel at a critical stage of the investigation leading to his trial. Trust Territory v. Ngiraitpang, 5 TTR 282 (1970).

Identification proceeding, lineup. — When the police arrange a lineup or other identification proceedings the suspect, whether...
he be charged or not, is entitled to have the public defender or his representative, or other defense counsel present; the suspect must be so advised and if he requests counsel the proceedings may not be held until counsel is present. Trust Territory v. Ngiraitpang, 5 TTR 282 (1970).

Right of confrontation. — An accused has the right in all criminal prosecutions to be confronted with the witnesses against him. The essential purpose of this right of confrontation is to give the accused an opportunity for cross-examination and to let him know upon what evidence he is being tried. Ngirmidol v. Trust Territory, 1 TTR 273 (1955).

Waiver of right of confrontation. — While an accused in a criminal trial can waive the right to be confronted with the witnesses against him, either personally or through counsel, it cannot be taken away from him without his consent. Ngirmidol v. Trust Territory, 1 TTR 273 (1955).

While accused in criminal prosecution can waive right to be confronted with witnesses against him, it cannot properly be taken away from him without his consent. Tkoel v. Trust Territory, 2 TTR 513 (1964).

Denial of right of confrontation. — Where the accused in a criminal prosecution is denied the right to confront the witnesses against him, there has been a failure of substantial justice. Borja v. Trust Territory, 1 TTR 280 (1955).

Right to cross-examination and to know evidence. — Accused has the right in all criminal prosecutions to be confronted with witnesses against him, including right to cross-examination and to know upon what evidence he is being tried. Tkoel v. Trust Territory, 2 TTR 513 (1964).

Cross-examination not always a matter of right. — Accused cannot demand as a matter of right to be allowed to cross-examine witness who has not been called to testify by either side. Yamashiro v. Trust Territory, 2 TTR 638 (App. Div. 1963).

Cross-examination in one case not substitute for cross-examination in pending trial. — The cross-examination of a witness by the same counsel in another case does not take the place of the right to cross-examination in a pending criminal trial since a matter that has no proper place in the trial of one accused may be of great importance in the trial of another. Ngirmidol v. Trust Territory, 1 TTR 273 (1955).

Right of compulsory process. — Common law rule, that it is duty of prosecution in felony cases to call and examine all persons who have knowledge of material facts, arose under system where accused had no right of compulsory process for obtaining witnesses in his favor. Accused is granted this right under bill of rights. Yamashiro v. Trust Territory, 2 TTR 638 (App. Div. 1963).

Accused not prejudiced by perjured testimony. — Accused in criminal prosecution is not prejudiced by testimony of witness who is liable for prosecution for perjury where trial court does not consider such testimony. Ngirailengelan v. Trust Territory, 2 TTR 646 (App. Div. 1963).


Double jeopardy. — Under this section a person may not be twice punished or put in double jeopardy of two punishments for the same offense. Moolang v. Figir, 3 TTR 455 (1968).

Test for double jeopardy. — Where greater criminal offense includes lesser offense, test of double jeopardy is whether facts alleged in second prosecution, or any part of them constituting lesser included offense could, if given in evidence, have warranted conviction in first prosecution, unless first prosecution was procured by fraud, connivance or collusion of defendant, or some new fact, such as death of victim, has intervened after first prosecution. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).

No right to jury trial. — Since there has been no specific action extending right of jury trial to Trust Territory, and Trust Territory Code provisions appear inconsistent with thought of jury trials, there is at present no right to jury trial by jury in the Trust Territory. Sechelong v. Trust Territory, 2 TTR 526 (1964).

Right to jury trial dependent on action of administering authority. — Any right to jury trial in the Trust Territory must depend on some specific action of administering authority. Sechelong v. Trust Territory, 2 TTR 526 (1964).

III. POLICE POWER.

Proper exercise of police power not subject to restraint. — If legislative enactment represents proper and reasonable exercise of police power it is not subject to restraint by provisions in fundamental law designed for general protection of individual life, liberty and property. Trust Territory v. Benido, 1 TTR 46 (1953).

Guarantees of life, liberty and property do not operate as limitation upon police power to make and enforce such laws as will inure to health, morals and general welfare of people. Trust Territory v. Benido, 1 TTR 46 (1953).

Municipal regulations as exercise of police power. — Where municipal regulations
are reasonable exercise of police power, those accused of violating regulations are not deprived of due process of law. Trust Territory v. Benido, 1 TTR 46 (1953).

Regulation which disqualifies accused from holding future titles invalid. — A municipal regulation is invalid as an unreasonable exercise of the police power insofar as it purports to disqualify an accused from holding titles which may be legally conferred in the future. Trust Territory v. Benido, 1 TTR 46 (1953).

Municipal regulations for election of chiefs. — Municipal regulations which provide for election of traditional chief in order to prevent warfare between opposing factions were deemed not in violation of due process of law. Trust Territory v. Benido, 1 TTR 46 (1953).

Regulatory power of municipality. — Municipality has regulatory power to eliminate noise disturbance and movement over city streets during quiet hours of early morning, and may prohibit violations of peace and quiet on public streets which occur at times when they are most disturbing. Ngirasmengesong v. Trust Territory, 1 TTR 615 (App. Div. 1958).

Discretionary power of police officer not invalid. — Municipal ordinance regulating use of highways which vests discretionary power in officer to make exceptions which are "reasonably necessary" is not invalid as indefinite standard of police power. Ngirasmengesong v. Trust Territory, 1 TTR 615 (App. Div. 1958).

Construction of traffic ordinance. — Words "valid demonstrable reason" in ordinance limiting traffic hours must be construed to include any traffic which is reasonably incidental to normal and usual economic, social or religious activities generally accepted in community as wholesome or specifically authorized by law, and so long as proper construction of words in ordinance limiting traffic hours is followed, and persons engaged in such traffic are not put to unreasonable inconvenience in demonstrating reason for traffic, there can be no valid objection to actual operating of ordinance. Ngirasmengesong v. Trust Territory, 1 TTR 345 (1958).

Ordinance imposing tax in labor. — Municipal ordinance purporting to impose tax in labor, and making wilful failure to comply with such tax a crime, is in violation of due process clause and Trust Territory law and as administered is in violation of equal protection clause of this Code. Mesechol v. Trust Territory, 2 TTR 84 (1959).

Ordinance requiring tax in labor invalid exercise of police power. — Ordinance requiring tax in labor in lieu of money is lacking in essential elements of valid tax and proper exercise of police power, under constitutional provisions similar to those contained in Trust Territory bill of rights. Mesechol v. Trust Territory, 2 TTR 84 (1959).

Testing exercise of police power. — The guarantee of liberty in this Code does not interfere with the proper exercise of the police power, the power to make laws to secure public peace, good order, and comfort of the community. In testing the validity of regulations and acts in the exercise of the police power, the question is not whether a particular exercise of the power imposes restriction on rights secured to individuals, but whether restrictions so imposed are reasonable. Ngirasmengesong v. Trust Territory, 1 TTR 345 (1958).

Limitation on police power applies to executive. — General principle that police power must not be exercised so as to unreasonably limit rights granted to individuals applies to executive officers as well as to those having legislative authority. The mere possibility of abuse is not sound objection to validity of law, and it is not for the courts to presume law will be unlawfully administered. Ngirasmengesong v. Trust Territory, 1 TTR 345 (1958).

Fundamental rights subject to police power. — Rights arising under United Nations charter, trusteeship agreement and Trust Territory bill of rights are all subject to proper exercise of police power, including enactment of curfew and antinoise laws. Ngirasmengesong v. Trust Territory, 1 TTR 615 (App. Div. 1958).

Physical tests imposed on suspects valid. — The Trust Territory has the right to compel individuals suspected of crimes to submit to physical tests, such as voice identification samples, under some circumstances. In re Lizama, 5 TTR 645 (1972).

Physical tests not violative of self-incrimination. — Physical tests of individuals suspected of crimes are not violative of the privilege against self-incrimination, because evidence so derived is not of a testimonial or communicative nature. In re Lizama, 5 TTR 645 (1972).

IV. PROPERTY.


**Determination of compensation.** — In determining what constitutes "just compensation" in an eminent domain action the court is required to establish a fair value for the land. Trust Territory v. Etscheit, 5 TTR 586 (1971).

**Land transfers to Japanese government.** — Land transfers from non-Japanese private owners to Japanese government, corporations, or nationals since March 27, 1935, are considered valid unless sale was not made of free will and just compensation not received. Santos v. Trust Territory, 1 TTR 463 (1958).

**Provision for return to former owner.** — Where taking of property by Japanese government was not by free will of owner and just compensation not received and where taking is construed to have occurred since March 27, 1935, title to property ought to be returned to former owner. Santos v. Trust Territory, 1 TTR 463 (1958).


**Provision for return of title to land.** — Where taking of party's land occurred since March 27, 1935 and was not by free will and was without just compensation or payment, title will be returned to him. Esebei v. Trust Territory, 1 TTR 495 (1958).

**Takings by power prior to present government.** — Under present Trust Territory law, taking of private property without just compensation warrants legal action and ensures recovery of fair compensation. However, where taking of private property occurred during occupation of prior power, basis for making claim against present Trust Territory government for dereliction of former government has no legal footing in legal or equitable principles. Oiterong v. Trust Territory, 1 TTR 516 (1958).

**Requirement of compensation.** — Private property may not be taken for public use without consent or payment of just compensation. Esebei v. Trust Territory, 1 TTR 495 (1958).

**Review of land transfers to Japanese government.** — Land transfers from non-Japanese private owners to Japanese government, corporations, or nationals since March 27, 1935, are subject to review and are considered valid unless former owner establishes sale was not made of free will and just compensation not received. Rusasech v. Trust Territory, 1 TTR 472 (1958); Ngirkelau v. Trust Territory, 2 TTR 72 (1959); Sechesuch v. Trust Territory, 2 TTR 526 (1964).

**Construction of provision for compensation.** — Provision in Trust Territory law that private property shall not be taken for public use without just compensation does not require that compensation be paid before possession is taken, but merely that reasonable, certain and adequate provision is made before owner's occupancy is disturbed. In re Ngiraloi, 3 TTR 303 (1967).

**Review of land transfers to Japanese government.** — Land transfers from non-Japanese private owners to Japanese government, corporations or nations since March 27, 1935, are subject to review, but such transfers will be considered valid unless the former owners, or heirs, establish that the sale was not made of free will and the just compensation was not received. In such cases title will be returned to the former owner upon
his paying into the Trust Territory government the amount received by him. Rivera v. Trust Territory, 4 TTR 140 (1968).

Jurisdiction concerning takings. — Taking of private property which creates cause of action under law of Trust Territory is not sufficient to confer jurisdiction on court to redress wrongs in commission of which that government had no part. Rusasech v. Trust Territory, 1 TTR 472 (1958).

Administration policy statement binding on courts. — Trust Territory administration policy statement regarding return of lands taken by Japanese government from native owners is binding on courts until rescinded or modified. Rusasech v. Trust Territory, 1 TTR 472 (1958).

Construction of cut-off date for determining taking by Japanese. — Where taking of private property by Japanese government occurred prior to cut-off date set by legislature, but taking was protested and protest was pending and undisposed of in courts up to end of Japanese occupation, taking is considered to have been in suspense during entire period of controversy, and not a taking prior to cut-off date. Rusasech v. Trust Territory, 1 TTR 472 (1958).

Where taking of land was instituted prior to March 27, 1935, but taking was not unchallenged and was under rigorous attack while such claims were being processed, and taking was in suspense at date of declaration of war, it was not a taking prior to March 27, 1935. Esebei v. Trust Territory, 1 TTR 485 (1958).

Bill of rights provision not applicable to Japanese takings. — Where taking of property by Japanese government occurred in 1931, Trust Territory bill of rights provision regarding payment of compensation where property is taken for public use is not applicable, since bill of rights provision is prospective only. Alig v. Trust Territory, 3 TTR 603 (App. Div. 1967).

Government policy applies to taking as well as sale. — Clear intent of Trust Territory policy regarding relief from transfer of lands to Japanese government from non-Japanese owner applies to a taking just as much as to purported sale. Sechesuch v. Trust Territory, 2 TTR 458 (1963).

Fraud on part of Japanese administration corrected. — The Japanese government acted fraudulently when it cooperated with a corporation to bring about forced sales of land from private owners and then demanded that the money received therefrom be exchanged for bonds and notes where the value of the bonds and notes to the owners was far less than the money they were forced to surrender for them. This forced exchange in connection with the sale of such lands constituted a substantial failure of consideration so that the owners were deprived of their lands without their free will, and without receiving just compensation. Since this alleged sale to the Japanese government occurred in 1940 it took place so late in the Japanese administration that the present administration has the obligation to correct such wrong according to the deputy high commissioner's letter on December 29, 1947. Moorou v. Trust Territory, 2 TTR 124 (1960).

Protection of equitable interest in land. — Under rules of international law, property rights within ceded or conquered territory are entitled to protection, whether party had full and absolute ownership of land or merely equitable interest which required further act to vest in him perfect title. Urrimech v. Trust Territory, 1 TTR 534 (1958).

Rights under German land title documents protected. — The rights held by unpropertied males and unmarried females under German land title documents are equitable interests in land and as such are protected by the provisions of this section of Trust Territory bill of rights. Insofar as a district order purports to deprive such persons of these property rights, it is in conflict with this section and is void. Opispo v. Miesleng, 4 TTR 80 (1968).

Government employee has property interest in continued employment. — Employee employed pursuant to contract with government had an interest in continued employment which was protected by due process of law, and could not be dismissed from employment, whether or not for valid reasons, by action which was arbitrary, discriminatory and a denial of fundamental property interests protected by this Code. Christensen v. Micronesian Occupational Center, 6 TTR 346 (1973).

Citizenship is a property right subject to due process protection. — The right of citizenship itself is a property right vested in the individual. Citizenship is the very source of rights such as the individual's right to vote, own land or possess a passport. Where statute attempts to deny to a person an important incident of citizenship, reducing that person to a "second class citizen" in any area, it deprives him of his property without due process of law. Whipps v. Morris (Tr. Div., November, 1975).

Foreclosure of mortgage by economic development loan board. — Where defendant applied to economic development loan board for a loan and gave board a mortgage on defendant's land as security for the loan, and where, upon default, board instituted legal proceedings for the balance due and to foreclose on the property under the terms of the mortgage, there is no deprivation of property without due process of law nor is there a taking of private property for public use without just compensation. Trust Territory v. Lopez (App. Div., December, 1976).
§ 5. Bills of attainder, etc. — No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall be enacted. (Code 1966, § 5; Code 1970, tit. 1, § 5.)

§ 6. Excessive bail; excessive fines; cruel and unusual punishments. — Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (Code 1966, § 6; Code 1970, tit. 1, § 6.)

Cross references. — Punishments — Judgment and sentencing, 11 TTC ch. 30. Bail, 12 TTC ch. 6. Fine and sentence for involuntary manslaughter. — Two hundred and fifty dollar fine and suspended two-year sentence for involuntary manslaughter, well below the maximum allowable sentence, were within court’s discretion, and the fine was not excessive, or the sentence cruel and unusual punishment. Rasa v. Trust Territory, 6 TTR 535 (1973).

§ 7. Discrimination on account of race, sex, language or religion; equal protection. — No law shall be enacted in the Trust Territory which discriminates against any person on account of race, sex, language or religion, nor shall the equal protection of the laws be denied. (Code 1966, § 7; Code 1970, tit. 1, § 7.)

Constitutionality. — The purpose of section as amended is to eliminate the use of a Trust Territory citizen as a “front” for a non-citizen doing business in the Trust Territory. Such use of a citizen might well be the subject of congressional action but the action taken by congress here is too broad in scope to be valid. Whipps v. Morris (Tr. Div., November, 1975).

Where congress could have settled on a less onerous method for eliminating the use of a Trust Territory citizen as a “front” for a non-citizen in doing business in the Trust Territory, a method which would not have the effect of penalizing all Trust Territory citizens who marry non-citizens, statute clearly denies the equal protection of the law. Whipps v. Morris (Tr. Div., November, 1975).

Due process and equal protection interpreted like U.S. provisions. — The interpretation and meaning of the due process and equal protection clauses of the United States Constitution are the same as the interpretation and meaning of the Trust Territory Code bill of rights due process and equal protection clauses. Di Stefano v. Di Stefano, 6 TTR 312 (1973).

Reasonable classification permissible. — Questions of discrimination and equal protection of laws arise from classification of subjects of legislation and while improper or unfair classification violates the protection afforded by this section reasonable classification may be made by the legislature. Karuo v. Chochy, 5 TTR 304 (1971).

Obligation of officials to act reasonably and fairly. — Due process and equal protection of laws clauses in Bill of Rights impose obligation on all officials to act reasonably and fairly in accordance with established principles of justice, and not make arbitrary choices or interfere with freedom of action of individuals any more than is reasonably necessary, and obligation applies to municipalities as well as to others. Mesechol v. Trust Territory, 2 TTR 84 (1959).

Ordinance imposing tax in labor violative of equal protection. — Municipal ordinance purporting to impose tax in labor, and making wilful failure to comply with such tax a crime, is in violation of the due process clause and Trust Territory law and as administered is in violation of equal protection clause of Trust Territory Code. Mesechol v. Trust Territory, 2 TTR 84 (1959).

Residency requirement for divorce violative of equal protection. — The two year residency requirement for granting a divorce in the Trust Territory denies a party of equal protection of the laws and is thus invalid. Yang v. Yang, 5 TTR 427 (1971).


Appeal to trial division of high court. — Where original conviction is in district court, and the decision is reviewed and affirmed by the trial division of the high court, appellants are not denied equal protection under the law because they are then denied a review by a three-judge panel even though there is no doubt that if the charge had originally been heard in the trial division of the high court the appeal

Power of district attorney to file charge in district court. — The fact that the district attorney can arbitrarily file a grand larceny charge in the district court, thereby limiting any appellate review to a single judge sitting in the trial division of the high court rather than a three-judge panel in the appellate division is not violative of equal protection. Trust Territory v. Elias (App. Div., January, 1975).

Improper administration of law. — Equal protection of laws may be denied by improper administration of law that seems fair on its face. Mesechol v. Trust Territory, 2 TIR 84 (1959).

Validity of classifications. — The validity of a classification which touches on a fundamental right must be judged by a strict standard and by whether it promotes a compelling government interest. Whipps v. Morris (Tr. Div., November, 1975).

In order to comport with the equal protection guarantee, classifications must be rationally related to the purpose they are designed to serve, and they must not paint with too broad a brush. That is, they must rest upon material differences between the persons included and those excluded and must be based upon substantial distinctions. Whipps v. Morris (Tr. Div., November, 1975).

§ 8. Freedom of migration and movement. — Subject only to the requirements of public order and security, the inhabitants of the Trust Territory shall be accorded freedom of migration and movement within the Trust Territory. (Code 1966, § 8; Code 1970, tit. 1, § 8.)

§ 9. Education. — Free elementary education shall be provided throughout the Trust Territory. (Code 1966, § 9; Code 1970, tit. 1, § 9.)

Cross reference. — General provisions relating to education, 41 TTC.

§ 10. Imprisonment for failure to discharge contractual obligation. — No person shall be imprisoned solely for failure to discharge a contractual obligation. (Code 1966, § 10; Code 1970, tit. 1, § 10.)

Attempt to obtain money by false pretenses; relation to contractual obligation. — Where defendant is found guilty of attempting to obtain payments under construction contract by false pretenses, he is not thereby sentenced for failure to discharge contractual obligation, which is prohibited under Trust Territory law, since attempt to obtain money by false pretenses is entirely apart from question of whether defendant has discharged his contractual obligation. Elechuus v. Trust Territory, 3 TIR 297 (1967).

§ 11. Writ of habeas corpus. — The privilege of the writ of habeas corpus shall not be suspended unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it. (Code 1966, § 11; Code 1970, tit. 1, § 11.)

Cross reference. — General provisions relating to habeas corpus, 9 TTC ch. 3.

Denial of preliminary examination not basis for habeas corpus. — There was no right to preliminary examination of arrested person brought before court competent to try him for offense charged, and habeas corpus was properly denied where denial of preliminary examination was alleged as the ground for seeking it; thus court properly denied motion to dismiss based on alleged denial of right of habeas corpus. Borja v. Trust Territory, 6 TTR 584 (1974).
§ 12. Quartering of soldiers. — No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law. (Code 1966, § 12; Code 1970, tit. 1, § 12.)

§ 13. Trade and property rights. — Subject to applicable laws of the Trust Territory, the High Commissioner may restrict or forbid the acquisition of interests in real property and in business enterprises by persons who are not citizens of the Trust Territory. (Code 1966, § 13; Code 1970, tit. 1, § 13.)

Cross references. — Foreign investor's business permits, 33 TTC ch. 1. Restrictions upon land ownership, see 57 TTC § 201. Land planning act, 51 TTC ch. 1. Lease of private property to foreign corporation; approval of High Commissioner required. — Private real property may not be leased to foreign corporation desiring to operate a school thereon without prior approval of the lease by the High Commissioner, and if his approval is not endorsed on the lease, the lease is prima facie invalid. Madrainglai v. Emesiochel, 6 TTR 440 (1974).

§ 14. Local customs. — Due recognition shall be given to local customs in providing a system of law, and nothing in this chapter shall be construed to limit or invalidate any part of the existing customary law, except as otherwise provided by law. (Code 1966, § 14; Code 1970, tit. 1, § 14.)

Cross references. — Other provisions on local customs and customary law, 1 TTC 102. Crimes in violation of native customs, 11 TTC 8. Recognition of custom in awarding sentences, 11 TTC 1451. Recognition of local customs, 39 TTC 4. Custom not to nullify plain meaning of statute. — Since no custom, however long and generally it has been followed, can nullify the plain purpose and meaning of a statute, the desire of the victim of a crime not to have the perpetrator punished because the victim has forgiven him under a custom will not be allowed to affect the enforcement of any applicable criminal statute. Trust Territory v. Lino, 6 TTR 7 (1972).

Family member with knowledge of crime, public policy overrides custom. — Public policy forbids enforcement of custom which closes mouth of family member knowing of commission of felony by another family member under pain of forfeiture of property in event of violation. Yangilemau v. Mahoburimalei, 1 TTR 429 (1958).
CHAPTER 2.

FUTURE LEGISLATION.

Sec.
51. Legislation to be fully promulgated.
52. Publication, distribution and sale of laws.
53. Posting; distribution to public officials.
54. Translation and posting at local government offices.
55. Filing with clerk of courts; public inspection.
56. Authority of district administrators to employ translator-interpreters.

§ 51. Legislation to be fully promulgated. — Each new law or amendment to this Code enacted by the Congress of Micronesia shall be fully promulgated. (Code 1966, § 28; Code 1970, tit. 1, § 51.)

Administrative procedures manual not to modify executive orders or constitute new law. — Construing the prior language of this section, to the effect that "New laws and regulations or amendments to these regulations may be promulgated by the High Commissioner by executive order," the court held that the administrative procedures manual was not intended to modify the executive orders or to itself constitute new law affecting the general public. Kentiy v. Trust Territory, 1 TTR 188 (1954).

§ 52. Publication, distribution and sale of laws. — Within thirty days after they become law the High Commissioner shall cause resolutions and laws enacted by the Congress of Micronesia to be published and shall make provision for their distribution to public officials and sale to the public. (Code 1966, § 28; Code 1970, tit. 1, § 52.)

§ 53. Posting; distribution to public officials. — Immediately upon publication of laws enacted by the Congress of Micronesia, the Attorney General shall cause each law to be posted at government offices of the Trust Territory and distributed to public officials. (Code 1966, § 28; Code 1970, tit. 1, § 53.)

§ 54. Translation and posting at local government offices. — Each district administrator shall cause each law enacted by the Congress of Micronesia to be translated in whole or in summary from English to the local languages of his district and to be distributed to Micronesian officials and posted at the local government offices in that district within sixty days after receipt of a copy of such law. (Code 1966, § 28; Code 1970, tit. 1, § 54.)

§ 55. Filing with clerk of courts; public inspection. — Copies of each law enacted by the Congress of Micronesia and the translation in whole or in summary into the local languages of the district shall be filed with the clerk of courts of the district and shall be kept open to public inspection at all times when the clerk's office is open for business. (Code 1966, § 28; Code 1970, tit. 1, § 55.)

§ 56. Authority of district administrators to employ translator-interpreters. — To implement the provisions of this chapter the district administrators are authorized to employ one or more full-time translator-interpreters. (Code 1966, § 28; Code 1970, tit. 1, § 56.)
CHAPTER 3.

APPLICATION OF OTHER LAWS AND REGULATIONS.

Sec. 101. Additional laws applicable to Trust Territory. — The following are declared to be in full force and to have the effect of law in the Trust Territory:

1. The trusteeship agreement;

2. Such laws of the United States as shall, by their own force, be in effect in the Trust Territory, including the executive orders of the President and orders of the Secretary of the Interior;

3. Laws of the Trust Territory and amendments thereto;

4. District orders heretofore promulgated by the district administrators of the Trust Territory and emergency district orders promulgated by the district administrators in accordance with section 108 of this chapter;

5. The acts of legislative bodies convened under charter from the High Commissioner when these acts are approved by the High Commissioner or otherwise become law as may be provided by charter or the laws and regulations of the Trust Territory; and,


U. S. provisions concerning jury trial not applicable. — The United States Constitutional provisions on subject of jury trial do not of themselves apply to Trust Territory, which has not been incorporated into the United States. Sechelong v. Trust Territory, 2 TTR 526 (1964).

Section not to effect repeal of district orders of civil administrators. — This section, which provides that Trust Territory laws include district orders promulgated by district administrators with the approval of the High Commissioner, does not affect the repeal of district orders issued by civil administrators other with approval of the High Commissioner after that was required or without his approval prior to the time such requirement was made.

District orders in force on July 1, 1951, not repealed. — District orders in force and effect on July 1, 1951, including those issued before requirement that they be approved by high commissioner, regardless of whether they were issued before or after that date, have not been repealed. Kalifin v. Trust Territory, 1 TTR 242 (1955).

Franchise not supported as district order. — Franchise cannot be supported as district order under the Trust Territory law where such order must be approved personally by High Commissioner and there is no showing of his intent to legislate as to it. Trust Territory v. Saipan Bus Co., 3 TTR 76 (1965).

Obligation to note and give effect to U.S. treaties. — This section imposes the same obligation upon the high court to "note and give effect" to United States treaties, including the trusteeship agreement, as is imposed upon state and federal courts in the United States. Calvo v. Trust Territory, 4 TTR 506 (App. Div. 1969).

Prerequisites to reliance on trusteeship agreement by high court. — Before the high court can rely on the wording of the trusteeship agreement to determine a case, it must first
parade through a number of statutes, executive or secretarial orders and the common law which are much more definitive and which almost surely will give the inhabitants more specific rights than the trusteeship agreement. Trust Territory v. Lopez (App. Div., December, 1976).

Trusteeship agreement not self-executing. — As the Code has always included the trusteeship agreement as part of the law of the Trust Territory and as the high court has original jurisdiction to try all cases, the trusteeship agreement is not self-executing. Trust Territory v. Lopez (App. Div., December, 1976).


§ 102. Local customs; customary law. — The customs of the inhabitants of the Trust Territory not in conflict with the laws of the Trust Territory shall be preserved. The recognized customary law of the various parts of the Trust Territory shall have the full force and effect of law so far as such customary law is not in conflict with the laws mentioned in section 101 of this chapter. (Code 1966, § 21; Code 1970, tit. 1, § 102.)

Cross reference. — Local customs, 1 TTC 14.

Custom defined. — "Custom" is such usage as by common consent and uniform practice has become law of the place, or of the subject matter, to which it relates; it is a law established by long usage. Lalou v. Aliang, 1 TTR 94 (1954).

Changes in customs. — Customs may change gradually, and changes may be started by some of the people affected agreeing to some new way of doing things. New ways of doing things do not become established and legally binding or accepted customs until they have existed long enough to have become generally known and have been peaceably and fairly uniformly acquiesced in by those whose rights would be naturally affected. Lalou v. Aliang, 1 TTR 94 (1954).

Judicial notice of custom. — If local custom is firmly established and widely known, court will take judicial notice of it. Basilius v. Rengiil, 2 TTR 430 (1963); Mutong v. Mutong, 2 TTR 588 (1964).

If a local custom is firmly established and widely known the high court will take judicial notice of it. Lajutok v. Kabua, 3 TTR 630 (App. Div. 1968).

Custom may be mixed question of law and fact. — Where there is dispute as to existence or effect of local custom, and court is not satisfied as to its existence or applicability, custom becomes mixed question of law and fact. Basilius v. Rengiil, 2 TTR 420 (1963).

Where there is a dispute as to existence or effect of local custom, custom becomes mixed question of law and fact and party relying upon it must prove it to satisfaction of the court. Kenyul v. Tamangin, 2 TTR 648 (App. Div. 1964); Bulele v. Loeak, 4 TTR 5 (1968).

Customary law may be altered by Code. — The customary law of various parts of the Trust Territory is in effect only so far as it has not been changed by laws promulgated in the Code. Lazarus v. Tomijwa, 1 TTR 123 (1954).


Courts assume reasonableness of regulations promulgated by state and local authorities. — Courts assume that state and municipal authorities have full knowledge of local conditions and their determination as to necessity and reasonableness of regulation to promote public order, health, morals, safety, and general welfare will, upon its face, be regarded by courts as valid. Ngrasmenesong v. Trust Territory, 1 TTR 615 (App. Div. 1958).

Where trial court may rely on local custom. — Trial court in Trust Territory may properly base its decision on local custom where customary law is not in conflict with laws of Trust Territory or laws of United States in effect in Trust Territory. Ngiramulei v. Rideb, 2 TTR 370 (1962).

Government to advance solution to problem when custom fails. — When local custom fails to provide acceptable solution for a problem involving all residents of a governmental subdivision, it is the right of one or more of the three branches of government to advance a solution. Trust Territory v. Benido, 1 TTR 46 (1953).

Code supersedes custom concerning killing of head of family. — Since the adoption of the Code in 1952, traditional Yapese custom has been superseded by the written law with respect to retaliation by a family member for the killing of the head of the family; the written law now provides

Custom abrogated by statutory punishment for murder. — Whether old custom permitted a murder victim’s family to retaliate by murder, by arson or by larceny, is now immaterial because custom has been abrogated by the statutory punishment for murder, thus the old custom is no longer the law, only the statutes are applicable in such situation. Figir v. Trust Territory, 4 TTR 368 (1969).

Custom of forgiveness by victim does not affect enforcement of criminal statute. — Since no custom, however long and generally it has been followed, can nullify the plain purpose and meaning of a statute, the desire of the victim of a crime not to have the perpetrator punished because the victim has forgiven him under a custom will not be allowed to affect the enforcement of any applicable criminal statute. Trust Territory v. Lino, 6 TTR 7 (1972).

Written law concerning arson supersedes custom. — As arson is a crime within the written law, it necessarily supersedes and replaces any applicable custom pursuant to this section of the Code. Figir v. Trust Territory, 4 TTR 368 (1969).

German law of inheritance supersedes custom. — Where land in question was held under the standard form German land deed the German law of inheritance which allowed inheritance by an adopted child from his natural father applied and not the local custom prohibiting inheritance by a natural son who had inherited from his adoptive parents. Shoniber v. Shoniber, 5 TTR 532 (1971).

§ 103. Applicability of common law. — The rules of the common law, as expressed in the restatements of the law approved by the American Law Institute and, to the extent not so expressed, as generally understood and applied in the United States, shall be the rules of decision in the courts of the Trust Territory in applicable cases, in the absence of written law applicable under section 101 of this chapter or local customary law applicable under section 102 of this chapter to the contrary and except as otherwise provided in section 105 of this chapter; provided, that no person shall be subject to criminal prosecution except under the written law of the Trust Territory or recognized local customary law not inconsistent therewith. (Code 1966, § 22; Code 1970, tit. 1, § 103.)

Common law applicable except as abrogated by statute. — Common law of England and statutes of Parliament in aid thereof and in force July 3, 1776, as interpreted by American decision, constitute law of Trust Territory except as otherwise provided in this Code or by laws of Trust Territory in effect on date of adoption by Code or subsequently. Ngirai Biochel v. Trust Territory, 1 TTR 485 (1958).


U.S. common law incorporated into Trust Territory substantive law. — This section incorporates the rules of the common law of the United States into the substantive law of the Trust Territory. Lakemba v. Milne, 4 TTR 44 (1966).

U.S. maritime law adopted. — The Trust Territory adoption of the rules of common law and the specific provision for jurisdiction in admiralty and maritime matters was intended to include adoption of the substantive and general rules of the law maritime as customarily applied in suits at common law in the United States. Lakemba v. Milne, 4 TTR 44 (1966).

Where there is no state law on question, courts look to common law. — Where there is no state law in the Trust Territory to determine if acts alleged would constitute negligence, the Trust Territory courts must look to the common law. Ikosia v. Trust Territory (Tr. Div., December, 1975).

Restatement adopted. — The restatement of law was adopted into the substantive law of the Trust Territory by the Trust Territory Code. Lakemba v. Milne, 4 TTR 44 (1968).

Uniform negotiable instruments act not applicable. — Uniform negotiable instruments act is not applicable in the Trust Territory. Likauche v. Trust Territory, 2 TTR 375 (1963).

U.S. common law concerning land transfers. — In the United States the common law relating to land transfers has largely been codified by statute and is therefore not applicable to land transfers in the Trust Territory. George v. Walder, 5 TTR 9 (1970).

U.S. common law. — Rules of common law as expressed in restatements of law and generally understood and applied in the United States are rules of decision in courts of the Trust Territory in cases to which they apply, in absence of written or customary law. Ychitaro v. Lotius, 3 TTR 3 (1965).
Common law applicable concerning appointment of guardians. — Where no provision was found in the Code for appointment of guardians the common law must be considered to be applicable in accordance with this section of the Code, unless local customary law is applicable. Kumer v. Peter, 4 TTR 102 (1968).

Local customary law prevails over common law. — Principles of common law do not govern case in the Trust Territory where local customary law to the contrary is applicable. Ngiramulei v. Rideb, 2 TTR 370 (1962).

Negligence liability. — Liability for negligence in situations not clearly covered by local custom in part of Trust Territory concerned must be governed by common law principles so far as not governed by any written law. Ychitaro v. Lotius, 3 TTR 3 (1965).

Entitlement of dri jerbal to share of money paid alab. — In the absence of any custom or traditional law applicable to question of first impression whether dri jerbal was entitled to share in money paid alab for loss of alab's business located on land leased by government, court would look to any analogous traditional practices or, in the alternative, apply American common law under authority of statute. Lijaiblur v. Kendall, 6 TTR 153 (1973).

Suit arising out of automobile accident. — Where suit arising out of automobile accident is not covered by local custom, it is governed by rules of common law expressed in restatements of American Law Institute to extent these rules are so expressed. Etpison v. Indalecio, 2 TTR 186 (1961).

Ownership of parts attached to automobile. — Since question of parts attached to automobile is foreign to local custom, matter is governed by rules of common law. Oderiong v. Adelbai, 3 TTR 21 (1965).

Liability of public school teacher. — Where defendant in negligence action is public school teacher, question of liability should be governed by American common law rules since matter of schools and responsibility of teachers is foreign to Truk custom and there is no express provision as to teacher's liability in written enactment. Ychitaro v. Lotius, 3 TTR 3 (1965).

Writ of quo warranto. — Although there is no express provision for use of the writ of quo warranto in the Trust Territory, in the absence of constitutional and statutory provisions to the contrary, the use of such writ is available under prevailing law. Trust Territory v. Benido, 1 TTR 46 (1953).

§ 104. Repeal of Spanish, German, and Japanese laws. — All laws, regulations, orders and ordinances heretofore enacted, issued, made or promulgated by Spanish, German, or Japanese authority which are still in force in the Trust Territory are hereby repealed except as provided in section 105 of this chapter; provided, however, that nothing in this Code shall change the effect of local custom which may have been included within the scope of laws, regulations, orders, or ordinances enacted, issued, made or promulgated as aforesaid. (Code 1966, § 23; Code 1970, tit. 1, § 104.)

Spanish, German and Japanese laws no longer in effect. — Spanish, German and Japanese laws are no longer in effect in Trust Territory except with respect to certain land laws and excepting also status of local customary law included within any repealed enactments. Ngiraibiochel v. Trust Territory, 1 TTR 485 (1958).

§ 105. Land law not affected. — The law concerning ownership, use, inheritance, and transfer of land in effect in any part of the Trust Territory on December 1, 1941, shall remain in full force and effect to the extent that it has been or may hereafter be changed by express written enactment made under authority of the Trust Territory. (Code 1966, § 24; Code 1970, tit. 1, § 105.)


Land law of German administration. — Land law established by German administration in 1912 for Ponape Island is still in force except so far as modified by law by either present or past administrations. Kehler v. Kehler, 1 TTR 613 (App. Div. 1958).

Private ownership under German land title. — As far as private ownership of land on Ponape Island under German land title is concerned, land law stated in document is still
Land law in German title document still in effect. — Land law on Ponape Island as stated in German title document is still in effect outside of any changes that may have been made by German authorities during their regime, or American authorities since American occupation. Kilara v. Alexander, 1 TTR 3 (1951).

German law of inheritance applicable. — Where land in question was held under the standard form German land deed the German law of inheritance which allowed inheritance from his natural father by an adopted child applied and not the local custom prohibiting inheritance by a natural son who had inherited from his adoptive parents. Shoniber v. Shoniber, 5 TTR 532 (1971).

Land law in effect on December 1, 1941 upheld until changed. — Court is bound to uphold land law in effect in Trust Territory on December 1, 1941, until it is changed by express written enactment made under authority of Trust Territory. Levi v. Kumtak, 1 TTR 36 (1953).

Law concerning ownership, use inheritance and transfer of land in effect in Trust Territory on December 1, 1941, remain in effect except as changed by written enactment under authority of Trust Territory government. Ngiraibiochel v. Trust Territory, 1 TTR 485 (1958).

Japanese land law binding. — Section 24 of the Code established the land law as that which was in effect as of December 1, 1941, until changed by statute and Japanese land law which recognized and approved, prior to December 1, 1941, transfer in question was binding. Mariur v. Ngariakl, 5 TTR 232 (1970).


Law concerning ownership, use, inheritance and transfer of land in effect on December 1, 1941, remains in full force and effect except insofar as it is changed by express written enactment. Kanser v. Pitor, 2 TTR 481 (1963).

Land law custom, as it existed in 1941, remains operative and in effect in Trust Territory except when changed by express written enactment. Rudimeh v. Chin, 3 TTR 328 (1967).

Prevails over previous local custom. — Land law in effect in the Trust Territory on December 1, 1941, remains in full force and effect except as changed by express written enactment, even when such land law varies from previous local custom. Lazarus v. Tomijwa, 1 TTR 123 (1954).

Japanese proclamation concerning boundaries. — If Japanese proclamation concerning boundaries of private ownership of land along sea was in effect December 1, 1941, it furnishes rule for determining ownership of lands below high water. Ngiraibiochel v. Trust Territory, 1 TTR 485 (1958).

If the Japanese proclamation concerning boundaries of private ownership of land along the sea was in effect December 1, 1941, it furnishes rule for determining ownership of land below high water. If not, ownership of such land must be determined by the common law rule. An examination of the applicable authorities, however, discloses no substantial difference between the Japanese proclamation and the rule at common law that the land along the sea below the high water mark belongs to the state, and was held in trust for the benefit of all the people. Ngiraibiochel v. Trust Territory, 1 TTR 485 (1958).


Court action required for mortgages of land. — Unless and until some other method or methods of foreclosure are provided by express written enactment, mortgages of land in Palau District may be foreclosed only through court action. Iyav v. Sungiyama, 2 TTR 154 (1960).

Marshallese land law applicable. — Marshallese system of land law, including both the power and obligation of iroij lablab and limitations upon it, has been carried over under the American administration, first under general principles of international law and later by this section of the Code. Limine v. Lainej, 1 TTR 107 (1954).

Special arrangement for land made before December 1, 1941 is continued. — Special arrangement for lands of the former iroij lablab on "Jebrik's side" of Majuro Atoll, as it stood on December 1, 1941, is continued, with the Trust Territory government taking the place of the Japanese administration, regardless of how much the law varies from Marshallese custom. Lazarus v. Tomijwa, 1 TTR 123 (1954).

Power of iroij lablab to change alab rights. — There is no indication that iroij lablab had rights under the law in effect in 1941 to change alab rights in land at will. Limine v. Lainej, 1 TTR 595 (App. Div. 1956).


No right to filled-in land created. — No right to filled-in land is created under the Code,
and only certain rights already in existence were preserved by the Code. Protestant Mission v. Trust Territory, 3 TTR 26 (1965).

§ 106. Existing interim regulations; orders, etc. — The provisions of this Code, to the extent that they are substantially the same as prior interim regulations of the Trust Territory, are to be construed as a continuation thereof, and not as new enactments. All interim regulations and amendments thereto, heretofore enacted or made, which are contained in this Code are to be deemed to have taken effect and come into force on the date of original publication thereof or on the date expressly provided in such interim regulation or amendments thereto. All proclamations, regulations, orders and directives of the United States military government, all civil administration orders (except existing district orders), and all interim regulations, amendments and supplements thereto, which are not contained in this Code are hereby expressly repealed. (Code 1966, § 26; Code 1970, tit. 1, § 106.)

Military government orders repealed; not district orders. — Trust Territory law which repeals regulations, orders and directives of United States military government does not repeal existing district orders. Kentiy v. Trust Territory, 1 TTR 188 (1954).

District orders not repealed. — District orders in force and effect on July 1, 1951, including those issued before requirement that they be approved by high commissioner, regardless of whether they were issued before or after that date, have not been repealed. Kalifin v. Trust Territory, 1 TTR 242 (1955).


Cross reference. — For present provisions relating to administrative regulations, see title 17.

§ 108. Emergency district orders; Authority to promulgate. — (1) In emergencies creating danger to life, health, or property, district administrators may, without the approval of the High Commissioner, promulgate temporary emergency district orders which shall have the force and effect of law until repealed by the district administrator concerned, or until amended or repealed by the High Commissioner, or until expressly superseded by legislation.

(2) Each emergency district order shall be clearly designated as such and contain a statement that it is promulgated under this section and is subject to the limitations imposed herein.

(3) A district administrator issuing an emergency district order shall immediately report its issuance and the subject matter involved to the High Commissioner for transmission to the next session of the Congress of Micronesia. (Code 1966, § 29; Code 1970, tit. 1, § 108.)

§ 109. Same; Posting, translating, and filing. — On promulgating an emergency district order, each district administrator shall cause it to be posted and translated, and shall file a copy with its translation in whole or in summary with the clerk of courts of the district in the manner required for laws of Trust Territory by chapter 2 of this title. (Code 1966, § 30; Code 1970, tit. 1, § 109.)
CHAPTER 4.

RULES OF CONSTRUCTION.

Sec. 151. Area covered by Code.
Sec. 152. Words denoting number, etc.
Sec. 153. Words and phrases generally.
Sec. 154. English language text to prevail.
Sec. 155. Classification and arrangement of titles, etc.
Sec. 156. Construction of Code.
Sec. 157. Severability of provisions.

§ 151. Area covered by Code. — The provisions of this Code and any and all amendments thereto shall be in full force and effect, unless otherwise provided, in all of the Trust Territory, which consists of the islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the League of Nations and placed under the trusteeship system of the United Nations, with the United States as administering authority, by agreement of the United States and the Security Council of the United Nations. Said islands are the Mariana Islands other than Guam, and the Marshall and Caroline Islands. (Code 1966, § 35; Code 1970, tit. 1, § 151.)

Significance of name Trust Territory. — Although the Trust Territory is a definite geographical area, it is merely a name under which the United States carries out its obligations as administering authority under the trusteeship agreement. Alig v. Trust Territory, 3 TTR 64 (1965).

Trust Territory laws apply at Kwajalein test site. — Since Kwajalein test site is part of the Trust Territory, Trust Territory laws apply there. Meyer v. Epson, 3 TTR 54 (1965).

§ 152. Words denoting number, etc. — As used in this Code or in any act of the Congress of Micronesia, unless it is otherwise provided or the context requires a different construction, application or meaning:
(1) Words importing the singular include and apply to several persons, parties or things;
(2) Words importing the plural include the singular;
(3) Words importing the masculine gender include the feminine; and
(4) Words used in the present tense include the future. (P.L. No. 4C-28, § 1.)

§ 153. Words and phrases generally. — Words and phrases, as used in this Code or in any act of the Congress or in any regulation issued pursuant thereto, shall be read with their context and shall be construed according to the common and approved usage of the English language. Technical words and phrases and such other words and phrases as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to their peculiar and appropriate meaning. (P.L. No. 4C-28, § 1.)

§ 154. English language text to prevail. — Whenever any provision of this Code or any law, ordinance, regulation, document or instrument adopted pursuant thereto shall have been translated in whole or in summary from English to a local language, should there be a possible difference of interpretation between the English text and the local translation the English language text shall prevail and govern in the decision of all cases, except as provided in section 105 of title 4 of this Code. (P.L. No. 4C-28, § 1.)

§ 155. Classification and arrangement of titles, etc. — The classification of the titles, chapters, subchapters, and sections of this Code, and the headings thereto, are made for the purpose of convenient reference and orderly
arrangement, and no implication, inference or presumption of a legislative
collection shall be drawn therefrom. (P.L. No. 4C-28, § 1.)

§ 156. Construction of Code. — The provisions of this Code shall be
construed according to the fair construction of their terms, with a view to effect
its object and to promote justice. (P.L. No. 4C-28, § 1.)

§ 157. Severability of provisions. — If any provision of this Code or
amendments or additions hereto, or the application thereof to any person, thing
or circumstances, is held invalid, the invalidity does not affect the provisions
or application of this Code or the amendments or additions that can be given
effect without the invalid provisions or application, and to this end the
provisions of this Code and the amendments or additions thereto are severable.
(P.L. No. 4C-28, § 1.)
CHAPTER 5.

FLAG AND FLAG DISPLAY.

§ 201. Flag of Micronesia. — There shall be and there is hereby adopted an official territorial flag of Micronesia, which shall consist of a circle of six white stars centered on a field of blue. The width of the flag of Micronesia shall bear a ratio to its length of 1 to 1.9, and the width of the flag to the width of a star the ratio of 5 to 1. The flag may be reproduced for unofficial purposes with different dimensions. (Code 1966, § 15; Code 1970, tit. 1, § 201.)


§ 202. Display of Micronesian and U.S. flags.— (1) The flag of Micronesia shall be displayed in the open only from sunrise until sunset and only on buildings, flagstaffs or halyards.

(2) The flag of Micronesia shall be hoisted briskly and lowered ceremoniously.

(3) When the flag of Micronesia is flown or displayed together with the flag of the United States on separate masts or staffs, it shall be flown or displayed at approximately the same level with that of the United States flag; provided that the flag of Micronesia shall occupy a position left of the flag of the United States, when looking out from the building or platform. When the flag of Micronesia is flown or displayed with the flag of the United States on a single staff of halyard, the flag of Micronesia shall be flown or displayed below the United States flag. When the flag of Micronesia is flown or displayed together with the flags of the United States and the United Nations on separate masts or staffs, the three flags shall be flown or displayed at approximately the same level in the following manner of positions: the flag of the United States shall occupy the right-hand position, the flag of Micronesia shall occupy the center position, and the flag of the United Nations shall occupy the left-hand position, when looking out from the building or platform. When the flag of the United States is flown or displayed above or higher than the flags of Micronesia and the United Nations, the flag of Micronesia shall occupy the right-hand position in relation to the flag of the United States, when looking out from the building or platform. The flag of the United States may be flown or displayed above or higher than the flag of Micronesia, but on no account may the flag of Micronesia be flown or displayed above the United States flag; nor may the flag of the United Nations be flown or displayed above or higher than the flag of Micronesia, or vice versa.

(4) When the flag of Micronesia is flown alone at such time as by official order the flag of the United States is being flown at half-mast, the flag of Micronesia shall also be flown at half-mast.

(5) The High Commissioner may establish rules and procedures for the half-mast display of the flag of Micronesia upon the death of a government or traditional leader or distinguished citizen of the Trust Territory. (Code 1966, § 16; Code 1970, tit. 1, § 202.)
Flag of Trust Territory. — Prior to adoption of this Code section 15 in 1965, the flag of the United States was also the flag of the

§ 203. Desecration of the flag of Micronesia. — (1) A person who knowingly casts contempt upon any flag of Micronesia by publicly mutilating, defacing, defiling, burning, or tramping upon it shall be fined not more than one hundred dollars, or imprisoned for not more than six months, or both.

(2) The term “flag of Micronesia” as used in this section shall include an official territorial flag of Micronesia, as described in section 201 of this chapter, or any reproduction thereof for unofficial purposes with different dimensions.

(P.L. No. 7-135, § 1.)
§ 251. Micronesia Day. — (1) The twelfth day of July is hereby designated as Micronesia Day in order to commemorate the inauguration of the Congress of Micronesia. Micronesia Day is to be observed as a national holiday by Micronesian citizens and noncitizens alike throughout the Trust Territory.

(2) The High Commissioner shall announce annually the observation of said day with an appropriate proclamation. (Code 1966, §§ 17, 18; Code 1970, tit. 1, § 251.)
CHAPTER 7.

CAPITAL

Sec. 351. Designation of capital.

§ 351. Designation of capital. — Ponape Island, Ponape District, is hereby designated as the permanent capital of the government of Micronesia. (P.L. No. 6-133, § 1.)
Title 2.

Territorial Government.

Chap. 1. Responsibilities and Powers, § 1.
2. Executive, §§ 51 to 63.
3. Legislative, §§ 251 to 308.
7. Joint Coordinating Committee on Capital Relocation, §§ 651 to 657.

CHAPTER 1.

RESPONSIBILITIES AND POWERS.

Sec.
1. Enumerated.

§ 1. Enumerated. — The government of the Trust Territory through the High Commissioner and the Congress of Micronesia, subject to applicable orders of the Department of the Interior of the United States, shall have primary responsibility for the following:

(1) Problems of territory-wide concern including, but not limited to, requests for action by the United States Congress and activities involving relations with any other government or government agency outside the Trust Territory.

(2) Construction and maintenance of primary roads and harbor facilities used extensively for activities serving the whole or a major part of a district, especially those at district centers, including acquiring or providing for adequate space for public utilities and set-back from such roads and docks and control of such harbors, if deemed advisable. Those roads and harbors to be considered as primary are to be so designated by the territorial government.

(3) Control of banking, organization of business corporations, business associations, credit unions and cooperatives, insurance, sale of securities, and public utilities, including the exclusive licensing of such activities. Persons and companies engaged in these activities shall be subject to local general taxation but not subject to any local licensing requirements or payment of license fees for these activities other than to the territorial government.

(4) Control of the establishment and operation of and investment in business and corporations by non-citizens of the Trust Territory.

(5) Establishment and control of the terms and conditions under which importing and exporting licenses shall be issued.

(6) Making of grants to districts and municipalities.

(7) Exclusive control of import, export, and income taxes including any so-called excise taxes which are actually collected on the basis of imports; provided, that a district government may impose and collect copra export taxes on all copra produced in that district and exported from the Trust Territory; provided further, that a district government may impose and collect a scrap metal export tax on all scrap metal exported from the district to areas outside of the Trust Territory.

(8) Support of all judicial activities in the Trust Territory except for assistance from municipalities as provided in section 51, chapter 2, title 4 of this Code.
(9) Support of public education and health to the extent as may be required by law.

(10) Law enforcement as set forth in this Code. (Code 1966, § 46; Code 1970, tit. 2, § 1; P.L. No. 4C-4, § 4; P.L. No. 6-118, § 1.)

§ 51. High Commissioner; primary duties and responsibilities. — Subject to the supervision and direction of the Secretary of Interior, the High Commissioner shall have all executive and administrative powers of government in the Trust Territory and over the inhabitants thereof, and shall have final administrative responsibility which may be exercised through subordinate administrators. (Code 1966, § 36; Code 1970, tit. 2, § 51.)

§ 52. Same; other powers and duties. — The High Commissioner shall perform such other functions for the Department of Interior in the Trust Territory as may be delegated to him by the secretary, and shall have such other powers and duties as may be specified by law. (Code 1970, tit. 2, § 52.)

§ 53. Deputy high commissioner; duties and responsibilities. — (1) The deputy high commissioner shall have all such executive powers and perform such other duties as may be prescribed by law or assigned to him by the High Commissioner. He shall have such assistants as are necessary to coordinate and supervise the work of the departments.

(2) The deputy high commissioner shall have and exercise all the powers and duties of the High Commissioner in case of a vacancy in the office of the High Commissioner or the disability or temporary absence of the High Commissioner from his office until the vacancy is filled or the disability or temporary absence ends.

(3) The deputy high commissioner may, with the approval of the High Commissioner, designate some other officer of the government of the Trust Territory to act as deputy high commissioner during a temporary absence from his office or during his illness. Such person so designated shall, during the temporary absence or illness of the deputy high commissioner, be known as the acting deputy high commissioner of the Trust Territory and shall have and exercise all the powers and duties of the deputy high commissioner. (Code 1966, § 37; Code 1970, tit. 2, § 53.)

§ 54. Repealed by P.L. 4C-48, § 7(1).

§ 55. Attorney General. — The Attorney General, personally or by assistant or other duly authorized representative, shall:

(1) Represent the government of the Trust Territory in all actions in law or equity in which the government is a party or has any interest;

(2) Have technical supervision over and prescribe, with the approval of the High Commissioner, rules and regulations for the administration and operation of the Micronesia police;

(3) As requested by the High Commissioner, assist in drafting and promulgating laws, amendments thereto, executive orders, and proclamations;
(4) When requested by the High Commissioner or other officials of the government of the Trust Territory, render opinions upon all legal questions;
(5) Act as alien property custodian; and
(6) Perform such other duties as may be required of him by law or assigned to him by the High Commissioner. (Code 1966, § 531; Code 1970, tit. 2, § 55.)

§ 56. Administration of land. — The division of lands and surveys of the department of resources and development shall administer, manage, and control the use, sale, and other disposition of all public lands of the Trust Territory and administer claims arising out of or pertaining to the use or occupation of private lands by the United States government or any of its agencies, or by the government of the Trust Territory. (Code 1966, § 924; Code 1970, tit. 2, § 56; P.L. No. 4C-48, § 7(2).)

Cross reference. — District land office, 67 TTC ch. 2.

§ 57. Chief of lands and surveys. — (1) The chief of lands and surveys shall perform all duties pertaining to the surveying, settlement, leasing, homesteading, exchange, and sale of the public lands of the Trust Territory, or in anywise respecting such public land, and, also, such as relate to claims arising out of or pertaining to the use or occupation of private lands by the United States government or any of its agencies, or by the government of the Trust Territory.
(2) The chief of lands and surveys shall have such assistants as may be appointed by the High Commissioner to coordinate and supervise the work of the division of lands and surveys.
(3) The chief of lands and surveys, with the approval of the High Commissioner, shall have the power to prescribe such regulations as he may deem advisable for administration of the division of lands and surveys. Such regulations shall have the force and effect of law. The chief of lands and surveys shall file a copy of such regulations with each clerk of courts.
(4) In connection with the duties prescribed, the chief of lands and surveys is authorized and empowered to hold hearings, take testimony under oath, administer oaths to witnesses, subpoena witnesses, and order the production of papers and documents, and punish for contempts committed in his presence, which punishment shall be limited to a maximum fine of ten dollars, or imprisonment for a period not to exceed five days, or both. (Code 1966, § 926; Code 1970, tit. 2, § 57; P.L. No. 4C-48, § 7(3).)

Return of government lands to owner. — Where lands were formerly or are used, occupied or controlled by United States government or Trust Territory government, district land title officer may determine ownership of lands and effect their return to party found to be owner. Tamael v. Trust Territory, 1 TTR 520 (1958).

Filing claim for return of property taken by Japanese government. — If private property taken by Japanese government is not returnable under provisions of administrative policy regarding transfers to Japanese government from native owners, then claim for its return may still fall into one of categories of office of land management regulation no. 1, and land may be returnable thereunder. Tamael v. Trust Territory. 1 TTR 520 (1958).

Right of appeal of claimant to land. — Where district land title officer promises to notify claimant of his determination or instructs claimant to wait for such notice, and claimant or his representative had no actual notice of determination until one year after date it was filed, claimant's right of appeal is not cut off by time limited in applicable regulation. Ngodrii v. Trust Territory, 2 TTR 142 (1960).

§ 59. Authority of executive officers to administer oaths and perform other notarial acts. — The High Commissioner, the deputy high commissioner, the Attorney General, each district administrator and each executive head of a local government shall have authority to administer oaths and affirmations, take acknowledgements of deeds, mortgages and other instruments, and exercise all other powers of a notary public. (Code 1966, § 45; Code 1970, tit. 2, § 59.)

§ 60. Office of planning and statistics. — (1) There shall be created within the executive branch of government the office of planning and statistics as a staff office under the administration of the High Commissioner.

(2) The office shall be headed by a director appointed by the High Commissioner, subject to the advice and consent of the Congress of Micronesia, and shall have a planning division, statistics division, and plan implementation division. The director shall appoint a chief for each of the divisions who will report to the director. The office shall be staffed with professional, technical, secretarial, and clerical employees as necessary for the performance of its functions. Funds required for the operation of the office shall be included in the High Commissioner's annual budget request to the United States Congress.

(3) The office shall act as an advisory body to the High Commissioner and shall have the following responsibilities and duties:

(a) Formulate national and sectoral development plans, including economic policies, development goals and objectives, and development strategies;

(b) Review and make recommendations on projects and programs of the executive departments;

(c) Coordinate all foreign assistance granted to the Trust Territory government for economic and social development purposes;

(d) Review all annual and long-term budget proposals, particularly with respect to the allocation of financial resources between operating costs and development expenditures of the government prior to their submission to the High Commissioner and the Congress of Micronesia, and make recommendations and comments with respect to these budgets meeting the objectives, priorities, and policies of the development plans of the country;

(e) Compile such statistical data as determined by the High Commissioner and the Congress of Micronesia;

(f) Coordinate and mobilize all government resources, projects, and programs, and monitor and report on the implementation of all development plans;

(g) Assist all districts in the preparation of district development plans and projects, and provide other technical assistance to the extent possible;

(h) Participate with the chief executive in presenting the development plans, programs, projects, and fund requirements to both the executive and legislative branch of the United States government and to the Congress of Micronesia; and

(i) Carry out all other duties and responsibilities as may be assigned by the Congress of Micronesia or the High Commissioner. (P.L. No. 5-78, § 3; P.L. No. 7-37, § 1.)

§ 61. Planning division. — The planning division shall be responsible for the preparation of all annual and long-term national and sectoral plans, projects, economic policies, reports on economic and social conditions, and all other duties and responsibilities as may be assigned by the director. (P.L. No. 7-37, § 1.)

§ 62. Statistics division. — (1) Generally. The statistics division shall formulate, in collaboration with other central and district government
departments, the standards (i.e., concepts, definitions, classification, and procedures) for the collection of statistical data in the country as ordered by the High Commissioner. The statistics division shall collect social and economic statistical data needed for development programs and evaluation of plan implementation. The statistical data so collected shall be made available to the public upon approval by the council. This division shall also carry out, on an ad hoc or continuing basis (monthly, quarterly, semi-annually, or annually), the collection of the following types of statistical data:

Schedule

1. Population surveys.
2. Vital occurrences and mobility.
3. Immigration, emigration, and demographic changes.
4. Education.
5. Social conditions, including housing and health.
6. Manpower resources.
7. Employment and unemployment.
8. Community, recreation, and personal services.
9. Salaries, wages, bonuses, fees, allowances, and any other payments and honoraria for services rendered.
10. Personal expenditures and consumption.
11. Income, earnings, profits, rents, and interest.
12. Injuries, accidents, and compensation.
13. Associations of employers, employees, and other persons generally.
14. Tourism.
15. Agriculture.
17. Fishing.
18. Forestry and logging.
19. Land tenure, the occupation and use of land, and the production thereof.
20. Transfers of land, leases of land, charges, encumbrances, and other interests in land.
21. Mining and quarrying, including the prospecting and production of metallic, nonmetallic, hydrocarbon, and natural gas products.
22. Fuel and power.
23. Building, construction, and allied industries.
24. Water and sanitary services.
25. Commercial and professional undertakings and business services.
27. Wholesale and retail trade, restaurants, and hotels.
28. External and internal trade.
29. Storage and warehousing.
30. Stocks of manufactured and unmanufactured goods.
31. Transportation and communication in all forms by land, water, or air.
32. Banking and finance.
33. Savings.

(2) Census. The High Commissioner shall order the statistical division to conduct a census of population, housing, agriculture, and industry, or other census, no less than once every ten years or more often as determined by him.

(3) Authority to collect information. (a) The director may require a person from whom particulars may be required under this act to supply him with such information as may be necessary or desirable in order to collect the statistical information set out in the subsection (1) schedule.
(b) Any person required to provide particulars shall, to the best of his knowledge and belief, complete such forms, make such returns, answer such questions, and give all such information in such manner and within such reasonable time as may be required by the director.

(c) A government official having custody and control over government records or documents belonging to the Trust Territory government or any municipal government or local authority, which are sought to provide statistical information prescribed in the schedule in subsection (1) of this section, shall grant access thereto to the director or his authorized designee.

(d) The director may require a person to supply him with particulars either by interviewing such person personally, by requiring that such person complete a form, or by any other reasonable method determined by the director.

(4) Confidentiality of information. Except for purposes of prosecution under this act, no individual return, or part thereof, or answer given to any question put for the purposes of this section, and no report, abstract, or other document containing particulars comprised in any such return or answer shall be published, admitted to evidence, or shown to any person not employed in the execution of a duty under this section, unless the previous consent in writing thereto has been obtained from the person making such return or giving such answer, or, in the case of an undertaking or business, from the person having the control, management, or superintendence of the undertaking or business; provided, that nothing in this section shall prevent or restrict the publication of any such report, abstract, or other document containing statistical information, even though publication would unavoidably make identification of any undertaking or person possible merely by reason of the fact that the particulars relate to an undertaking which is the only undertaking within its particular sphere of activities.

(5) Privileged information. Nothing in this section shall affect any law relating to the disclosure of any official, secret or confidential information, evidence or document. A person required by the director to supply any information, to give any evidence or to produce any document shall be entitled in respect to such information, evidence, or document to plead the same privilege before the director as before a court of law.

(6) Penalties. (a) A person who: (i) hinders or obstructs the director or an employee, officer, or designee of the director in the lawful exercise of powers imposed or conferred upon him under this section; or (ii) refuses or neglects to complete and supply, within such time as may be specified in that behalf, the particulars required in any return, form, or other document or to answer any question or inquiries put or made of him; or (iii) knowingly or recklessly makes in any return, form, or other document completed by him under this act or in answer to any question or inquiry put to him under this act, a statement which is untrue in any material particular; or (iv) without lawful authority or excuse destroys, defaces, or mutilates any return, form, or other document containing particulars collected under this act; or (v) refuses without reasonable cause to grant access to records and documents in accordance with subsection (6) of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

(b) A person being employed in the execution of any duty under this act who: (i) by virtue of such employment or duty is possessed of any information which might influence or affect the market value of any share, interest or other security, product or article, and who, before such information is made public, directly or indirectly uses such information for his own personal gain; or (ii) without lawful authority publishes or communicates to any person other than in the ordinary course of his employment any information acquired by him in the course of such employment; or (iii) knowingly compiles for issue or publication any false statistics or information shall be guilty of a misdemeanor
and upon conviction thereof shall be fined not more than one thousand dollars
or imprisoned for not more than one year, or both. (P.L. No. 7-37, § 1.)

§ 63. Plan implementation division. — The plan implementation division
shall be responsible for the overall monitoring and evaluation of all sectoral
projects and programs, and shall report on the progress of their
implementation to the director. This division shall review and analyze projects
proposed by executive departments in terms of national and sectoral plan
objectives and financial and technical feasibility, and shall report the findings
and recommendations of the office to the High Commissioner and the Congress
of Micronesia. This division shall cooperate and coordinate with other
executive departments in project identification and feasibility studies for all
development projects falling within the purview of the national and sectoral
development plans and shall assist districts within the resources available to
this division. (P.L. No. 7-37, § 1.)

§ 261. Purpose. — The purpose of this subchapter is to establish procedures governing legislative investigating committees to provide for the creation and operation of such committees in a manner which will enable them to perform properly the powers and duties vested in them, including the conduct of hearings, in a fair and impartial manner, consistent with the protection of the rights of persons called to testify at such hearings and the preservation of the public good. (P.L. No. 5-36, § 1.)

§ 262. Definitions. — As used in this subchapter:

(1) "Investigating committee" means any of the following bodies which are authorized to compel the attendance and testimony of witnesses or the production of books, records, papers, and documents for the purpose of securing information on a specific subject for the use of the Congress of Micronesia:
   (a) A standing or special committee or committee of the whole of either house of the Congress of Micronesia;
   (b) A joint committee of both houses;
   (c) An authorized subcommittee of a legislative committee; and
   (d) Any body created by law, the members of which may include nonlegislators.

(2) "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.

(3) "Public hearing" means any hearing open to the public, or the proceedings of which are made available to the public. (P.L. No. 5-36, § 2.)
§ 263. Statement of purposes, powers, etc. — The joint or single house resolution, statute, or rule of procedure establishing an investigating committee shall state the committee's purposes, powers, duties and duration, the subject matter and scope of its investigatory authority, and the number of its members. (P.L. No. 5-36, § 3.)

§ 264. Adoption of rules. — Each investigating committee shall adopt rules, not inconsistent with any law or any applicable rules of the congress, governing its procedures, including the conduct of hearings. (P.L. No. 5-36, § 4.)

§ 265. Staff. — Each investigating committee may employ such professional, technical, clerical, or other personnel as may be necessary for the proper performance of its duties, to the extent of funds made available to it for such purpose and subject to such restrictions and procedures relating thereto as may be provided by law or any applicable rules of the congress. (P.L. No. 5-36, § 5.)

§ 266. Membership, quorum, voting. — (1) An investigating committee shall consist of not less than three members.
(2) A quorum shall consist of a majority of the total authorized number of members of the committee.
(3) No action shall be taken by a committee at any meeting unless a quorum is present. The committee may act by a majority vote of the members present and voting at a meeting at which there is a quorum unless the provisions of this subchapter or any other statute require a greater number or proportion. (P.L. No. 5-36, § 6.)

§ 267. Hearings. — An investigating committee may hold hearings appropriate for the performance of its duties at such times and places as the committee determines. (P.L. No. 5-36, § 7.)

§ 268. Subpoenas; issuance; form; contents; service and execution. — (1) The President of the Senate, the Speaker of the House of Representatives or other presiding officer of either house of the Congress may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum requiring the production of books, documents, or other evidence, in any matter pending before either house, or committee, as the case may be.
(2) Every investigating committee, when authorized by either house or both houses, as the case may be, may issue, by majority vote of all its members, subpoenas requiring the attendance of witnesses and subpoenas duces tecum requiring the production of books, documents, or other evidence, in any matter pending before the committee.
(3) Any subpoena, warrant of arrest or other process issued under the authority of either house or both houses of the Congress of Micronesia shall run in the name of Trust Territory and shall be addressed to any or all of the following officers: the sergeant-at-arms of either house of the Congress; the sergeant-at-arms of both houses of the Congress, in the case of a subpoena issued in behalf of a joint committee of both houses; the chief of police of any district or his deputies; any police officer of the Trust Territory or any municipality. The subpoena, warrant or other process shall be signed by the officer authorized to issue it, shall set forth his official title, shall contain a reference to the rule or resolution, or other means by which the taking of testimony or other evidence or the issuance of such warrant or other process was authorized, and shall, in the case of a summons or subpoena, set forth in general terms the matter or question with reference to which the testimony or other evidence is to be taken.
(4) Any officer to whom such process is directed, if within his territorial jurisdiction, shall forthwith serve or execute the same upon delivery thereof to him, without charge or compensation. (P.L. No. 5-36, § 8.)

§ 269. Same; notice to witnesses. — (1) Service of a subpoena requiring the attendance of a person at a hearing of an investigating committee shall be made at least five days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of all the members of the committee in a particular instance when, in their opinion, the giving of five days' notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

(2) Any person who is served with a subpoena to attend a hearing of an investigating committee also shall be served with a general statement informing him of the subject matter of the committee's investigation or inquiry and with a notice that he may be accompanied at the hearing by counsel of his own choosing. (P.L. No. 5-36, § 9.)

§ 270. Conduct of hearings. — (1) All hearings of an investigating committee shall be public unless the committee, by two-thirds vote of all of its members, determines that a hearing should not be open to the public in a particular instance.

(2) The chairman of an investigating committee, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witness himself or supervise examination by other members of the committee, the committee's counsel, or members of the committee's staff who are so authorized. In the chairman's absence or disability, the vice-chairman shall serve as presiding officer.

(3) No hearing, or part thereof, shall be televised, filmed, or broadcast except upon approval of the committee, by majority vote of all of its members. (P.L. No. 5-36, § 10.)

§ 271. Right to counsel; submission of questions. — (1) Every witness at a hearing of an investigating committee may be accompanied by counsel of his own choosing, who may advise the witness as to his rights, subject to reasonable limitations which the committee may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

(2) Any witness at a hearing, or his counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the committee shall ask such of the questions as are appropriate to the subject matter of the hearing. (P.L. No. 5-36, § 11.)

§ 272. Testimony. — (1) An investigating committee may cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chairman may direct.

(2) Any testimony given or adduced at a hearing may be under oath or affirmation if the committee so requires.

(3) The presiding officer of an investigating committee may administer an oath or affirmation to a witness at a hearing of such committee.

(4) The presiding officer at a hearing may direct a witness to answer any relevant question or furnish any relevant book, paper, or other document, the production of which has been required by subpoena duces tecum. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt.
(5) A witness at a hearing or his counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing any sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry.

(6) A witness at a hearing, upon his request and at his own expense, shall be furnished a transcript of his testimony at the hearing, if a record of the same is kept.

(7) Testimony and other evidence given or adduced at a hearing closed to the public shall not be made public unless authorized by majority vote of all of the members of the committee, which authorization shall also specify the form and manner in which the testimony or other evidence may be released.

(8) All information of a defamatory or highly prejudicial nature received by or for the committee other than in an open or closed hearing shall be deemed to be confidential. No such information shall be made public unless authorized by a majority vote of all the members of the committee for legislative purposes, or unless its use is required for judicial purposes. (P.L. No. 5-36, § 12.)

§ 273. Interested persons. — (1) Any person whose name is mentioned or who is otherwise identified during a hearing of an investigating committee and who in the opinion of the committee may be adversely affected thereby may, upon his own request or upon the request of any member of the committee, appear personally before the committee and testify in his own behalf, or, with the committee's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(2) Upon the consent of a majority of its members, an investigating committee may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission of evidence shall limit in any way the investigating committee's power of subpoena.

(3) Any person who appears before an investigating committee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided by this subchapter. (P.L. No. 5-36, § 13.)

§ 274. Contempt. — (1) A person shall be in contempt if he:
(a) Fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;
(b) Fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee; or
(c) Exhibits disrespect of an investigating committee by unlawfully, knowingly, and willfully interfering directly with the operation and function of such committee by open defiance of an order in or near the meeting place of such committee, by disturbing the peace in or near such meeting place, by interfering with an officer of such committee in the lawful performance of his official duties, or by unlawfully detaining or threatening any witness of such committee because of that person's duty as a witness.

(2) An investigating committee may, by majority vote of all its members, report to the house of congress by which it was established any instance of alleged contempt. The president or speaker shall certify a statement of such contempt under his signature as president or speaker, as the case may be, to the Attorney General who shall prosecute the offender in any court of the Trust Territory. If the congress is not in session, a statement of the alleged contempt shall be certified by the chairman or acting chairman of the committee concerned, under his signature, to the Attorney General who shall prosecute the offender as aforesaid. An instance of alleged contempt shall be considered
§ 275. Penalties; defenses. — (1) A person guilty of contempt under this subchapter shall upon conviction be fined not more than one thousand dollars or imprisoned not more than one year or both.

(2) If any investigating committee fails in any material respect to comply with the requirements of this subchapter, any person subject to a subpoena or a subpoena duces tecum who is injured by such failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present, to testify or produce evidence therein; and such failure shall be a complete defense in any proceeding against the person for contempt or other punishment.

(3) Any witness shall have only those privileges against testifying or producing other evidence under subpoena duces tecum which are:

(a) Authorized by the Trust Territory rules of evidence; or

(b) Required by the Trust Territory bill of rights or other law applicable to the Trust Territory.

(4) Any person other than the witness concerned or his counsel who violates the provisions of subsections (7) or (8) of section 272 of this title shall upon conviction be fined not more than five hundred dollars or imprisoned not more than six months, or both. The Attorney General, on his own motion or on the application of any person claiming to have been injured or prejudiced by an unauthorized disclosure, may institute proceedings for trial of the issue and imposition of the penalties provided herein. Nothing in this subsection shall limit any power which the Congress of Micronesia or either house thereof may have to discipline a member or employee or to impose a penalty in the absence of action by a prosecuting officer or court. (P.L. No. 5-36, § 15.)

§ 276. Cooperation of government officers and employees. — The officers and employees of the Trust Territory and of each political subdivision thereof shall cooperate with any investigating committee and with its representatives and furnish to it or to its representatives such information as may be called for in connection with the research activities of the committee. (P.L. No. 5-36, § 16.)

§ 277. Acquisition of evidence or information by other lawful means. — Nothing contained in this subchapter shall be construed to limit or prohibit the acquisition of evidence or information by an investigating committee by any lawful means not provided for herein. (P.L. No. 5-36, § 17.)

Subchapter II.

Legislative Counsel.

§ 301. Establishment of office; appointment; assistant. — (1) There is in the Congress of Micronesia an office of the legislative counsel, which is under the supervision and direction of the legislative counsel. The legislative counsel is responsible to the Congress, through the President of the Senate and the Speaker of the House of Representatives, for the operations of the office of the legislative counsel.

(2) A special select committee, appointed jointly by the President of the Senate and the Speaker of the House of Representatives, may nominate a candidate for the position of the legislative counsel to serve the Congress of Micronesia during and between sessions. Appointment of the legislative counsel —
counsel is by joint resolution and made without reference to political affiliations and solely on the grounds of fitness to perform the duties of the office.

(3) There is in the office of the legislative counsel an assistant legislative counsel whose appointment is made jointly by the presiding officers and the legislative counsel. The assistant legislative counsel shall serve under the direction of the legislative counsel, and, in the absence or incapacity of the latter, shall assume full responsibilities of the office. (Code 1966, §§ 550, 551; Code 1970, tit. 2, § 301; P.L. No. 7-89, § 1.)

§ 302. Duties and responsibilities. — The duties and responsibilities of the legislative counsel shall be as follows:

(1) To act as a counsel for and legal advisor to the Congress of Micronesia; to draft bills, resolutions, or amendments thereto; and to render legal services to the committees or any member of the congress when requested;

(2) To undertake such legal research as may be requested by the congress, its committees, or members;

(3) To report to and advise the congress of those laws, or rules and regulations which have become obsolete, inoperative, or which are in conflict with other Trust Territory laws, resolutions or decisions of the courts, and make appropriate recommendations in regard thereto; and

(4) To perform additional duties as the congress may from time to time assign. (Code 1966, § 552; Code 1970, tit. 2, § 302; P.L. No. 5-32, § 15; P.L. No. 7-89, § 2.)

§ 303. Government facility privileges. — The legislative counsel shall have the same privilege of using government facilities and pouch mail services as other officers of the Trust Territory government. (Code 1966, § 559; Code 1970, tit. 2, § 303.)

§ 304. Employment of supporting staff. — The legislative counsel shall, subject to the approval of the President of the Senate and the Speaker of the House of Representatives and in accordance with prescribed policies and procedures in the congressional administrative manual, employ and fix compensation of such professional, administrative, technical, stenographic and clerical assistants as may be necessary and as provided for under appropriations made for the office of the legislative counsel. (Code 1966, § 554; Code 1970, tit. 2, § 304; P.L. No. 7-89, § 3.)

§ 305. Office organization and functions. — (1) The office of the legislative counsel is organized into the following functional activities:

(a) Administrative services office;
(b) Finance and accounting office;
(c) Information services office; and
(d) Library of the Congress of Micronesia.

(2) The legislative counsel shall, subject to the approval of the President of the Senate and the Speaker of the House of Representatives, prescribe the functions, duties and responsibilities of each respective activity and promulgate the same in the congressional administrative manual. (Code 1966, § 553; Code 1970, tit. 2, § 305; P.L. No. 5-32, § 16; P.L. No. 7-89, § 4.)

§ 306. Personnel benefits and allowances. — The staff and employees of the office of the legislative counsel shall be entitled to the same benefits and privileges, subject to the same contributions and conditions, as officers, staff and employees of the executive branch of the Trust Territory government as provided by the existing public employment regulations, unless the Congress of Micronesia provides otherwise in its manual of administration. (Code 1966, § 558; Code 1970, tit. 2, § 306; P.L. No. 7-89, § 5.)
§ 307. Temporary assignment of staff to congress. — Upon the request of the President of the Senate or the Speaker of the House of Representatives, the legislative counsel shall temporarily assign such supporting staff or employees of his office to either or both houses to serve as employees of the respective house making the request; provided, that the salaries of such staff or employees so assigned shall be charged to the particular house requesting such temporary assignment. (Code 1966, § 555; Code 1970, tit. 2, § 307; P.L. No. 5-32, § 17; P.L. No. 7-89, § 6.)

§ 308. Office equipment and supplies. — The legislative counsel shall purchase such furniture, office equipment, books, stationery, and other supplies as may be necessary for the proper performance of the duties of his office, and those of the offices of the Senate and the House of Representatives, and as may be appropriated by the Congress. (Code 1966, § 556; Code 1970, tit. 2, § 308; P.L. No. 7-89, § 7.)
CHAPTER 4.

COMMISSION ON FUTURE POLITICAL STATUS AND TRANSITION.

§ 501. Creation. — There is created a commission on future political status and transition. (P.L. No. 6-87, § 1.)


§ 502. Definitions. — As used in this act, unless the context otherwise requires:

(1) "Commission" means the commission on future political status and transition created by this chapter.

(2) "Executive director" means the executive director of the commission on future political status and transition.

(3) "Constitution" means the draft constitution of the federated states of Micronesia. (P.L. No. 6-87, § 2.)

§ 503. Appointments and terms of members. — (1) Members of the commission shall be Trust Territory citizens, and shall serve for a term of two years subject to the provisions of subsection (4) of section 505 of this title. The commission shall consist of the following members:

(a) Six members from the Congress of Micronesia, each representing an administrative district to be appointed jointly by the President of the Senate and the Speaker of the House of Representatives of the Congress of Micronesia;

(b) One member from each of the six districts to be appointed by resolution of their respective district legislatures; provided, that in the event a district legislature is not in session, appointment shall be made by a committee thereof duly authorized to act on behalf of the legislature when it is not in session, or in the absence of such a committee, by an appropriate committee designated by the presiding officer of that legislature. A member appointed by a district legislature may be a member of the legislature and shall be a resident of the district from which appointed.

(c) One member from the island of Kusaie to be appointed by the Kusaie Municipal Council, subject to the provisions of subsection 2 TTC 504(2).

(2) All initial appointments made pursuant to this section shall be transmitted in writing to the Vice-President of the Senate of the Congress of Micronesia. All subsequent appointments of members shall be transmitted in writing to the chairman of the commission.

(3) An appointing authority may not revoke an appointment of a member of the commission. Upon the expiration of the term of the commission, the appointing authority shall make a new appointment. A member may be reappointed to serve on the commission. (P.L. No. 6-87, § 3; P.L. No. 6-113, § 1; P.L. No. 7-63, § 1.)

§ 505. Vacancies. — A vacancy on the commission shall be filled in the same manner as the original appointment. Members appointed to fill a vacancy shall serve only for the unexpired term. As used in this section, the term "vacancy" includes a vacancy resulting from:
(1) Death;
(2) Resignation;
(3) Incapacity to serve by reason of illness, upon finding of same by the commission; or
(4) In the case of members appointed by the President of the Senate and the Speaker of the House of Representatives of the Congress, termination of membership in the Congress of Micronesia. (P.L. No. 6-87, § 5; P.L. No. 7-63, § 3.)

§ 506. First meeting; election of officers. — The commission shall first be convened no later than sixty days after the effective date of this act by the Vice-President of the Senate, who shall act as temporary chairman of the commission until a permanent chairman of the commission has been elected by and from among its members. The time and place of the first meeting of the commission shall be designated by the Vice-President of the Senate. The commission may elect such other officers as it deems necessary. (P.L. No. 6-87, § 6; P.L. No. 7-63, § 2.)

§ 507. Committees; applicability of prior resolutions. — At its first meeting, the commission shall divide itself into two committees, to be known as the committee on future status and the committee on transition, and shall prescribe the duties and responsibilities of each committee as it deems appropriate and consistent with the purpose of this chapter. Upon the formation of the two committees under this section, the joint committee on future status as established by house joint resolution no. 102 of the Third Congress of Micronesia, third regular session, 1970, shall be dissolved; provided however, that the sense of the Congress of Micronesia as expressed in senate joint resolution no. 91 of the Fourth Congress of Micronesia, second regular session, 1972; house joint resolution no. 87 of the Third Congress of Micronesia, third regular session, 1970; and senate joint resolution no. 45, Sixth Congress of Micronesia, first regular session, 1975, applicable to the joint committee on future status, shall be equally applicable to the commission. The commission may establish other committees and subcommittees as it deems necessary. No decision or act of any committee of the commission shall be final as to the commission unless approved by the commission. (P.L. No. 6-87, § 7; P.L. No. 7-63, § 2.)

§ 508. Meetings; quorum. — The commission shall meet as often and at such places and times as may be designated by the chairman or by the commission itself. Its committees and subcommittees or the chairmen thereof may call meetings of their respective committees or subcommittees at such times and places as designated by their respective chairmen. Two-thirds of the members of the commission shall constitute a quorum of the commission for all purposes, and a decision of the commission shall require the approval of a majority of the quorum. (P.L. No. 6-87, § 8; P.L. No. 7-63, § 2.)
§ 509. Duties and responsibilities. — (1) The commission shall make recommendations to the Congress of Micronesia, the High Commissioner, and the future national legislature of the Federated States of Micronesia relating to:

(a) A governmental structure for the new national government of Micronesia under the Constitution;

(b) Legislation necessary to implement the Constitution;

(c) Legislation required when existing laws are found to be inconsistent with the provisions of the constitution;

(d) Terms and timetables in areas not specifically provided for in the Constitution for transition from the Trust Territory government to the new government of Micronesia;

(e) Procedure for an equitable reallocation of government personnel and property;

(f) Equitable division, if necessary, of assets in the social security fund, copra stabilization fund, economic development loan fund, and other special funds;

(g) Government personnel and employees, including the present and future need for expatriate employees, and the priorities for the development and training of the Trust Territory citizen manpower, including education and training for new public officers and essential government staff;

(h) Effectiveness of and necessity for United States federal programs, agencies, public entities or organizations that are operating in the Trust Territory, and which programs, agencies, public entities, or organizations should continue to operate in Micronesia both under the Trust Territory government and the new government; and

(i) Implementation, prior to termination of the trusteeship of those portions of the Constitution not in fundamental conflict with the United Nations Charter and the trusteeship agreement.

(2) The commission shall also:

(a) Continue and complete the work of the joint committee on future status; and

(b) Renegotiate the existing draft compact to the extent necessary to conclude satisfactorily the future political status negotiations.

(3) The commission may negotiate, study, recommend or otherwise deal with any other matters, including those matters originally assigned to the joint committee on future status, which will effect early and satisfactory conclusion of the future political status negotiation and promote a smooth and orderly transition to government under the Constitution.

(4) The commission shall be the exclusive representative of the Congress of Micronesia to negotiate in its behalf bilaterally and multilaterally on future status issues affecting districts, islands or groups of islands of Micronesia. (P.L. No. 6-87, § 8; P.L. No. 7-63, § 2.)

§ 510. Compensation of members. — (1) Members, other than the chairman of the commission, shall be paid at the rate of forty dollars per day while on the business of the commission or a committee thereof; provided however, that members who are Trust Territory or district government employees or who are full-time members of a district legislature shall be entitled to receive their regular salaries plus the difference between their prorated daily salaries and forty dollars per day if their salaries are less than the latter amount, such difference to be paid out of the funds for the commission; provided further, that members of the Congress of Micronesia serving on the commission shall not be entitled to compensation from the commission. The commission chairman shall receive a salary in an amount established in the commission's annual budget and appropriation. All members of the commission shall be entitled to receive travel expenses and per diem at standard Trust Territory rates while on the business of the commission or committee thereof, chargeable to the funds of the commission.
CHAPTER 5.

MICRONESIAN WASHINGTON Office.

§ 551. Established; supervision; selection and term of liaison officer.
— There shall be an office to be known as the "Micronesian Washington Office" to be located in Washington, District of Columbia, United States of America, which shall be under the direct supervision of a liaison officer in accordance with the provisions of this act. The liaison officer shall, by joint resolution, be chosen by the Congress of Micronesia, and shall serve for a term of four years beginning July 1, 1976; provided, that if the office is vacant he shall be chosen by the joint committee on administrative appointments. (P.L. No. 6-109, § 1.)

§ 552. Powers and duties of liaison officer. — The liaison officer shall maintain the office headquarters in Washington, D.C. and shall have the power to employ such secretarial, clerical, technical and professional assistants as he may deem necessary to the fulfilling of his duties and responsibilities, subject to appropriations for his office. He shall represent the people of the Trust Territory on a full-time basis before the Congress of the United States and before the various departments and agencies of the federal government and other organizations, public and private, on all matters pertaining to the Trust Territory, and shall actively and fully advocate all programs and policies duly adopted by the Congress of Micronesia. He shall not bind or commit the government of the Trust Territory without specific authority to do so. He shall also assist the members of the Congress of Micronesia with respect to all matters necessary and pertaining to the conduct of their offices, and shall render a report on his activities in person to the Congress of Micronesia every January beginning in 1977. He shall be subject to the direction of the presiding officers of the Congress of Micronesia on the conduct of his office and shall submit a monthly report of his activities to them. He may be removed for cause by a three-fourths majority vote of each house of the Congress of Micronesia. (P.L. No. 6-109, § 2.)

§ 553. Salary and compensation of liaison officer. — The liaison officer shall be paid an annual salary to be determined by law, but which salary shall not be less than twenty-five thousand dollars. In addition thereto, he shall receive an allowance each fiscal year for secretarial, clerical, technical, and professional assistance, and for all office expenses, including office rental and equipment, and such other and further expenses as may be allowed by the Congress of Micronesia by appropriation. The liaison officer and his family shall be permitted one paid round trip from Washington to the Trust Territory every two years in addition to his own travel on official business. He shall be entitled to the same benefits as the legislative counsel. For travel on official business he shall be entitled to receive the standard Trust Territory government rates of per diem and actual travel costs. (P.L. No. 6-109, § 3; P.L. No. 7-65, § 2.)
CHAPTER 6.

TRUST TERRITORY DISASTER RELIEF ACT OF 1977.

Sec. 601. Short title. - This chapter is known and may be cited as the "Trust Territory Disaster Relief Act of 1977." (P.L. No. 7-38, § 1.)

§ 602. Findings and intent. — (1) The Congress of Micronesia finds and declares that:

(a) Public law 93-288, enacted by the 93rd Congress of the United States, provides for assistance to the Trust Territory in the event an emergency or a major disaster should strike the Territory, as determined by the President of the United States;

(b) Emergency and disasters may include the loss of life, human suffering, loss of income and property damage resulting from typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires and other catastrophes;

(c) Due, however, to the scattering of small islands and small island groups throughout the three million square miles of ocean within the boundaries of the Trust Territory, disasters frequently occur which may be of insufficient magnitude to warrant being designated by the president as an "emergency" or a "major disaster" as defined within the provisions of public law 93-288, and may therefore, be of insufficient severity to warrant direct assistance from the federal government to the Trust Territory; and

(d) Because such disasters disrupt the normal functions of the government and the communities, and adversely affect individual persons and families with great severity, special measures are required by the government of the Trust Territory to assist the people of the Trust Territory and to expedite the rendering of aid, assistance and emergency welfare services and the reconstruction and rehabilitation of devastated areas.

(2) It is therefore the intent of the Congress of Micronesia by this chapter to:

(a) Establish and provide for an orderly and continuing program of assistance by the government of the Trust Territory to alleviate the suffering and damage which may result from disasters outlined above, and which may not be of sufficient severity or scope to warrant assistance by the United States government under the provisions of public law 93-288;

(b) Clarify and strengthen the roles of the High Commissioner, the district administrators and local governments in prevention of, preparation for and response to and recovery from disasters;

(c) Provide a disaster management system embodying all aspects of pre-disaster preparedness and post-disaster response;

(d) Supplement and augment assistance which may be provided by the federal government to the Trust Territory in the event of an emergency or major disaster declaration by the president pursuant to the provisions of public law 93-288; and

(e) Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response and recovery by agencies and officers of the
§ 603. Limitations. — Nothing in this chapter shall be construed to:

(1) Interfere with dissemination of news or comments on public affairs; but any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;

(2) Affect the jurisdiction or responsibilities of the Trust Territory, district, municipal or local police forces, and fire fighting forces; and units of the armed forces of the United States, or of any personnel thereof, when on active duty;

(3) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter may be taken when necessary to forestall or mitigate imminent or existing disasters that pose a danger to public health or safety; or

(4) Limit, modify or abridge the authority of the High Commissioner to respond to emergencies or to exercise any other powers vested in him by the laws of the Trust Territory, independent of, or in conjunction with, any provisions of this chapter. (P.L. No. 7-38, § 3.)

§ 604. Definitions. — As used in this chapter, unless the context otherwise requires, the following definitions shall apply:

(1) "Disaster" means occurrence or imminent threat of a widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, typhoons, tornadoes, storms, floods, high water, wind-driven water, tidal wave, earthquake, fire, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation or explosion, occurring in any part of the Trust Territory which, in the determination of the High Commissioner, is of sufficient severity and magnitude to warrant assistance by the Trust Territory government to supplement the efforts and available resources of the political subdivisions thereof and relief organizations in alleviating the damage, loss, hardship or suffering caused thereby, and with respect to which the district administrator of any district in which such catastrophe occurs determines the need for disaster assistance under this chapter.

(2) "Emergency" means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion or other catastrophe in any part of the Trust Territory which requires federal emergency assistance to supplement Trust Territory and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.

(3) "Major disaster" means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire or other catastrophe in any part of the Trust Territory which, in the determination of the President of the United States, causes damage of sufficient severity and magnitude to warrant major disaster assistance under public law 93-288, above and beyond emergency services by the federal government to supplement the efforts and available resources of the Trust Territory government and its political subdivisions.

(4) "Political subdivision" means any district, municipality, town, village, community or other unit of local government recognized as such by laws or customs of the Trust Territory. (P.L. No. 7-38, § 4.)
§ 605. The High Commissioner and disaster emergencies. — (1) The High Commissioner is responsible for meeting the dangers to the Trust Territory and people presented by disasters.

(2) Under this chapter, the High Commissioner may issue executive orders and regulations and amend or rescind them. Executive orders shall have the force and effect of law when promulgated in accordance with the procedures set forth in this chapter. The High Commissioner shall issue regulations as provided by law for the administration and enforcement of this chapter, and such regulations shall have the force and effect of law if they are not in conflict with the express provisions of this chapter or other laws of the Trust Territory.

(3) A disaster emergency shall be declared by executive order of the High Commissioner if he finds a disaster has occurred or that this occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the High Commissioner finds that the threat or danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order, but no state of disaster emergency may continue for longer than thirty days unless renewed by the High Commissioner. The Congress of Micronesia may terminate a state of disaster emergency at any time by joint resolution. Thereupon, the High Commissioner shall issue an executive order promulgating the termination of the state of disaster emergency. An executive order issued under this subsection shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster so prevent or impede, promptly filed with the Trust Territory disaster control office, the Attorney General’s office and the district administrator’s office of the district to which it applies.

(4) An executive order declaring a state of disaster emergency shall serve to activate the disaster response and recovery aspects of the Trust Territory, local and interjurisdictional disaster emergency plans applicable to the political subdivisions or area in question, and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment and materials and facilities assembled, stockpiled or arranged to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

(5) During the continuance of any state of disaster emergency, the High Commissioner shall be in charge of all forces and personnel and he shall delegate or assign command authority by prior arrangement embodied in appropriate regulations, but nothing herein restricts his authority to do so by executive orders issued at the time of the disaster emergency.

(6) In addition to any other powers conferred upon the High Commissioner by law, he may, during a state of disaster emergency:

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of Trust Territory business, or the orders, rules, or regulations of any Trust Territory activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency;

(b) Utilize all available resources of the Trust Territory government as reasonably necessary to cope with the disaster emergency of each political subdivision of the Trust Territory;

(c) Transfer the direction, personnel, or functions of Trust Territory government departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) Subject to any applicable requirements for compensation under section 611 of this title, commandeer or utilize any private property if he finds this necessary to cope with the disaster emergency; provided however, that any such property that is not destroyed or totally damaged shall be returned to the owner immediately following the termination of the disaster emergency;
(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Trust Territory if he deems this action necessary for the preservation of life or public health or safety; provided however, that any person so evacuated shall be permitted to return to the place from which evacuated immediately following the termination of the disaster emergency;

(f) Prescribe routes, modes of transportation, and destination in connection with evacuation;

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(h) Suspend or limit the sale, dispensing or transporting of alcoholic beverages, firearms, explosives, and combustibles; and

(i) Make provision for the availability and use of temporary emergency housing. (P.L. No. 7-38, § 5.)

§ 606. Trust Territory disaster control office. — (1) The Trust Territory disaster control office is hereby established within the office of the High Commissioner. The office shall have a disaster control officer appointed by the High Commissioner and to serve under the general supervision of the High Commissioner. The appointment is subject to the advice and consent of the congress. The office shall have a planning officer and other professional, technical, secretarial and clerical employees as necessary for the performance of its functions. Funds required for the operation of this office shall be included in the High Commissioner's annual budget request to the United States Congress, and the Congress of Micronesia shall not be expected to appropriate money for the operation of this office.

(2) The disaster control office shall prepare and maintain the Trust Territory disaster plan and keep it current, which plan may include:

(a) Prevention and minimization of injury and damage caused by disaster;

(b) Prompt and effective response to disaster;

(c) Emergency relief;

(d) Identification of areas particularly vulnerable to disaster;

(e) Recommendations for zoning, building codes, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semi-permanent structures, and other preventative and preparedness measures designed to eliminate or reduce disasters or their impact;

(f) Assistance to local officials in designing local emergency action plans;

(g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;

(h) Preparation and distribution to the appropriate Trust Territory and district officials of catalogs of federal, territorial, and private assistance programs;

(i) Organization of manpower and chains of command;

(j) Coordination of federal, territorial and local disaster activities;

(k) Coordination of the Trust Territory disaster plan with the disaster plans for the United States government; and

(l) Other necessary and appropriate matters relating to disaster relief and assistance.

(3) The disaster control office shall take an integral part in the development and revision of district and local disaster plans prepared under section 607 of this title. To this end, it shall employ or otherwise secure services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies. These personnel shall consult with district administrators and local agencies on a regularly scheduled basis and shall make field examinations of the areas, circumstances and conditions to which
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particular district, local and interjurisdictional disaster plans are intended to apply, and may suggest revisions.

(4) In preparing and revising the Trust Territory disaster plan, the disaster control office shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising district and local agencies, the disaster control office shall encourage them also to seek advice from these sources.

(5) The Trust Territory disaster plan, or any part thereof, may be incorporated in regulations of the High Commissioner or executive orders which have the force and effect of law.

(6) The disaster control office shall:

(a) Determine requirements for the Trust Territory and the political subdivisions thereof for food, clothing and other necessities in the event of an emergency;

(b) Coordinate with appropriate government agencies to procure and pre-position supplies, medicines, materials, and equipment;

(c) Promulgate general standards and requirements for district and local disaster plans;

(d) Periodically review district and local disaster plans;

(e) Provide for mobile support units;

(f) Establish and operate, or assist political subdivisions and their disaster agencies to establish and operate, training programs and programs of public information;

(g) Make surveys of industries, resources, and facilities within the Trust Territory, both public and private, as are necessary to carry out the purposes of this chapter;

(h) Plan and make arrangements for the availability and use of any private facilities, services and property, and if in fact used, provide for payment for such use under terms and conditions agreed upon or under the provisions of section 611 of this title in the absence of such agreement;

(i) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response and recovery;

(j) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;

(k) Prepare, for issuance by the High Commissioner, executive orders and regulations as necessary or appropriate in coping with disasters;

(l) Cooperate with the United States government and any public or private agency or entity in achieving any purpose of this title and in implementing programs for disaster prevention, preparation, response and recovery; and

(m) Do other things necessary, incidental or appropriate for the implementation of this title. (P.L. No. 7-38, § 6.)

§ 607. Local disaster agencies and services. — (1) Each political subdivision within the Trust Territory shall, for purposes of this act, be within the jurisdiction of and served by the Trust Territory disaster control office and by a local or district agency responsible for disaster preparedness and coordination of response.

(2) The High Commissioner shall determine which political subdivisions within the Trust Territory need disaster agencies of their own and require that they be established and maintained; provided however, that the High Commissioner shall make available or seek sources of any funds he feels to be necessary for such agencies to be established and maintained. He shall make his determinations on the basis of each political subdivision's disaster vulnerability and capability of response related to population, size and concentration. The disaster control office shall publish and keep current a list of political subdivisions required to have disaster agencies under this subsection.
(3) Any provisions of this chapter or other law to the contrary notwithstanding, the High Commissioner may require a political subdivision to establish and maintain a disaster agency jointly with one or more contiguous political subdivisions if he finds that the establishment and maintenance of an agency or participation therein is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response or recovery services under other provisions of this act; provided however, that the High Commissioner shall make available or seek sources of any funds he feels to be necessary for such agencies to be established and maintained.

(4) Each political subdivision which does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have a liaison officer designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.

(5) The district administrator, chief magistrate or other principal executive officer of each political subdivision in the Trust Territory shall notify the disaster control office of the manner which the political subdivision is providing or securing disaster planning and emergency services, identify the persons who head the agency from which the service is obtained, and furnish additional information relating thereto as the disaster control office requires.

(6) Each district and local agency shall prepare and keep current a local disaster emergency plan for its area.

(7) The district or local disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command. (P.L. 7-38, § 7.)

§ 608. Intergovernmental arrangements. — If the High Commissioner finds that a vulnerable area lies only partly within the Trust Territory and includes territory in a foreign jurisdiction and that it would be desirable to establish an interterritorial or international relationship, mutual aid or an area organization for disaster, he shall take steps to that end as desirable consistent with the laws of the Trust Territory. (P.L. No. 7-38, § 8.)

§ 609. Local disaster emergencies. — (1) A local disaster emergency may be declared only by the district administrator or by the principal executive officer of a political subdivision within a district. It shall not be continued for a period in excess of seven days. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the disaster control office and the office of the Attorney General.

(2) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable district or local disaster emergency plans and to authorize the furnishing of aid and assistance thereunder. (P.L. No. 7-38, § 8.)

§ 610. Disaster prevention. — (1) In addition to disaster prevention measures as included in the Trust Territory, district and local disaster plans, the High Commissioner shall consider, on a continuing basis, steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority and competence they have, the Trust Territory agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make studies of disaster prevention related
matters. The High Commissioner, from time to time, shall make recommendations to the Congress of Micronesia, district legislatures, local governments and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(2) The appropriate Trust Territory agency, in conjunction with the disaster control office, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the danger caused by this occurrence or the consequences thereof.

(3) If the disaster control office believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land-use regulations or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the High Commissioner. If the High Commissioner upon review of the recommendation finds that the changes are essential, he shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter. If no action or insufficient action pursuant to this recommendation is taken within the time specified by the High Commissioner, he shall so inform the Congress of Micronesia and request legislative action appropriate to mitigate the impact of disaster. (P.L. No. 7-38, § 10.)

§ 611. Compensation. — (1) Each person within the Trust Territory shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the government and the public successfully to meet disaster emergencies.

(2) No personal services voluntarily rendered for emergency disaster assistance, relief preparedness or response may be compensated by the Trust Territory or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.

(3) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the High Commissioner or a member of the disaster emergency forces of the Trust Territory.

(4) Any person claiming compensation for the use, damage, loss or destruction of property under this chapter shall file a claim therefor within one year after the claim first arose with the office of the attorney general in the form and manner that office shall provide.

(5) Unless the amount of compensation on account of property damaged, lost or destroyed is agreed upon between the claimant and the office of the Attorney General, the amount of compensation shall be calculated according to fair market value as determined by three uninterested assessors to be selected in the following manner: one by the claimant, one by the Attorney General and the third by the first two. (P.L. No. 7-38, § 11.)

§ 612. Communications. — The disaster control office shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The office shall consider the desirability of supplementing these communications resources or of integrating them into comprehensive Trust Territory or Trust Territory-federal telecommunications or other communications systems or network. In studying the character and feasibility of any system or its several parts, the office shall evaluate the possibility of
multi-purpose use thereof for general Trust Territory and local governmental purposes. The office shall make recommendations to the High Commissioner as appropriate. (P.L. No. 7-38, § 12.)

§ 613. Mutual aid. — Political subdivisions not participating in interjurisdictional arrangements pursuant to this chapter nevertheless shall be encouraged and assisted by the disaster control office to conclude suitable arrangements for furnishing mutual aid in coping with disasters. The arrangements shall include provision of aid by persons and units in public employ as well as resources. (P.L. No. 7-38, § 13.)

§ 614. Weather modification. — The disaster control office shall keep continuously apprised of weather conditions which present danger or precipitation or other climatic activity severe enough to constitute a disaster. If the office determines that precipitation which may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. Thereupon, no permits may be issued until the office informs the office or agency that danger has passed. (P.L. No. 7-38, § 14.)
§ 651. Statement of purpose. — As a consequence of the separation of the Northern Mariana Islands from the national territory of Micronesia, an understanding exists between the United States government and the Trust Territory government that the former will partially or wholly fund the construction of new capital facilities to replace those lost in the separation of the Northern Mariana Islands, and that the United States through the Trust Territory government will initiate an early relocation of the capital to a site within the remaining territory of Micronesia. It is the purpose of this act to initiate work toward the relocation of the capital through the reactivation of the joint coordinating committee on capital relocation. It is the sense of the congress that the relocation should include the construction of the facilities for the capital, the transfer and/or purchase of central government personal property as may be appropriate for the proper functioning of the government of the Federated States of Micronesia, the transfer of Trust Territory government personnel as may be appropriate to the proper functioning of the government of the Federated States of Micronesia, the assumption by the government of the Federated States of Micronesia of an appropriate portion of the federal grant set aside for the Trust Territory government, and the carrying out of the move of personnel and facilities to Ponape District. (P.L. No. 7-137, § 1.)

§ 652. Creation of the coordinating committee. — There is created a Joint Coordinating Committee on Capital Relocation. (P.L. No. 7-137, § 2.)

§ 653. Selection of members and tenure. — (1) Members of the coordinating committee are:
   (a) The presiding officers of the Congress of Micronesia, or their designees;
   (b) The administrators of the departments of administrative services, community services and development services, or their designees;
   (c) The chairman of the transition committee of the commission on future political status and transition, or his designee;
   (d) A traditional leader from Ponape District chosen by the traditional leaders of that district from among their membership;
   (e) A member of the Ponape District Legislature chosen by the Speaker of the Legislature; and
   (f) A member appointed by the acting governor of Ponape District.

   (2) The principals may substitute designees from time to time at their discretion, by written notification to the chairman.

   (3) A chairman and vice chairman shall be chosen by majority vote of the membership of the coordinating committee.

   (4) The committee shall remain in existence and all members shall serve until the relocation of the capital to Ponape District is completed. (P.L. No. 7-137, § 3.)
§ 654. **Organization of meetings.** — The coordinating committee shall meet for the first time no later than fifteen days after the effective date of this act (September 25, 1978), with the chairman of the transition committee of the commission on future political status and transition serving as temporary chairman. The coordinating committee shall meet as often and at such places and times as may be decided by the chairman or the coordinating committee itself. In order to conduct business, the coordinating committee must have a quorum of five members. (P.L. No. 7-137, § 4.)

§ 655. **Duties and responsibilities.** — The coordinating committee shall have the following duties and responsibilities:

(a) To select a site for the capital;
(b) To press for the early disposition of adverse land claims related to the site selected;
(c) To initiate or cause to be initiated planning and architectural and engineering work for the construction of the physical facilities for the capital;
(d) To seek funding for the planning and construction of the facilities for the capital;
(e) To seek funding and initiate plans for the relocation of personnel and property to the new capital;
(f) To work closely with the High Commissioner, Congress of Micronesia, Chief Justice of the High Court, and commission on future political status and transition to facilitate as rapid a relocation of the capital as is possible under the circumstances; and
(g) To perform such other duties and responsibilities as may facilitate the relocation of the capital. (P.L. No. 7-137, § 5.)

§ 656. **Administrative support.** — The coordinating committee shall be assisted in its work by:

(a) The staff of the Congress of Micronesia;
(b) The staff of the commission on future political status and transition;
(c) The officers and employees of the executive and judicial branches of the Trust Territory government; and
(d) Such other staff as may be necessary to carry out its duties and responsibilities. (P.L. No. 7-137, § 6.)

§ 657. **Funding.** — Initial funding shall be provided by the High Commissioner from among the funds previously set aside for capital relocation, planning, and execution. (P.L. No. 7-137, § 7.)
Title 3.
District Government.

Chap. 1. Districts Defined — Responsibilities and Powers, §§ 1, 2.
2. Administration and Regulation, §§ 51 to 58.
3. Truk District Charter, §§ 151 to 268.
4. Yap District Charter, §§ 269 to 385.
5. Kosrae District Charter, §§ 386 to 491.
6. Ponape District Charter, §§ 492 to 577.

CHAPTER 1.

DISTRICTS DEFINED — RESPONSIBILITIES AND POWERS.

Sec.
1. Designation of districts.
2. Responsibilities and powers of districts.

§ 1. Designation of districts. — For the purpose of administration, the islands of the Trust Territory are grouped into seven districts known and described as follows:

(1) Mariana Islands District, consisting of those islands of the Trust Territory, and the territorial waters thereof, which lie within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude, and east of 144° east longitude.

(2) Palau District, consisting of those islands of the Trust Territory, and the territorial waters thereof, which lie within the area beginning at a point 2° north latitude 130° east longitude, thence north to a point 11° north latitude 130° east longitude, thence east to a point 11° north latitude 136° east longitude, thence south to a point 2° north latitude 136° east longitude, thence west to a point of beginning.

(3) Yap District, consisting of those islands of the Trust Territory, and the territorial waters thereof, which lie within the area beginning at a point 2° north latitude 136° east longitude, thence north to a point 11° north latitude 136° east longitude, thence east to a point 11° north latitude 148° east longitude, thence south to a point 2° north latitude 148° east longitude, thence west to a point of beginning.

(4) Truk District, consisting of those islands of the Trust Territory, and the territorial waters thereof, which lie within the area beginning at a point 0° latitude 148° east longitude, thence north to a point 11° north latitude 148° east longitude, thence east to a point 11° north latitude 154° east longitude, thence south to a point 0° latitude 154° east longitude, thence west to the point of beginning.

(5) Ponape District, consisting of those islands of the Trust Territory, and the territorial waters thereof, which lie within the area beginning at a point 0° latitude 154° east longitude, thence north to a point 11° north latitude 154° east longitude, thence east to a point 11° north latitude 158° east longitude, thence southeast to a point 08° 10' north latitude 161° 45' east longitude, thence south to a point 0° latitude 161° 45' east longitude, thence west to the place of beginning.

(6) Marshall Islands District, consisting of those islands of the Trust Territory and the territorial waters thereof, which lie within the area beginning at a point 11° north latitude, 158° east longitude; thence southeast to a point 5° north latitude, 166° east longitude; thence south along the 166th meridian east longitude to 0° latitude; thence northeast to a point 4° north
latitude, 170° east longitude; thence east to a point 4° north latitude, 174° east longitude; thence north to a point 16° north latitude, 174° east longitude; thence northwest to a point 19° north latitude, 158° east longitude; thence south to the place of beginning.

(7) Kosrae District, consisting of those islands of the Trust Territory, and the territorial waters thereof, which lie within the area beginning at a point 0° latitude 161° 45' east longitude, thence north to a point 08° 10' north latitude 161° 45' east longitude, thence southeast to a point 05° north latitude 166° east longitude, thence south to 0° latitude 166° east longitude, thence west to the place of beginning. (Code 1966, § 39; Code 1970, tit. 3, § 1; P.L. No. 5-64, § 1; P.L. No. 5-77, §§ 1 to 3; P.L. No. 7-2, § 1.)


§ 2. Responsibilities and powers of districts. — District governments may be formed by charter granted by the territorial government. The jurisdiction of such government, or governments, will extend to the whole of an administrative district, as defined by section 1 of this chapter. Unless and until such a district government is chartered in a district, its government shall consist of its chartered legislature, the district administrator, and their respective employees.

Subject to all territory-wide laws, the district governments shall be primarily responsible for:

(1) Liquor control, including the right to collect wholesale liquor license fees and to impose taxes on alcoholic beverages; provided, that neither of these shall be based on imports or volume or value of imports.
(2) Land law.
(3) Inheritance law.
(4) Domestic relations.
(5) The construction and maintenance of secondary roads connecting two or more municipalities, and docks used extensively for travel between two or more municipalities, including acquiring or providing for adequate space for public utilities and set-back from such roads and docks and control of harbors in which such docks are located. These roads and docks that are to be considered as "secondary" are to be so designated by the district legislature subject to the approval of the High Commissioner.
(6) Exclusive issuance of licenses for wholesale business, other than banking, insurance, sale of securities, and public utilities, including the exclusive right to collect fees for such licenses, provided these are not based on imports or the volume or value of imports, except as provided in subsection (3), section 1, title 2 and sections 201-202, title 33 of this Code.
(7) The imposition and collection of sales taxes, copra export taxes, scrap metal export taxes, and the authorizing of municipalities to impose and collect excise taxes on any items other than foodstuffs.
(8) Support of public education and health as may be required by law.
(9) Physical development master planning and land use control laws.
(10) Imposition of a surtax on the Trust Territory income tax pursuant to the provisions of section 280 of title 77 of this Code. (Code 1966, § 47(a) and (c); Code 1970, tit. 3, § 2; P.L. No. 4C-4, § 3; P.L. No. 4C-76, § 12(a); P.L. No. 6-52, § 2; P.L. No. 6-118, § 2; P.L. No. 7-32, § 10.)


Authority for liquor control. — The authority to control liquor consumption and sale was delegated by the Congress of

**District order regulating liquor controls despite subsequent congressional resolution.** — Where district order containing prohibitions and restrictions with regard to use of liquor is approved, and subsequent congressional resolution provides for licensing of liquor distributors without making reference to previous district order, prohibitions and restrictions of district order still control except as to actions covered by licenses issued in compliance with resolution, and any actions not so covered may still be prosecuted under district order. Temengil v. Trust Territory, 2 TTR 31 (1959).

**Good faith violation of liquor licensing law.** — In criminal prosecution for violation of liquor licensing law, if accused's liquor distributor's license was not issued in strict accordance with applicable law, but was issued and accepted by him from government in good faith without any fault on his part, and sale or transfer complained of was in fact within terms of license or any limits on it communicated to him or of which he is shown to have notice, he should be acquitted. Temengil v. Trust Territory, 2 TTR 31 (1959).
CHAPTER 2.

ADMINISTRATION AND REGULATION.

Sec. 51. Office of district administrator. - There shall be in each district a district administrator and a deputy district administrator, each of whom shall be nominated by the High Commissioner; and the High Commissioner, by and with the advice and consent of the Congress of Micronesia in accordance with law regarding administrative appointments, shall appoint these officials. The district administrator shall be responsible to the High Commissioner, for the proper administration of the district. The district administrator shall have such powers and perform such duties as may be prescribed by law or assigned to him by the High Commissioner. He shall have such assistants as are necessary to coordinate and supervise the work of the district. (Code 1966, § 40; Code 1970, tit. 3, § 51; P.L. No. 4C-48, § 7(5)).

Sec. 52. District administrator; duties and responsibilities. - In addition to his duties as representative of the High Commissioner, the district administrator shall be the chief executive officer of the district government and as such shall be responsible for the execution of all district laws. He shall annually present to the district legislature a proposed budget and such other recommendations as he deems best for the welfare of the district. Such budget shall be based upon the revenues anticipated as a result of district legislation and such grants or subsidies as may be allocated by the territorial government and shall cover all recommended appropriations by the district legislature. (Code 1966, § 47(b); Code 1970, tit. 3, § 52.)

Sec. 53. Approval of acts of district legislature. — (1) Any law or provision of the charter of any district legislature to the contrary notwithstanding, every act and resolution intended to have the effect of law passed or adopted by the district legislature shall, before it becomes a district law, be presented to the district administrator. If the district administrator approves the act or resolution, he shall sign it and the same shall become law. If the district administrator disapproves the act or resolution, he shall, except as otherwise provided in this section, return it, with his objections, to the district legislature within thirty calendar days after it shall have been presented to him. If the district administrator does not return the act or resolution within such period, it shall be a law in like manner as if he had signed it.

(2) An act or resolution of the district legislature which has been disapproved by the district administrator may be passed over his veto by a two-thirds majority of the entire membership of the legislature at the same session of the legislature during which it was first passed; or, if the district administrator disapproves such act or resolution less than ten days before the end of the session of the legislature during which it was passed, the act or resolution may be passed over his veto by a two-thirds majority of the entire membership of the legislature at the next subsequent session of the legislature.

(3) An act or resolution so repassed shall be re-presented to the district administrator for his approval. If he does not approve it within five calendar days after it shall have been presented to him, it shall become a law in like manner as if he had signed it.

§ 51. Office of district administrator. — There shall be in each district a district administrator and a deputy district administrator, each of whom shall be nominated by the High Commissioner; and the High Commissioner, by and with the advice and consent of the Congress of Micronesia in accordance with law regarding administrative appointments, shall appoint these officials. The district administrator shall be responsible to the High Commissioner, for the proper administration of the district. The district administrator shall have such powers and perform such duties as may be prescribed by law or assigned to him by the High Commissioner. He shall have such assistants as are necessary to coordinate and supervise the work of the district. (Code 1966, § 40; Code 1970, tit. 3, § 51; P.L. No. 4C-48, § 7(5)).

§ 52. District administrator; duties and responsibilities. — In addition to his duties as representative of the High Commissioner, the district administrator shall be the chief executive officer of the district government and as such shall be responsible for the execution of all district laws. He shall annually present to the district legislature a proposed budget and such other recommendations as he deems best for the welfare of the district. Such budget shall be based upon the revenues anticipated as a result of district legislation and such grants or subsidies as may be allocated by the territorial government and shall cover all recommended appropriations by the district legislature. (Code 1966, § 47(b); Code 1970, tit. 3, § 52.)

§ 53. Approval of acts of district legislature. — (1) Any law or provision of the charter of any district legislature to the contrary notwithstanding, every act and resolution intended to have the effect of law passed or adopted by the district legislature shall, before it becomes a district law, be presented to the district administrator. If the district administrator approves the act or resolution, he shall sign it and the same shall become law. If the district administrator disapproves the act or resolution, he shall, except as otherwise provided in this section, return it, with his objections, to the district legislature within thirty calendar days after it shall have been presented to him. If the district administrator does not return the act or resolution within such period, it shall be a law in like manner as if he had signed it.

(2) An act or resolution of the district legislature which has been disapproved by the district administrator may be passed over his veto by a two-thirds majority of the entire membership of the legislature at the same session of the legislature during which it was first passed; or, if the district administrator disapproves such act or resolution less than ten days before the end of the session of the legislature during which it was passed, the act or resolution may be passed over his veto by a two-thirds majority of the entire membership of the legislature at the next subsequent session of the legislature.

(3) An act or resolution so repassed shall be re-presented to the district administrator for his approval. If he does not approve it within five calendar days after it shall have been presented to him, it shall become a law in like manner as if he had signed it.
days, he shall send it together with his comments thereon to the High Commissioner. Within thirty days after its receipt by him, the High Commissioner shall either approve or disapprove the act or resolution intended to have the effect of law. If the thirty day period lapses without the High Commissioner having taken any action thereon, such act or resolution shall become law in like manner as if he had signed it.

(4) Any charter establishing a district legislature inconsistent herewith is hereby amended to accord with the provisions of this section. (Code 1966, § 40-A; Code 1970, tit. 3, § 53.)

§ 54. Publication and translation of laws and resolutions of the district legislature. — (1) Within thirty days after the close of each session of the district legislature, the district administrator of the particular district concerned shall cause all laws duly enacted at such session to be printed, indexed, and bound in book form, first the bills in the order of their becoming law and then resolutions in the order of their passage.

(2) Within ninety days after the close of each session of the district legislature, the district administrator shall cause to be translated into the principal local languages, in whole or in summary, all laws duly enacted by the district legislature of his district. A copy of such law and the translation, in whole or in summary, into the local languages of the particular district shall be distributed and otherwise widely disseminated, including the distribution and posting of the same at convenient places in the district center and in local government offices of the particular district. (Code 1970, tit. 3, § 54.)

§ 55. Establishment of advisory councils. — Local advisory councils for individual islands, groups of islands, or such other communities in his district, may be established by the district administrator where he deems that appropriate. (Code 1966, § 41; Code 1970, tit. 3, § 55.)

§ 56. Repealed by P.L. No. 4C-76, § 13(a).

§ 57. Office of the district treasurer; established; appointment; acting treasurer; salary; removal. — There shall be on the staff of the district administrator a district treasurer appointed by the district administrator with the advice and consent of the district legislature. When the district legislature is not in session, the district administrator may appoint an acting district treasurer whose name shall be submitted for advice and consent of the district legislature at its next regular or special session. The district treasurer shall be subject to removal for cause at any time by the district administrator. The district treasurer shall receive a salary for his services from the appropriated district funds in an amount and under such conditions as the district legislature shall provide until such time as funds are available for payment of such salary from sums in the budget of the office of the district administrator; provided, that such salary shall be paid from sums so designated in the budget of the office of the district administrator after June 30, 1974. (Code 1966, § 47(d); Code 1970, tit. 3, § 57; P.L. No. 5-5, § 1.)

§ 58. Same; duties and responsibilities. — It shall be the duty of the district treasurer to:

(1) Receive, maintain, and disburse funds under the authority of the district legislature and under the direction and supervision of the district administrator.

(2) Keep complete and accurate records of all funds received, maintained, and disbursed by him in such manner as prescribed by the district administrator. Such records shall be open to inspection and audit by the district legislature, district administrator, and the territorial government.
(3) Submit an annual report to the district administrator and the district legislature of all funds received and disbursed by him during each fiscal year. (4) Act as collection and fiscal agent for the territorial government as may be required by law. (Code 1966, § 47(d); Code 1970, tit. 3, § 58.)
Editor's note. — Section 1 of P.L. No. 7-62 provides, in part: "The purpose of this Charter is to grant a greater degree of self-government of the people of Truk District in promoting their general welfare pursuant to the United Nations Charter and Trusteeship Agreement."

**Article I.**

**Bill of Rights.**

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**The Executive.**

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§ 151. Freedom of speech; right of peaceable assembly and petition for redress. — No law shall deny or impair freedom of speech or of the press, or the right of the people to peaceably assemble and to petition the district government for a redress of grievances. (P.L. No. 7-62, § 1.)
§ 152. **Freedom of religion.** — No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof, except that assistance may be provided to parochial schools for nonreligious purposes. (P.L. No. 7-62, § 1.)

§ 153. **Search and seizure; invasion of privacy.** — The right of the people to be secured in their persons, houses, papers and effects, against unreasonable search, seizure or invasion of privacy, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. (P.L. No. 7-62, § 1.)

§ 154. **Due process; equal protection; civil rights.** — No person shall be deprived of life, liberty, or property, without due process of law, or be denied the equal protection of the laws, or be denied the enjoyment of his civil rights, or be discriminated against in the exercise thereof, on account of race, sex, religion, language, ancestry or national origin. (P.L. No. 7-62, § 1.)

§ 155. **Rights of accused.** — In all criminal prosecutions, the accused shall enjoy the right to a speedy public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses in his favor, and to have the assistance of counsel for his defense. (P.L. No. 7-62, § 1.)

§ 156. **Freedom from self-incrimination; double jeopardy.** — No person shall be compelled in any criminal case to be a witness against himself, or against a member of his family as prescribed by law, or be twice put in jeopardy for the same offense. (P.L. No. 7-62, § 1.)

§ 157. **Excessive bail; excessive fines; cruel and unusual punishment.** — Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. (P.L. No. 7-62, § 1.)

§ 158. **Capital punishment.** — Capital punishment shall be prohibited. (P.L. No. 7-62, § 1.)

§ 159. **Privilege of habeas corpus.** — The writ of habeas corpus shall be granted without delay, and the privilege of the writ of habeas corpus shall not be suspended, except by the governor and then only when the public safety requires it in the case of war, rebellion, insurrection or invasion. (P.L. No. 7-62, § 1.)

§ 160. **Bills of attainder; ex post facto laws; impairment of contracts.** — No bill of attainder, ex post facto law or law impairing the obligations of contract shall be enacted. (P.L. No. 7-62, § 1.)

§ 161. **Freedom of movement and migration.** — Subject only to the requirements of public order and security, no law shall be enacted to restrict the freedom of movement and migration. (P.L. No. 7-62, § 1.)

§ 162. **Slavery; involuntary servitude.** — Neither slavery nor, except as punishment for crime, involuntary servitude shall exist in Truk District. (P.L. No. 7-62, § 1.)

§ 163. **Debt imprisonment.** — There shall be no imprisonment for debt. (P.L. No. 7-62, § 1.)

§ 164. **Free elementary education.** — Free elementary education shall be provided in Truk District. (P.L. No. 7-62, § 1.)
§ 165. Quartering of soldiers. — No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law. (P.L. No. 7-62, § 1.)

§ 166. Eminent domain. — There shall be no taking of private property for a public purpose until authorized and prescribed by general law pursuant to this section. The general law shall provide for just compensation, good faith negotiations for lease or purchase prior to a taking, the manner of the taking, and may prescribe further conditions and requirements. (P.L. No. 7-62, § 1.)

§ 167. Traditions and customs recognized. — Due recognition shall be given to traditions and customs in providing a system of law, and nothing in this article shall be construed to limit or invalidate any recognized tradition or custom, except as otherwise provided by law. (P.L. No. 7-62, § 1.)

§ 168. Construction of charter rights. — The enumeration of certain rights in this charter shall not be construed to impair or deny other rights of the people. (P.L. No. 7-62, § 1.)

ARTICLE II.

Suffrage and Elections.

§ 169. Qualifications for voting. — A citizen of the Trust Territory who has attained the age of eighteen years and is registered to vote in Truk District shall be qualified to vote in district elections. (P.L. No. 7-62, § 1.)

§ 170. Suffrage requirements prescribed by legislature; secrecy in voting. — The legislature shall prescribe a minimum period of residence and the method of voting at elections, and shall provide for voter registration, disqualification for conviction of crimes and disqualification for mental incompetence or insanity. Secrecy of voting shall be preserved. (P.L. No. 7-62, § 1.)

§ 171. Scheduling of elections. — General elections shall be held on the second Tuesday in March every four years; provided, that in the event of a natural disaster or other Act of God, the effect of which precludes holding the election on the foregoing date, the governor may proclaim a later election to be held within sixty days. Special elections may be held in accordance with law. (P.L. No. 7-62, § 1.)

§ 172. Contested elections. — Contested elections shall be determined by the district court in such manner as may be prescribed by law. (P.L. No. 7-62, § 1.)

§ 173. Plurality to determine election. — A plurality of votes given at an election by the people shall constitute a choice, where not otherwise provided by this chapter. (P.L. No. 7-62, § 1.)

§ 174. New election in case of tie. — A new election shall be ordered by the governor if two or more candidates have the highest and an equal number of votes, except in cases specially provided for by this charter. The election shall be limited to the candidates receiving the equal and highest number of votes. (P.L. No. 7-62, § 1.)
ARTICLE III.

The Legislature.

§ 175. Legislative power. — The legislative power of the district government is vested in the legislature. Such power shall extend to all rightful subjects of legislation not inconsistent with this charter, the United Nations charter and trusteeship agreement, and applicable orders of the President of the United States and the Secretary of the United States Department of the Interior. (P.L. No. 7-62, § 1.)

§ 176. Composition of legislature. — The legislature shall be composed of twenty-eight members who shall be elected by the qualified voters of the respective election districts. (P.L. No. 7-62, § 1.)

§ 177. Election districts determinative of membership. — Members of the legislature shall be elected from election districts and in the numbers shown in article XI of this charter. (P.L. No. 7-62, § 1.)

§ 178. General election; term of office. — The members of the legislature shall be elected by a general election. The term of office shall be four years commencing on the first Monday in May following the general election. (P.L. No. 7-62, § 1.)

§ 179. Vacancies. — Any vacancy in the legislature shall be filled for the unexpired term by special election, except that an unexpired term of less than one year shall be filled by appointment by the governor. (P.L. No. 7-62, § 1.)

§ 180. Eligibility. — No person shall be eligible to serve as a member of the legislature unless he is at least thirty years of age, has been a citizen of the Trust Territory for at least ten years, has been a resident of Truk District for at least five years and of the election district from which elected for at least one year immediately preceding filing for office, and is a qualified voter of the election district from which he seeks to be elected. (P.L. No. 7-62, § 1.)

§ 181. Felons not eligible. — A person convicted of a felony shall not be eligible to serve as a member of the legislature unless the person so convicted has received a pardon restoring his civil rights. (P.L. No. 7-62, § 1.)

§ 182. Legislators not to hold other public office or employment; conflicts of interest. — No member of the legislature shall hold another public office or employment, nor shall he, after his term for which he is elected or appointed, be elected or appointed to any public office or employment, which shall have been created, or the emoluments thereof shall have been increased, by legislative act during such term. The term "public office," for purposes of this section, shall not include notaries public, officers of emergency organizations for civilian defense or disaster relief, or an office created by the Congress of Micronesia or the legislature which specifically provides for a member of the legislature to hold such office.

A member of the legislature may not engage in any activity which conflicts with the proper discharge of his duties. The legislature may prescribe further disqualifications.

This section shall not apply to employment by or election to a constitutional convention or commission. (P.L. No. 7-62, § 1.)
§ 183. Immunities afforded legislators. — No member of the legislature shall be held to answer before any other tribunal for any statement made or action taken in the exercise of his legislative functions, and members of the legislature shall, in all cases except felony or breach of the peace, be privileged from arrest during their attendance at sessions or committee meetings of the legislature, and in going to and returning from the same. (P.L. No. 7-62, § 1.)

§ 184. Salaries of legislators. — The members of the legislature shall receive annual salaries as prescribed by law. Until otherwise provided by law, the salary of each member of the legislature shall be five thousand dollars a year; provided, that the speaker of the legislature shall receive a salary of seven thousand dollars a year. No law increasing salaries shall take effect until after the end of the term for which the members voting thereon were elected. (P.L. No. 7-62, § 1.)

§ 185. Procedure for convening; limitation of sessions; recesses. — The legislature shall convene annually in regular session at 9:30 a.m. on the first Monday in May, but the month and day may be changed by law. At the written request or vote of two-thirds of the members of the legislature, the speaker of the legislature shall convene the legislature in special session. The governor may convene the legislature in a special session. At a special session convened by the governor, legislation shall be limited to subjects designated in his proclamation convening the session or to subjects presented by him. Regular sessions shall be limited to a period of forty days, and special sessions shall be limited to a period of fifteen days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the speaker of the legislature at the vote of two-thirds of the members of the legislature or may be proclaimed by the governor. Any session may be recessed by a vote of a majority of the members of the legislature. Any days in recess pursuant to such vote shall be excluded in computing the number of days in any session. (P.L. No. 7-62, § 1.)

§ 186. Adjournment. — The legislature may adjourn sine die during any session by majority of the members of the legislature. (P.L. No. 7-62, § 1.)

§ 187. Powers generally. — The legislature shall be the judge of the qualifications of its members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of the members, by suspension or expulsion of such member.

The legislature shall choose its own officers, determine the rules of its proceedings and keep a journal. The legislature shall have and exercise all the authority and attributes inherent in legislative assemblies, including the power to institute and conduct investigations, issue subpoenas to witnesses and other concerned parties, and administer oaths. (P.L. No. 7-62, § 1.)

§ 188. Quorum. — Two-thirds of the members of the legislature shall constitute a quorum for the conduct of ordinary business of which quorum a majority vote shall suffice, but the final passage of a bill or resolution shall require the vote of a majority of the members and entered upon its journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the legislature may provide. (P.L. No. 7-62, § 1.)

§ 189. Enactment of laws; bills required; reference to titles; enacting clauses. — No law shall be passed except by bill. Each law shall embrace but
one subject, which shall be expressed in its title. No law or section of the law shall be amended or revised by reference to its title only, but in every instance such amendment or revision of the law or section thereof shall be published at full length and in its entirety as amended or revised. The enacting clause of each law shall be, "Be it enacted by the legislature of Truk District." (P.L. No. 7-62, § 1.)

§ 190. Same; readings. — No bill shall become law unless it shall pass two readings in the legislature on separate days. No bill shall pass final reading unless printed copies of the bill in the form to be passed shall have been made available to the members of the legislature for at least twenty-four hours. (P.L. No. 7-62, § 1.)

§ 191. Same; action by governor. — Every bill which shall have passed the legislature shall be certified by the speaker and chief clerk of the legislature and shall thereupon be presented to the governor. If the governor approves the bill, he shall sign it and it shall become law. If the governor does not approve the bill, he may return it with his objections to the legislature. The governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same, but he may veto other bills only as a whole.

The governor shall have ten days to consider bills presented to him ten or more days before adjournment of the legislature sine die, and if any bill is neither signed nor returned by the governor within that time, it shall become law in like manner as if he had signed it.

The governor shall have thirty days, after adjournment of the legislature sine die, to consider bills presented to him less than ten days before such adjournment, or presented after adjournment, and any such bill shall become law on the thirtieth day if it is neither signed nor returned on or before that day. (P.L. No. 7-62, § 1.)

§ 192. Same; procedure after veto by governor. — Upon the receipt of a veto message from the governor, the legislature may proceed to reconsider the vetoed bill, or the item or items vetoed, and again vote upon such bill, or such item or items. If after such reconsideration such bill, item or items, shall be approved by a two-thirds vote of the members of the legislature on one reading, the same shall become law.

If upon receipt of the veto message from the governor, the legislature is not in session or recess, the legislature may reconsider the vetoed bill in the next general or special session.

A vetoed bill may be amended to meet the governor's objections and, if so amended and passed, only one reading being required for such passage, it shall be presented again to the governor, but shall become law only if he shall sign it within ten days after presentation. (P.L. No. 7-62, § 1.)

§ 193. Publication and distribution of resolutions and laws. — The governor shall cause the resolutions and laws to be published in the English and Trukese languages within sixty days after they become laws, and shall make provision for their distribution to public officials and sale to the public. (P.L. No. 7-62, § 1.)

§ 194. Impeachment of governor, lieutenant governor or district court justice. — The governor, lieutenant governor or a justice of the district court may be removed from office upon conviction of impeachment for misfeasance or malfeasance in office, or for conviction of a felony.

The legislature shall have the power of impeachment and may exercise such power by a resolution of impeachment adopted by a two-thirds vote of the members of the legislature.
Upon the adoption of a resolution of impeachment of the governor or lieutenant governor, a notice of impeachment shall be forthwith served upon the chief justice of the district court by the chief clerk of the legislature. The chief justice shall thereupon call a session of the district court to meet within ten days after such notice to try the impeachment.

Upon the adoption of a resolution of impeachment of a justice of the district court, a notice of impeachment shall be forthwith served upon the governor by the chief clerk of the legislature. The governor shall thereupon convene a special tribunal as prescribed by law to meet within thirty days at the capital, to sit as a court to try such impeachment, which court shall organize by electing one of its number to preside.

A conviction of impeachment shall require the concurrence of two-thirds of the members of the district court or special tribunal.

The legislature may by law provide for the manner and procedure of removal by impeachment.

Judgments in cases of impeachment shall not extend beyond removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the district government, but such person convicted may nevertheless be liable and subject to indictment, trial, judgment and punishment according to the law.

No officer shall exercise his official duties after he shall have been impeached and notified thereof, until he shall have been acquitted. (P.L. No. 7-62, § 1.)

ARTICLE IV.

The Executive.

§ 195. Governor and lieutenant governor; executive powers vested; election; term; eligibility for office; holding other office; limitation of terms. — The executive power of the district government shall be vested in the governor.

The governor shall be elected by the qualified voters of Truk District at a general election. The person receiving the highest number of votes, and at least forty-five percent of the votes cast, shall be the governor. In case no person receives forty-five percent of the votes cast, the selection of the governor shall be determined by special election between the two persons receiving the highest number of votes in the general election.

The term of governor shall begin at noon on the third Monday in April following the general election and end at noon on the third Monday in April, four years thereafter.

No person shall be eligible for the office of the governor unless he is at least thirty-five years of age, is a citizen of the Trust Territory by birth, and a resident of Truk District for at least twenty-five years and, for the five years immediately preceding filing for office, is a qualified voter of Truk District, and never has been convicted of a felony unless he has received a pardon restoring his civil rights.

The governor shall not hold another public office or employment during his term of office.

No person who has been elected governor for two full successive terms shall again be eligible to hold that office until one full term has intervened. (P.L. No. 7-62, § 1.)

§ 196. Same; lieutenant governor. — There shall be a lieutenant governor who shall have the same qualifications as the governor. He shall be
§ 197. Same; salaries. — The governor and lieutenant governor shall receive annual salaries as prescribed by law. Such salaries shall not be increased or decreased for their respective terms of office, except by general law applying to salaried officers of the district government. (P.L. No. 7-62, § 1.)

§ 198. Same; vacancy in office. — When the office of the governor is vacant, the lieutenant governor shall become governor. In the event of the absence of the governor from Truk District, or his inability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon the lieutenant governor during such absence or disability.

When the office of the lieutenant governor is vacant, or in the event of the absence of the lieutenant governor from Truk District, or his inability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon such officers in such order of succession as may be provided by law.

Whenever, for a period of six months, the governor or the lieutenant governor has been continuously absent from office or has been unable to discharge the duties of his office by reason of mental or physical disability, the office shall be deemed vacant. The procedure for determining absence and disability may be prescribed by law. (P.L. No. 7-62, § 1.)

§ 199. Same; powers and duties generally. — The governor shall be responsible for the faithful execution of the laws. To this end he shall have power, by appropriate action or proceeding in the courts brought in the name of the district government, to enforce compliance with the charter or legislative power, duty, or right by any office, department or agency of the district government or any of its subdivisions; but this power shall not be construed to authorize any action or proceeding against the legislature. (P.L. No. 7-62, § 1.)

§ 200. Same; power to reprieve, commute and pardon. — The governor may grant reprieves, commutations and pardons, after conviction, subject to regulation by law, except in cases of impeachment. No reprieve, commutation or pardon may be granted to a person holding the office of governor or lieutenant governor. (P.L. No. 7-62, § 1.)

§ 201. Same; governor's message to legislature. — The governor shall communicate to the legislature, by message at the beginning of each regular session and at other times as he may deem necessary, the condition of the district, and shall in like manner recommend measures as he may deem desirable. (P.L. No. 7-62, § 1.)

§ 202. Offices and departments. — All executive and administrative offices, departments and instrumentalities of the district government and their respective functions, powers and duties shall be established by law.

Each principal department shall be under the supervision of the governor and shall be headed by a single executive unless otherwise provided by law. Such single executives shall be nominated and appointed by the governor, with the advice and consent of the legislature, to serve at the pleasure of the governor during his term of office and until the appointment and qualification of their successors, except that the removal of the chief legal officer of the district government shall be subject to the advice and consent of the legislature.
Whenever a board, commission or other body shall be the head of the principal department or a regulatory or quasi-judicial agency, the members thereof shall be nominated and appointed by the governor with the advice and consent of the legislature. The term of office and removal of members shall be as prescribed by law. (P.L. No. 7-62, § 1.)

§ 203. Declaration of emergency. — 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 governor may declare a state of emergency and issue appropriate decrees.

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

Within fifteen days after the declaration of emergency, the legislature shall convene at the call of the speaker or the governor 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 fifteen days. (P.L. No. 7-62, § 1.)

ARTICLE V.

The Judiciary.

§ 204. Vesting of judicial power. — The judicial power of the district government shall be vested in the district court, municipal courts, and other courts or tribunals as may from time to time be created by law. (P.L. No. 7-62, § 1.)

§ 205. District court; declared highest court; composition; vacancies. — The district court shall be the highest court of the district and shall consist of a chief justice and two associate justices. The number of associate justices may be increased by law upon the request of the district court. As prescribed by law, retired justices of the district court may serve temporarily on the district court at the request of the chief justice. In case of vacancy in the office of the chief justice, or if he is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the district court shall serve temporarily in his place. (P.L. No. 7-62, § 1.)

§ 206. Same; appointment and terms of justices. — The governor shall nominate and appoint, with the advice and consent of the legislature, the chief justice and associate justices of the district court. Justices of the district court shall hold their offices during good behavior. (P.L. No. 7-62, § 1.)

§ 207. Same; qualifications of justices. — A justice of the district court shall be a citizen of the Trust Territory by birth, be at least thirty-five years of age, have been a resident of Truk District for at least twenty-five years and for the five years immediately preceding his appointment, be learned in the law, and possess additional qualifications as may be prescribed by law. (P.L. No. 7-62, § 1.)

§ 208. Same; compensation of justices. — Compensation of justices of the district court shall be prescribed by law. Their compensation shall not be decreased during their respective terms of office, except by general law applying to salaried officers of the district government. (P.L. No. 7-62, § 1.)
§ 209. Justices or judges of municipal courts. — Justices or judges of municipal courts, and other courts or tribunals shall be selected in a manner, for terms, and with qualifications as prescribed by law. (P.L. No. 7-62, § 1.)

§ 210. Jurisdiction; unified judicial system. — The courts and tribunals shall have original and appellate jurisdiction as prescribed by law. The courts shall constitute a unified judicial system for operation and administration. (P.L. No. 7-62, § 1.)

§ 211. Promulgation of rules of administration and procedure; district court declared court of record. — The district court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing the practice and procedure in civil and criminal cases in all courts, which shall have the force and effect of law, provided that the legislature may establish or change such rules by law. The district court shall be a court of record. (P.L. No. 7-62, § 1.)

§ 212. Administrative head of courts. — The chief justice of the district court shall be the administrative head of all courts. The chief justice shall, with the approval of the district court, appoint an administrative director to serve at his pleasure and to supervise the administrative operations of the judicial system. (P.L. No. 7-62, § 1.)

ARTICLE VI.

Taxation and Finance.

§ 213. Surrender, suspension, etc., of power. — The power of taxation shall never be surrendered, suspended or contracted away, except as provided in this article. (P.L. No. 7-62, § 1.)

§ 214. Public purpose. — No tax shall be levied or appropriation of public money made or public property transferred except for a public purpose. (P.L. No. 7-62, § 1.)

§ 215. Residency not to affect rate. — The property of citizens of the Trust Territory residing without Truk District shall never be taxed at a higher rate than property belonging to the residents of Truk District. (P.L. No. 7-62, § 1.)

§ 216. Exemptions. — The property of the Trust Territory and the district government or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. Other exemptions may be granted by general law. (P.L. No. 7-62, § 1.)

§ 217. Private leaseholds; contracts or interests in government property. — Private leaseholds, contracts or interests in property owned or held by the Trust Territory, the district government or its political subdivisions shall be taxable to the extent of interest. (P.L. No. 7-62, § 1.)

§ 218. Standards of appraisal. — Standards of appraisal of all property assessed by the district government or its political subdivisions shall be prescribed by law. (P.L. No. 7-62, § 1.)
§ 219. Appropriation bills not to be in excess of available revenues. — Appropriation bills enacted by the legislature shall not provide for the appropriation of funds in excess of amounts as are available or estimated to be available from revenues raised pursuant to the tax laws or other revenue laws of the district government and received or estimated to be received from tax laws and other revenues laws of the Trust Territory or from any other source. (P.L. No. 7-62, § 1.)

§ 220. Withdrawals and obligations to be authorized by law. — No money shall be withdrawn from the district government treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void. (P.L. No. 7-62, § 1.)

§ 221. Submission by governor of budget and bills to legislature. — The governor shall submit to the legislature, at a time prescribed by law, a budget setting forth a complete plan of proposed expenditures and anticipated receipts of the district government for the ensuing fiscal year, together with other information as the legislature may require. The budget shall be submitted in a form prescribed by law.

The governor shall also, upon the opening of each regular session of the legislature, submit bills to provide for proposed expenditures and for any recommended additional revenues by which the proposed expenditures are to be met. Such bills shall be introduced in the legislature upon the opening of each regular session. (P.L. No. 7-62, § 1.)

§ 222. Auditor. — The legislature may appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct audits as prescribed by law and shall report to the legislature and the governor. (P.L. No. 7-62, § 1.)

ARTICLE VII.

Local Government.

§ 223. Creation of municipalities and political subdivisions. — The legislature may create municipalities and other political subdivisions within the district and provide for the government thereof. Each municipality or political subdivision shall have and exercise powers as shall be conferred under general laws. Municipalities may be merged, consolidated, classified, reclassified or dissolved in a manner prescribed by general law. (P.L. No. 7-62, § 1.)

§ 224. Municipal charters; qualification of law as general. — Each municipality shall have power to frame and adopt a charter for its own self-government within limits and under procedures as may be prescribed by general law.

Municipal charter provisions with respect to a municipality's structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions of municipalities.

A law may qualify as a general law even though it is inapplicable to one or more municipalities for purposes of the provisions of this section. (P.L. No. 7-62, § 1.)
§ 225. Delegation of taxing power. — The taxing power shall be reserved to the district government, except so much thereof as may be delegated by the legislature to the municipalities, and the legislature shall have the power to apportion district revenues among the several municipalities. (P.L. No. 7-62, § 1.)

§ 226. Agreements between municipalities and/or district government. — Agreements, including those for cooperative or joint administration of any functions of powers, may be made by any municipality with any other municipality, or with the district government, unless otherwise provided by law or municipal charter. (P.L. No. 7-62, § 1.)

§ 227. Advisory agency. — An agency shall be established by law in the executive branch of the district government to advise and assist municipal governments, and perform other duties as prescribed by law. (P.L. No. 7-62, § 1.)

ARTICLE VIII.

Health, Education and Welfare.

§ 228. Promotion of public health. — The district government shall provide for the protection and promotion of the public health. (P.L. No. 7-62, § 1.)

§ 229. Handicapped persons. — The district government shall have the power to provide for treatment and rehabilitation, as well as domiciliary care, of mentally or physically handicapped persons. (P.L. No. 7-62, § 1.)

§ 230. Assistance to disadvantaged. — The district government shall have the power to provide assistance to persons unable to maintain a standard of living compatible with decency and health. (P.L. No. 7-62, § 1.)

§ 231. Development and preservation of natural beauty or historic or cultural interests. — The district government shall have the power to conserve and develop the district's natural beauty, objects and places of historic or cultural interest, sightliness and physical good order, and for that purpose private property shall be subject to reasonable regulation by law. (P.L. No. 7-62, § 1.)

§ 232. Public schools; libraries. — The district government shall provide for the establishment and support of a district-wide system of public schools free from sectarian control, public libraries and other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no segregation in public educational institutions because of race, religion or ancestry. (P.L. No. 7-62, § 1.)

ARTICLE IX.

Conservation and Development of Resources.

§ 233. Promotion. — The district government shall promote the conservation and development of agricultural, marine, mineral, forest, water, land and other natural resources. (P.L. No. 7-62, § 1.)
§ 234. **Harmful substances.** — Radioactive, toxic chemical, or other harmful substances shall not be tested, stored, used or disposed of within the jurisdiction of the district without the express approval of the district government and concerned municipal governments in a manner prescribed by law. (P.L. No. 7-62, § 1.)

§ 235. **Acquisition of title to property.** — Title to land or waters within the district may be acquired only by citizens of the Trust Territory or corporations wholly owned by such citizens. (P.L. No. 7-62, § 1.)

**ARTICLE X.**

*General Provisions.*

§ 236. **Capital.** — Moen Island shall be the capital of the Truk District government. (P.L. No. 7-62, § 1.)

§ 237. **Cooperation between districts and/or Trust Territory.** — The district government and its political subdivisions may cooperate with the Trust Territory and other districts and their political subdivisions on matters of common interest, and funds may be appropriated to effect such cooperation. (P.L. No. 7-62, § 1.)

§ 238. **Civil service employment.** — The employment of persons in the civil service, as defined by law, of or under the district government, shall be governed by the merit principle. (P.L. No. 7-62, § 1.)

§ 239. **Oath for public officers.** — All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the charter of the Truk District government, and that I will faithfully discharge my duties as ——— to the best of my ability." The legislature may prescribe further oaths or affirmations. (P.L. No. 7-62, § 1.)

§ 240. **Enumerated powers not exclusive.** — The enumeration in this charter of specific powers shall not be construed as limitations upon the power of the district government to provide for the general welfare of the people. (P.L. No. 7-62, § 1.)

§ 241. **Provisions of charter to be self-executing.** — The provisions of this charter shall be self-executing to the fullest extent that their respective natures permit. (P.L. No. 7-62, § 1.)

**ARTICLE XI.**

*Legislature Election Districts.*

§ 242. **First election district.** — The first election district shall be the islands of Moen, Fono and Pis and shall have five members. (P.L. No. 7-62, § 1.)

§ 243. **Second election district.** — The second election district shall be the islands of Dublon and Etten and shall have two members. (P.L. No. 7-62, § 1.)
§ 244. Third election district. — The third election district shall be the islands of Fefan, Parem and Tsis and shall have three members. (P.L. No. 7-62, § 1.)

§ 245. Fourth election district. — The fourth election district shall be the island of Uman and shall have two members. (P.L. No. 7-62, § 1.)

§ 246. Fifth election district. — The fifth election district shall be the islands of Udot, Romalum, Eot and Fanapanges and shall have two members. (P.L. No. 7-62, § 1.)

§ 247. Sixth election district. — The sixth election district shall be the island of Tol and shall have three members. (P.L. No. 7-62, § 1.)

§ 248. Seventh election district. — The seventh election district shall be the islands of Patta, Polle and Wonei and shall have two members. (P.L. No. 7-62, § 1.)

§ 249. Eighth election district. — The eighth election district shall be the islands of Losap, Pis-Losap and Nama and shall have two members. (P.L. No. 7-62, § 1.)

§ 250. Ninth election district. — The ninth election district shall be the islands of Namoluk, Ettal, Kuttu and Moch and shall have two members. (P.L. No. 7-62, § 1.)

§ 251. Tenth election district. — The tenth election district shall be the islands of Oneop, Lukunor, Satawan and Ta and shall have two members. (P.L. No. 7-62, § 1.)

§ 252. Eleventh election district. — The eleventh election district shall be the islands of Fananu, Murilo, Namwin and Ruo and shall have one member. (P.L. No. 7-62, § 1.)

§ 253. Twelfth election district. — The twelfth election district shall be the islands of Pulap, Pulusuk, Puluwat and Tamatam and shall have one member. (P.L. No. 7-62, § 1.)

§ 254. Thirteenth election district. — The thirteenth election district shall be the islands of Magur, Onari, Ono, Pisarach and Ulul and shall have one member. (P.L. No. 7-62, § 1.)

ARTICLE XII.

Amendment and Revision.

§ 255. Manner of adoption. — Revisions of or amendments to this charter may be proposed by the legislature by adopting the same in the manner required for legislation, by a two-thirds vote of the members of the legislature. (P.L. No. 7-62, § 1.)

§ 256. Submission to electorate. — At a general or special election, or a referendum prescribed by law, following adoption by the legislature of the proposed amendments or revisions, the proposed amendments or revisions shall be submitted to the electorate for approval or rejection upon a separate ballot.
The amendments or revisions shall be effective only if approved by a majority of votes tallied upon the question.

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operations. (P.L. No. 7-62, § 1.)

§ 257. Amendments adopted not subject to veto. — No proposal for amendment or revision of this charter adopted in a manner provided by this article shall be subject to veto by the governor. (P.L. No. 7-62, § 1.)

§ 258. High Commissioner; power to amend. — The High Commissioner may amend or revise this charter on his own initiative, unless otherwise provided by law. (P.L. No. 7-62, § 1.)

ARTICLE XIII.

Transition.

§ 259. Governor responsible for administration of programs. — The governor shall be personally and legally responsible to the High Commissioner for the administration of programs, projects and activities of the Trust Territory government including any appropriation, apportionment, reapportionment or allotment of funds of the United States Congress, the Congress of Micronesia, the legislature or from any other source, unless otherwise provided by law. (P.L. No. 7-62, § 1.)

§ 260. Previous consistent laws to continue in force. — All laws in force in Truk District on the effective date of this charter and consistent therewith shall continue in force until they expire by their own limitation, or are amended or repealed. (P.L. No. 7-62, § 1.)

§ 261. Effect of charter on contracts, suits, etc. — Except as otherwise provided in this charter, all rights, titles, actions, suits, contracts, and liabilities and all civil, criminal or administrative proceedings shall continue unaffected, and the chartered district government shall be the legal successor to the unchartered district government in these matters. (P.L. No. 7-62, § 1.)

§ 262. Exercise of powers and functions by existing subdivisions. — Political subdivisions of the unchartered district government existing on the effective date of this charter shall continue to exercise their powers and functions under existing law, pending enactment of legislation to carry out the provisions of this charter. New political subdivisions may be created only in accordance with this charter. (P.L. No. 7-62, § 1.)

§ 263. Performance of duties by current officers. — All officers of the unchartered district government, or under its laws, shall continue on the effective date of this charter to perform the duties of their offices in a manner consistent with this charter until they are superseded by officers of the chartered district government. The provisions of sections 180, 182, and 184 of article III shall not apply to members of the legislature until the first Monday in May of 1978. (P.L. No. 7-62, § 1.)

§ 264. First general election. — The first general election shall take place not less than ninety days after the effective date of this charter in case the charter becomes effective after the second Tuesday in January, 1978;
§ 265. Terms of district officials. — In case the first general election takes place after the second Tuesday in March of 1978, the dates of the beginning of the terms of the elected district officials and the convening date of the legislature shall be delayed by the number of days the general election succeeds the second Tuesday in March. The terms of the district officials shall count as full terms. (P.L. No. 7-62, § 1.)

§ 266. Legislators not prohibited from holding office created in first term of first legislature. — The provisions of section 182 of article III shall not prohibit any member of the first legislature under this charter from holding any office or position after his first term. (P.L. No. 7-62, § 1.)

§ 267. Effective date. — This charter shall take effect upon the passage by the Congress of Micronesia and subsequent approval by the High Commissioner of all proposed district charters which are submitted to the Congress of Micronesia pursuant to public law no. 6-130, as amended. (P.L. No. 7-62, § 1.)

§ 268. Trukese translation. — The legislature shall adopt an official Trukese translation of this charter after the charter is approved by the High Commissioner. (P.L. No. 7-62, § 1.)
CHAPTER 4.

YAP DISTRICT CHARTER.

Editor's Note. Section 1 of P.L. No. 7-62 provides, in part: "The purpose of this Charter is to grant a greater degree of self-government to the people of Yap District in promoting their general welfare with due recognition given to their traditions and customs pursuant to the United Nations Charter and Trusteeship Agreement."

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ARTICLE I.

Bill of Rights.

§ 269. Freedom of speech; right of peaceable assembly and petition for redress. — No law shall deny or impair freedom of speech or of the press, or the right of the people to peaceably assemble and to petition the district government for a redress of grievances. (P.L. No. 7-122, § 1.)

§ 270. Freedom of religion. — No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof, except that assistance may be provided to parochial schools for nonreligious purposes. (P.L. No. 7-122, § 1.)

§ 271. Search and seizure; invasion of privacy. — The right of the people to be secure in their persons, houses, papers and effects, against unreasonable search, seizure or invasion of privacy, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. (P.L. No. 7-122, § 1.)

§ 272. Due process; equal protection; civil rights. — No person shall be deprived of life, liberty, or property, without due process of law, or be denied the equal protection of the laws, or be denied the enjoyment of his civil rights, or be discriminated against in the exercise thereof, on account of race, sex, religion, language, ancestry or national origin. (P.L. No. 7-122, § 1.)

§ 273. Rights of accused. — In all criminal prosecutions, the accused shall enjoy the right to a speedy public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (P.L. No. 7-122, § 1.)

§ 274. Freedom from self-incrimination; double jeopardy. — No person shall be compelled in any criminal case to be a witness against himself, or against a member of his family as prescribed by law, or be twice put in jeopardy for the same offense. (P.L. No. 7-122, § 1.)

§ 275. Excessive bail; excessive fines; cruel and unusual punishment. — Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment, as determined by the values of Yap District, inflicted. (P.L. No. 7-122, § 1.)

§ 276. Capital punishment. — Capital punishment shall be prohibited. (P.L. No. 7-122, § 1.)

§ 277. Privilege of habeas corpus. — The writ of habeas corpus shall be granted without delay, and the privilege of the writ of habeas corpus shall not be suspended, except by the governor and then only when public safety requires it in the case of war, rebellion, insurrection or invasion. (P.L. No. 7-122, § 1.)

§ 278. Bills of attainder; ex post facto laws; impairment of contracts. — No bill of attainder, ex post facto law or law impairing the obligations of contract shall be enacted. (P.L. No. 7-122, § 1.)
§ 279. Freedom of movement and migration. — Subject only to the requirements of public order and security, no law shall be enacted to restrict the freedom of movement and migration. (P.L. No. 7-122, § 1.)

§ 280. Slavery; involuntary servitude. — Neither slavery nor, except as punishment for crime, involuntary servitude shall exist in Yap District. (P.L. No. 7-122, § 1.)

§ 281. Debt imprisonment. — There shall be no imprisonment for debt. (P.L. No. 7-122, § 1.)

§ 282. Free elementary education. — Free elementary education shall be provided in Yap District. (P.L. No. 7-122, § 1.)

§ 283. Quartering of soldiers. — No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law. (P.L. No. 7-122, § 1.)

§ 284. Eminent domain. — The legislature shall provide by general law for the taking of private property for a public purpose. The general law shall provide for just compensation, good faith negotiations for lease or purchase prior to a taking, the manner of the taking, and may prescribe further conditions and requirements; except, that nothing in this charter shall in any way restrict or impair the paramount power of eminent domain in the central government of the Trust Territory. (P.L. No. 7-122, § 1.)

§ 285. Traditions and customs recognized. — Due recognition shall be given to traditions and customs in providing a system of law, and nothing in this article shall be construed to limit or invalidate any recognized tradition or custom, except as otherwise provided by law. (P.L. No. 7-122, § 1.)

§ 286. Construction of charter rights. — The enumeration of certain rights in this charter shall not be construed to impair or deny other rights of the people. (P.L. No. 7-122, § 1.)

ARTICLE II.

Suffrage and Elections.

§ 287. Qualifications for voting. — A citizen of the Trust Territory who has attained the age of eighteen years and is registered to vote in Yap District shall be qualified to vote in district elections. (P.L. No. 7-122, § 1.)

§ 288. Suffrage requirements prescribed by legislature; secrecy in voting. — The legislature shall prescribe a minimum period of residence and the method of voting at elections, and shall provide for voter registration, disqualification for conviction of crimes and disqualification for mental incompetence or insanity. Secrecy of voting shall be preserved. (P.L. No. 7-122, § 1.)

§ 289. Schedule of elections. — General elections shall be held on the first Tuesday following the first Monday in November in an even numbered year every four years; provided, that in the event of a natural disaster or other Acts of God, the effect of which precludes holding the election on the foregoing date, the governor may proclaim a later election to be held within sixty days. Special elections may be held in accordance with law. (P.L. No. 7-122, § 1.)
§ 290. **Contested elections.** — Contested elections shall be determined by the district court in such manner as may be prescribed by law. (P.L. No. 7-122, § 1.)

§ 291. **Plurality to determine election.** — A plurality of votes given at an election by the people shall constitute a choice, where not otherwise provided by this charter. (P.L. No. 7-122, § 1.)

§ 292. **New election in case of tie.** — A new election shall be ordered by the chief justice of the district court if two or more candidates have the highest and equal number of votes, except in cases specially provided for by this charter. The election shall be limited to the candidates receiving the equal and highest number of votes. (P.L. No. 7-122, § 1.)

**ARTICLE III.**

The Legislature.

§ 293. **Legislative power.** — The legislative power of the district government is vested in the legislature. Such power shall extend to all rightful subjects of legislation; except that no legislation may be inconsistent with this charter, the United Nations charter and trusteeship agreement, laws of the United States applicable in the Trust Territory applicable orders of the President of the United States and the Secretary of the United States Department of the Interior, and the laws of the Trust Territory. (P.L. No. 7-122, § 1.)

§ 294. **Composition of legislature.** — The legislature shall be composed of ten members who shall be elected by the qualified voters of the respective election districts. (P.L. No. 7-122, § 1.)

§ 295. **Election districts determinative of membership.** — Members of the legislature shall be elected from election districts and in the numbers shown in article XII of this charter. (P.L. No. 7-122, § 1.)

§ 296. **General election; term of office.** — The members of the legislature shall be elected at a general election. The term of office shall be four years commencing on the third Monday in January following the general election. (P.L. No. 7-122, § 1.)

§ 297. **Vacancies.** — Any vacancy in the legislature shall be filled for the unexpired term by special election, except that an unexpired term of less than one year shall be filled by appointment by the governor. (P.L. No. 7-122, § 1.)

§ 298. **Eligibility.** — No person shall be eligible to serve as a member of the legislature unless he is at least twenty-five years of age, has been a citizen of the Trust Territory for at least ten years, has been a resident of Yap District for at least five years and of the election district from which elected for at least one year immediately preceding filing for office, and is a qualified voter of the election district from which he seeks to be elected. (P.L. No. 7-122, § 1.)

§ 299. **Felons not eligible.** — A person convicted of a felony shall not be eligible to serve as a member of the legislature unless the person so convicted has received a pardon restoring his civil rights. (P.L. No. 7-122, § 1.)
§ 300. Legislators not to hold other public office or employment; conflicts of interest. — No member of the legislature shall hold another public office or public employment, nor shall he, for one year succeeding the term for which he is elected or appointed, be elected or appointed to any public office or employment, which shall have been created, or the emoluments thereof shall have been increased, by legislative act during such term. The term "public office," for purposes of this section, shall not include traditional leaders, notaries public, officers of emergency organizations for civilian defense or disaster relief or an office created by the Congress of Micronesia or the legislature which specifically provides for a member of the legislature to hold such office.

A member of the legislature may not engage in any activity which conflicts with the proper discharge of his duties. The legislature may prescribe further disqualifications.

This section shall not apply to employment by or election to a constitutional convention or commission. (P.L. No. 7-122, § 1.)

§ 301. Immunities afforded legislators. — No member of the legislature shall be held to answer before any other tribunal for any statement made or action taken in the exercise of his legislative functions, and members of the legislature shall, in all cases except felony or breach of the peace, be privileged from arrest during their attendance at sessions or committee meetings of the legislature, and in going to and returning from the same. (P.L. No. 7-122, § 1.)

§ 302. Salaries of legislators. — The members of the legislature shall receive annual salaries as prescribed by law. Until otherwise provided by law, the salary of each member of the legislature shall be five thousand dollars a year; provided, that the speaker of the legislature shall receive a salary of six thousand dollars a year. No law increasing salaries shall take effect until after the end of the term for which the members voting thereon were elected. (P.L. No. 7-122, § 1.)

§ 303. Procedure for convening; limitation of sessions; recesses. — The legislature shall convene annually in regular session at 9:30 a.m. on the third Monday in January, but the month and day may be changed by law.

At the written request or vote of two-thirds of the members of the legislature, the speaker of the legislature shall convene the legislature in special session. The governor may convene the legislature in a special session. At a special session, legislation shall be limited to subjects designated in the proclamation convening the session or to subjects presented by the governor.

Regular sessions shall be limited to a period of forty days, and special sessions shall be limited to a period of fifteen days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the speaker of the legislature at the vote of two-thirds of the members of the legislature or may be proclaimed by the governor.

Any session may be recessed by a vote of a majority of the members of the legislature. Any days in recess pursuant to such vote shall be excluded in computing the number of days in any session. (P.L. No. 7-122, § 1.)

§ 304. Adjournment. — The legislature may adjourn sine die during any session by a vote of a majority of the members of the legislature. (P.L. No. 7-122, § 1.)

§ 305. Powers generally. — The legislature shall be the judge of the qualifications of its members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of the members, by suspension or expulsion of such member.
The legislature shall choose its own officers, determine the rules of its proceedings and keep a journal. The legislature shall have and exercise all the authority and attributes inherent in legislative assemblies, including the power to institute and conduct investigations, issue subpoenas to witnesses and other concerned parties, and administer oaths. (P.L. No. 7-122, § 1.)

§ 306. Quorum. — Two-thirds of the members of the legislature shall constitute a quorum for the conduct of ordinary business of which quorum a majority vote shall suffice, but the final passage of a bill or resolution shall require the vote of a majority of the members and entered upon its journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the legislature may provide. (P.L. No. 7-122, § 1.)

§ 307. Enactment of laws; bills required; reference to title; enacting clauses. — No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. No law or section of the law shall be amended or revised by reference to its title only, but in every instance such amendment or revision of the law or section thereof shall be published at full length and in its entirety as amended or revised. The enacting clause of each law shall be, "Be it enacted by the legislature of Yap District." (P.L. No. 7-122, § 1.)

§ 308. Same; readings. — No bill shall become law unless it shall pass two readings in the legislature on separate days. No bill shall pass final reading unless printed copies of the bill in the form to be passed shall have been made available to the members of the legislature for at least twenty-four hours. (P.L. No. 7-122, § 1.)

§ 309. Same; consideration by Pilung and Tamol councils. — A certified copy of every bill which shall have passed the legislature shall be presented to the council of Pilung and the council of Tamol for consideration. The councils shall have the power to disapprove a bill which concerns tradition and custom or the role or function of a traditional leader as recognized by tradition and custom. The councils shall be the judge of the concernment of such bill. (P.L. No. 7-122, § 1.)

§ 310. Same; disapproval by Pilung and Tamol councils. — The council of Pilung and the council of Tamol may disapprove a bill by returning the certified copies of the bill with their objections within thirty days after it is received from the legislature.

A disapproved bill may be amended to meet the councils' objections and, if so amended and passed, only one reading being required for such passage, it shall be presented again to the councils. (P.L. No. 7-122, § 1.)

§ 311. Same; action by governor. — Every bill which shall have passed the legislature and has not been disapproved by the council of Pilung and the council of Tamol, or where both councils inform the legislature that the bill will not be disapproved, shall be certified by the speaker and chief clerk of the legislature and shall be presented to the governor. If the governor approves the bill, he shall sign it and it shall become law. If the governor does not approve the bill, he may return it with his objections to the legislature. The governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same, but he may veto other bills only as a whole.

The governor shall have ten days to consider bills presented to him ten or more days before adjournment of the legislature sine die, and if any bill is
neither signed nor returned by the governor within that time, it shall become law in like manner as if he had signed it.

The governor shall have thirty days, after adjournment of the legislature sine die, to consider bills presented to him less than ten days before such adjournment, or presented after adjournment, and any such bill shall become law on the thirtieth day if it is neither signed nor returned on or before that day. (P.L. No. 7-122, § 1.)

§ 312. Same; procedure after veto by governor. — Upon the receipt of a veto message from the governor, the legislature may proceed to reconsider the vetoed bill, or the item or items vetoed, and again vote upon such bill, or such item or items. If after such reconsideration such bill, item or items, shall be approved by a two-thirds vote of the members of the legislature on one reading, the same shall become law.

If upon receipt of the veto message from the governor, the legislature is not in session or recess, the legislature may reconsider the vetoed bill in the next general or special session.

A vetoed bill may be amended to meet the governor’s objections and, if so amended and passed, only one reading being required for such passage, it shall be presented again to the governor, but shall become law only if he shall sign it within ten days after presentation. (P.L. No. 7-122, § 1.)

§ 313. Impeachment of governor, lieutenant governor or district court justice. — The governor, lieutenant governor or a justice of the district court may be removed from office upon conviction of impeachment for misfeasance or malfeasance in office, or for conviction of a felony.

The legislature shall have the power of impeachment and may exercise such power by a resolution of impeachment adopted by a two-thirds vote of the members of the legislature.

Upon the adoption of a resolution of impeachment of the governor or lieutenant governor, a notice of impeachment shall be forthwith served upon the chief justice of the district court by the chief clerk of the legislature. The chief justice shall thereupon call a session of the district court to meet within ten days after such notice to try the impeachment.

Upon the adoption of a resolution of impeachment of a justice of the district court, a notice of impeachment shall be forthwith served upon the governor by the chief clerk of the legislature. The governor shall thereupon convene a special tribunal as prescribed by law to meet within thirty days at the capital, to sit as a court to try such impeachment, which court shall organize by electing one of its members to preside.

A conviction of impeachment shall require the concurrence of two-thirds of the members of the district court or special tribunal.

The legislature may by law provide for the manner and procedure of removal by impeachment.

Judgments in cases of impeachment shall not extend beyond removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the district government, but such person convicted may nevertheless be liable and subject to indictment, trial, judgment and punishment according to the law. (P.L. No. 7-122, § 1.)
§ 314. Governor and lieutenant governor; executive powers vested; election; term; eligibility for office; holding other office; limitation of terms. — The executive power of the district government shall be vested in the governor.

The governor shall be elected by the qualified voters of Yap District at a general election. The person receiving the highest number of votes, and at least forty-five percent of the votes cast, shall be the governor. In case no person receives forty-five percent of the votes cast, the selection of the governor shall be determined by special election between the two persons receiving the highest number of votes in the general election.

The term of governor shall begin at noon on the second Monday in January following the general election and end at noon on the second Monday in January, four years thereafter.

No person shall be eligible for the office of the governor unless he is at least thirty-five years of age, is a citizen of the Trust Territory by birth, and a resident of Yap District for at least twenty-five years and, for the five years immediately preceding filing for office, is a qualified voter of Yap District, and never has been convicted of a felony unless he has received a pardon restoring his civil rights.

The governor shall not hold another public office or employment during his term of office.

No person who has been elected governor for two full successive terms shall again be eligible to hold that office until one full term has intervened. (P.L. No. 7-122, § 1.)

§ 315. Same; lieutenant governor. — There shall be a lieutenant governor who shall have the same qualifications as the governor, provided, that in case the governor is a resident of the Yap Islands Proper, the lieutenant governor shall be a resident of the Outer Islands, and in case the governor is a resident of the Outer Islands, the lieutenant governor shall be a resident of the Yap Islands Proper.

Where the governor is a resident of the Yap Islands Proper, the governor shall nominate and appoint the lieutenant governor with the advice and consent of the council of Tamol, and where the governor is a resident of the Outer Islands, the governor shall nominate and appoint the lieutenant governor with the advice and consent of the council of Pilung. (P.L. No. 7-122, § 1.)

§ 316. Same; salaries. — The governor and lieutenant governor shall receive annual salaries as prescribed by law. Such salaries shall not be increased or decreased for their respective terms of office, except by general law applying to salaried officers of the district government. (P.L. No. 7-122, § 1.)

§ 317. Same; vacancy in office. — A vacancy in the office of the governor shall be filled for the unexpired term by special election, except that when there is an unexpired term of less than one year, the lieutenant governor shall become governor. In the event of the absence of the governor from Yap District, or his inability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon the lieutenant governor during such absence or disability.

A vacancy in the office of the lieutenant governor shall be filled in the same manner as the original appointment, and in the event of the absence of the
lieutenant governor from Yap District, or his inability to exercise and
discharge the powers and duties of his office, such powers and duties shall
devolve upon such officers in such order of succession as may be provided by

Whenever for a period of six months the governor or the lieutenant governor
has been continuously absent from office or has been unable to discharge the
duties of his office by reason of mental or physical disability, the office shall
be deemed vacant. The procedure for determining absence and disability may
be prescribed by law. (P.L. No. 7-122, § 1.)

§ 318. Powers and duties generally. — The governor shall be responsible
for the faithful execution of the laws. To this end he shall have power, by
appropriate action or proceeding in the courts brought in the name of the
district government, to enforce compliance with the charter or legislative
power, duty, or right by any office, department or agency of the district
government or any of its subdivisions. This power shall not be construed to
authorize any action or proceeding against the legislature. (P.L. No. 7-122,
§ 1.)

§ 319. Same; power to reprieve, commute and pardon. — The governor
may grant reprieves, commutations and pardons, after conviction, subject to
regulation by law, except in cases of impeachment. No reprieve, commutation
or pardon may be granted to a person holding the office of governor or
lieutenant governor. (P.L. No. 7-122, § 1.)

§ 320. Same; governor's message to legislature. — The governor shall
communicate to the legislature, by message at the beginning of each regular
session and at other times as he may deem necessary, the condition of the
district, and shall in like manner recommend measures as he may deem
desirable. (P.L. No. 7-122, § 1.)

§ 321. Offices and departments. — All executive and administrative
offices, departments and instrumentalities of the district government and their
respective functions, powers and duties shall be established by law.

Each principal department shall be under the supervision of the governor
and shall be headed by a single executive unless otherwise provided by law.
Such single executives shall be nominated and appointed by the governor, with
the advice and consent of the legislature, to serve at the pleasure of the
governor during his term of office and until the appointment and qualification
of their successors, except that the removal of the chief legal officer of the
district government shall be subject to the advice and consent of the
legislature.

Whenever a board, commission or other body shall be the head of the
principal department or a regulatory or quasi-judicial agency, the members
shall be nominated and appointed by the governor with the advice and consent
of the legislature. The term of office and removal of members shall be as
prescribed by law. (P.L. No. 7-122, § 1.)

§ 322. Declaration of emergency. — 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 governor may
declare a state of emergency and issue appropriate decrees.

A declaration of emergency shall not impair the power of the judiciary except
that the declaration shall be free from judicial interference for fifteen days
after it is first issued. A declaration of emergency may impair a civil right to
the extent actually required for the preservation of peace, health or safety.
Within thirty days after the declaration of emergency, the legislature shall convene at the call of the speaker or the governor 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 thirty days. (P.L. No. 7-122, § 1.)

ARTICLE V.

The Judiciary.

§ 323. Vesting of judicial power. — The judicial power of the district government shall be vested in the district court, municipal courts, and other courts or tribunals as may from time to time be created by law, except that nothing contained in this article shall be construed to limit, restrict, or modify the authority or jurisdiction of the High Court for the Trust Territory. (P.L. No. 7-122, § 1.)

§ 324. District courts; declared highest court; composition; vacancies. — The district court shall be the highest court of the district and shall consist of a chief justice and two associate justices. The number of associate justices may be increased by law upon the request of the district court. As prescribed by law, retired justices of the district court may serve temporarily on the district court at the request of the chief justice. In case of vacancy in the office of the chief justice, or if he is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the district court shall serve temporarily in his place. (P.L. No. 7-122, § 1.)

§ 325. Same; appointment and terms of justices. — The governor shall nominate and appoint, with the advice and consent of the legislature, the chief justice and associate justices of the district court. Justices of the district court shall hold their offices during good behavior. (P.L. No. 7-122, § 1.)

§ 326. Same; qualifications of justices. — A justice of the district court shall be a citizen of the Trust Territory by birth, be at least thirty-five years of age, have been a resident of Yap District for at least twenty-five years and for the five years immediately preceding his appointment, be learned in the law, and possess additional qualifications as may be prescribed by law. (P.L. No. 7-122, § 1.)

§ 327. Same; compensation of justices. — Compensation of justices of the district court shall be prescribed by law. Their compensation shall not be decreased during their respective terms of office, except by general law applying to salaried officers of the district government. (P.L. No. 7-122, § 1.)

§ 328. Justices and judges of municipal courts. — Justices or judges of municipal courts, and other courts or tribunals, shall be selected in a manner, for terms, and with qualifications as prescribed by law. (P.L. No. 7-122, § 1.)

§ 329. Jurisdiction; unified judicial system. — The courts and tribunals shall have original and appellate jurisdiction as prescribed by law. The courts shall constitute a unified judicial system for operation and administration. (P.L. No. 7-122, § 1.)

§ 330. Promulgation of rules of administration and procedure; district court declared court of record. — The district court shall make and
promulgate rules governing the administration of all courts. It shall make and
promulgate rules governing the practice and procedure in civil and criminal
cases in all courts, which shall have the force and effect of law, provided, that
the legislature may establish or change such rules by law. The district court
shall be a court of record. (P.L. No. 7-122, § 1.)

§ 331. Administrative head of courts. — The chief justice of the district
court shall be the administrative head of all courts. The chief justice shall, with
the approval of the district court, appoint an administrative director to serve
at his pleasure and to supervise the administrative operations of the courts.
(P.L. No. 7-122, § 1.)

§ 332. Court decisions. — Court decisions shall be consistent with this
charter, Yap traditions and customs, and the social and geographical
configuration of Yap District. (P.L. No. 7-122, § 1.)

ARTICLE VI.

Councils of Traditional Leaders.

§ 333. Created; functions. — There shall be a council of Pilung and council
of Tamol which shall exercise legislative, judicial and executive functions
which concern tradition and custom as prescribed by this charter or by statute.
(P.L. No. 7-122, § 1.)

§ 334. Council of Pilung. — The council of Pilung shall be composed of
traditional leaders of the respective municipalities of the Yap Islands Proper.
The traditional leaders of each municipality shall appoint one member to the
council and provide for the manner of succession. (P.L. No. 7-122, § 1.)

§ 335. Council of Tamol. — The council of Tamol shall be composed of
traditional leaders of the respective municipalities of the Outer Islands. The
traditional leaders of each municipality shall appoint one member to the
council and provide for the manner of succession. The chairman of the council
shall be the paramount traditional leader recognized by the people of the Outer
Islands. (P.L. No. 7-122, § 1.)

ARTICLE VII.

Taxation and Finance.

§ 336. Surrender, suspension, etc., of power. — The power of taxation
shall never be surrendered, suspended or contracted away, except as provided
in this article. (P.L. No. 7-122, § 1.)

§ 337. Public purpose. — No tax shall be levied or appropriation of public
money made or public property transferred except for a public purpose. (P.L.
No. 7-122, § 1.)

§ 338. Residency not to affect rate. — The property of citizens of the
Trust Territory residing without Yap District shall never be taxed at a higher
rate than property belonging to the residents of Yap District. (P.L. No. 7-122,
§ 1.)
§ 339. Exemptions. — The property of the Trust Territory and the district government or its political subdivisions shall be exempt from taxation. Other exemptions may be granted by general law. (P.L. No. 7-122, § 1.)

§ 340. Private leaseholds; contracts; interests in government property. — Private leaseholds, contracts or interests in property owned or held by the Trust Territory, the district government or its political subdivisions shall be taxable to the extent of interest. (P.L. No. 7-122, § 1.)

§ 341. Standards of appraisal. — Standards of appraisal of all property assessed by the district government or its political subdivisions shall be prescribed by law. (P.L. No. 7-122, § 1.)

§ 342. Reservation of taxing power; power to apportion revenues. — The taxing power shall be reserved to the district government, except so much thereof as may be delegated by the legislature to the municipalities, provided, that the power to tax real property shall be a municipal power.

The legislature shall have the power to apportion district revenues among the several municipalities. (P.L. No. 7-122, § 1.)

§ 343. Appropriation bills not to be in excess of available revenues. — Appropriation bills enacted by the legislature shall not provide for the appropriation of funds in excess of amounts as are available or estimated to be available from revenues raised pursuant to the tax laws or other revenue laws of the district government and received or estimated to be received from tax laws and other revenue laws of the Trust Territory or from any other source. (P.L. No. 7-122, § 1.)

§ 344. Withdrawals and obligations to be authorized by law. — No money shall be withdrawn from the district government treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void. (P.L. No. 7-122, § 1.)

§ 345. Submission by governor of budget and bills to legislature. — The governor shall submit to the legislature, at a time prescribed by law, a budget setting forth a complete plan of proposed expenditures and anticipated receipts of the district government for the ensuing fiscal year, together with other information as the legislature may require. The budget shall be submitted in a form prescribed by law.

The governor shall also, upon the opening of each regular session of the legislature, submit bills to provide for proposed expenditures and for any recommended additional revenues by which the proposed expenditures are to be met. Such bills shall be introduced in the legislature upon the opening of each regular session. (P.L. No. 7-122, § 1.)

§ 346. Auditor. — The legislature may appoint an auditor to serve at its pleasure. He shall be a certified public accountant. The auditor shall conduct audits as prescribed by law and shall report to the legislature and the governor. (P.L. No. 7-122, § 1.)
ARTICLE VIII.

Local Government.

§ 347. Creation of municipalities and political subdivisions. — The legislature shall provide for the establishment of municipalities and other political subdivisions within the district and provide for the government thereof. Each municipality or political subdivision shall have and exercise powers as shall be conferred under general laws. Municipalities may be merged, consolidated, classified, reclassified or dissolved in a manner prescribed by general law, except that nothing contained in this article shall authorize the legislature to alter existing municipalities, villages, or political subdivisions without the expressed consent of a majority of the inhabitants of the area to be affected in a manner prescribed by law. (P.L. No. 7-122, § 1.)

§ 348. Municipal charters; qualification of law as general. — Each municipality shall have power to frame and adopt a charter for its own self-government within limits and under procedures as may be prescribed by general law.

Municipal charter provisions with respect to a municipality's structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating powers and functions of municipalities.

A law may qualify as a general law even though it is inapplicable to one or more municipalities for purposes of the provisions of this section. (P.L. No. 7-122, § 1.)

§ 349. Agreements between municipalities and/or district government. — Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any municipality with any other municipality, or with the district government, unless otherwise provided by law or municipal charter. (P.L. No. 7-122, § 1.)

§ 350. Advisory agency. — An agency shall be established by law in the executive branch of the district government to advise and assist municipal governments, and perform other duties as prescribed by law. (P.L. No. 7-122, § 1.)

ARTICLE IX.

Health, Education and Welfare.

§ 351. Promotion of public health. — The district government shall provide for the protection and promotion of the public health. (P.L. No. 7-122, § 1.)

§ 352. Handicapped persons. — The district government shall have the power to provide for treatment and rehabilitation, as well as domiciliary care, of mentally or physically handicapped persons. (P.L. No. 7-122, § 1.)

§ 353. Assistance to disadvantaged. — The district government shall have the power to provide assistance to persons unable to maintain a standard of living compatible with decency and health. (P.L. No. 7-122, § 1.)
§ 354. Development and preservation of natural beauty or historic or cultural interests. — The district government shall have the power to conserve and develop the district’s natural beauty, objects and places of historic or cultural interest, sightliness and physical good order, and for that purpose private property shall be subject to reasonable regulation by law. (P.L. No. 7-122, § 1.)

§ 355. Public schools; libraries. — The district government shall provide for the establishment and support of a district-wide system of public schools free from sectarian control, public libraries and other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no segregation in public educational institutions because of race, religion or ancestry. (P.L. No. 7-122, § 1.)

ARTICLE X.

Conservation and Development of Resources.

§ 356. Promotion. — The district government shall promote the conservation and development of agricultural, marine, mineral, forest, water, land and other natural resources. (P.L. No. 7-122, § 1.)

§ 357. Harmful substances. — Radioactive, toxic chemical, or other harmful substances may not be tested, stored, used or disposed of within the jurisdiction of the district without the express approval of the district government and concerned municipal governments in a manner prescribed by law. (P.L. No. 7-122, § 1.)

§ 358. Acquisition of title to property. — Title to land or waters within the district may be acquired only by citizens of the Trust Territory or corporations wholly owned by such citizens. (P.L. No. 7-122, § 1.)

§ 359. Limitation on terms of land use agreements. — An agreement for the use of land where a party is not a citizen of the Trust Territory or a corporation not wholly owned by such citizens shall not exceed a term of fifty years. The legislature may prescribe a lesser term. (P.L. No. 7-122, § 1.)

ARTICLE XI.

General Provisions.

§ 360. Traditional leaders. — Nothing in this charter shall take away a role or function of a traditional leader as recognized by custom and tradition, or shall prevent a traditional leader from being recognized, honored and given formal or functional roles at any level of government as prescribed by this charter or by statute. (P.L. No. 7-122, § 1.)

§ 361. Capital. — Colonia shall be the capital of the Yap District government. (P.L. No. 7-122, § 1.)

§ 362. Cooperation between districts and/or Trust Territory. — The district government and its political subdivisions may cooperate with the Trust Territory and other districts and their political subdivisions on matters of common interest, and funds may be appropriated to effect such cooperation. (P.L. No. 7-122, § 1.)
§ 363. Civil service employment. — The employment of persons in the civil service, as defined by law, of or under the district government, shall be governed by the merit principle. (P.L. No. 7-122, § 1.)

§ 364. Oath for public officers. — All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the charter of the Yap District government, and that I will faithfully discharge my duties as ———————— to the best of my ability." The legislature may prescribe further oaths or affirmations. (P.L. No. 7-122, § 1.)

§ 365. Enumerated powers not exclusive. — The enumeration in this charter of specified powers shall not be construed as limitations upon the power of the district government to provide for the general welfare of the people. (P.L. No. 7-122, § 1.)

§ 366. Provisions of charter to be self-executing. — The provisions of this charter shall be self-executing to the fullest extent that their respective natures permit. (P.L. No. 7-122, § 1.)

ARTICLE XII.

Legislature Election Districts.

§ 367. First election district. — The first election district shall be the Yap Islands Proper and shall have six members. (P.L. No. 7-122, § 1.)

§ 368. Second election district. — The second election district shall be Ulithi Atoll, Fais Island, Sorol Atoll and Ngulu Atoll and shall have one member. (P.L. No. 7-122, § 1.)

§ 369. Third election district. — The third election district shall be Woleai Atoll and shall have one member. (P.L. No. 7-122, § 1.)

§ 370. Fourth election district. — The fourth election district shall be Eauripik Atoll, Faraulep Atoll and Ifaluk Atoll and shall have one member. (P.L. No. 7-122, § 1.)

§ 371. Fifth election district. — The fifth election district shall be Satawal Island, Lamotrek Atoll and Elato Atoll and shall have one member. (P.L. No. 7-122, § 1.)

ARTICLE XIII.

Amendment and Revision.

§ 372. Manner of adoption. — Revisions of or amendments to this charter may be proposed by the legislature by adopting the same in the manner required for legislation, by a two-thirds vote of the members of the legislature. (P.L. No. 7-122, § 1.)

§ 373. Submission to electorate. — At a general or special election, or a referendum prescribed by law, following adoption by the legislature of the proposed amendments or revisions, the proposed amendments or revisions...
§ 374. Amendments adopted not subject to veto. — No proposal for amendment or revision of this charter adopted in a manner provided by this article shall be subject to veto by the governor or disapproval by the council of Pilung and the council of Tamol. (P.L. No. 7-122, § 1.)

§ 375. High Commissioner's power to amend. — The High Commissioner may amend or revise this charter on his own initiative, unless otherwise provided by law. (P.L. No. 7-122, § 1.)

ARTICLE XIV.

Transition.

§ 376. Governor responsible for administration of programs. — The governor shall be personally and legally responsible to the High Commissioner for the administration of programs, projects and activities of the Trust Territory government including any appropriation, apportionment, reapportionment or allotment of funds of the United States Congress, the Congress of Micronesia, the legislature or from any other source. The High Commissioner may issue executive orders prescribing the manner in which the governor's personal and legal responsibility shall be discharged. (P.L. No. 7-122, § 1.)

§ 377. Previous consistent laws to continue in force. — All district laws in force in Yap District on the effective date of this charter and consistent therewith shall continue in force until they expire by their own limitation, are amended or repealed. All Trust Territory laws in force in Yap District on the effective date of this charter shall continue in force and effect until they expire by their own limitation, are amended, or repealed. The provisions of this charter shall be interpreted in a manner consistent with Trust Territory law and no provisions of this charter shall be construed to repeal by implication Trust Territory law except where a contrary intent is clearly indicated. (P.L. No. 7-122, § 1.)

Editor's note. — The effective date of this charter is May 1, 1978.

§ 378. Effect of charter on contracts, suits, etc. — Except as otherwise provided in this charter, all titles, actions, suits, contracts, and liabilities and all civil, criminal or administrative proceedings shall continue unaffected, and the chartered district government shall be the legal successor to the unchartered district government in these matters. (P.L. No. 7-122, § 1.)

§ 379. Exercise of powers and functions by existing subdivisions. — Political subdivisions of the unchartered district government existing on the effective date of this charter shall continue to exercise their powers and functions under existing law, pending enactment of legislation to carry out the
provisions of this charter. New political subdivisions may be created only in accordance with this charter. (P.L. No. 7-122, § 1.)

Editor's note. — The effective date of this charter is May 1, 1978.

§ 380. Performance of duties by current officers. — All officers of the unchartered district government, or under its laws, shall continue on the effective date of this charter to perform the duties of their offices in a manner consistent with this charter until they are superseded by officers of the chartered district government. (P.L. No. 7-122, § 1.)

Editor's note. — The effective date of this charter is May 1, 1978.

§ 381. Succession of Yap and Outer Islands councils. — The council of Pilung shall succeed the Yap Islands council and the council of Tamol shall succeed the Outer Islands Chiefs council. (P.L. No. 7-122, § 1.)

§ 382. First general election. — The first general election shall take place on the first Tuesday after the first Monday in November of 1978. (P.L. No. 7-122, § 1.)

§ 383. Legislators not prohibited from holding any office created in first term of first legislature. — The provisions of section 300 of article III shall not prohibit any member of the first legislature under this charter from holding any office or position created during his first term. (P.L. No. 7-122, § 1.)

§ 384. Effective date. — This charter shall take effect on the first Tuesday after the first Monday in November of 1978 for purposes of conducting the first general election pursuant to section 382 of this article; provided, that provisions of the charter that do not concern the first general election shall take effect at the time the term of the governor commences. (P.L. No. 7-122, § 1.)

§ 385. Official translations. — The legislature shall adopt official translations of this charter after the charter is approved by the High Commissioner. (P.L. No. 7-122, § 1.)
Editor's note. — Section 1 of P. L. No. 7-122 provides, in part: "We, the Kosraean people, citizens of a sovereign Micronesian nation being established to end decades of foreign rule, now seek the blessing of God in creating our own Kosrae District Government.

To the tasks of self-government we devote ourselves, that we may live peacefully amongst ourselves, with our Micronesian brethren and all peoples.

We dedicate ourselves, moreover, to the protection of our island's natural beauty and the traditional way of life that we cherish. For, we hold our island in trust for our ancestors and our children's children, and so dedicate ourselves that this trust shall never be breached.

That these ends may be reached through our participation in the democratic government we now institute is both the expressed will and common resolve of the Kosraean people."

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ARTICLE I.

Declaration of Rights.

§ 386. Right to due process and equal protection of law. — A person may not be deprived of life, liberty or property without due process of law, or be denied the equal protection of the law. (P.L. No. 7-123, § 1.)

§ 387. Discrimination. — Equal protection of the law may not be denied or impaired on account of sex, race, religion, ancestry, national origin, language or social status. (P.L. No. 7-123, § 1.)

§ 388. Freedom of speech, association, petition, etc. — No law may deny or impair freedom of expression, peaceable assembly, association, petition, or the freedom of the press. (P.L. No. 7-123, § 1.)

§ 389. Freedom of religion. — No law may be enacted respecting an establishment of religion or impairing the free exercise thereof, except that assistance may be provided to parochial schools for nonreligious purposes. (P.L. No. 7-123, § 1.)

§ 390. Excessive bail and fines; cruel and unusual punishment; habeas corpus. — Excessive bail may not be required; excessive fines may not be imposed; nor cruel and unusual punishments inflicted. The writ of habeas corpus may not be suspended unless required for public safety in case of rebellion or invasion. (P.L. No. 7-123, § 1.)

§ 391. Bills of attainder; ex post facto laws; impairment of contracts. — A bill of attainder, ex post facto law, or law impairing the obligations of contract may not be passed. (P.L. No. 7-123, § 1.)

§ 392. Search and seizure; invasion of privacy. — 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. Such warrant shall be issued by a judge. (P.L. No. 7-123, § 1.)

§ 393. Self-incrimination; double jeopardy. — A person may not be compelled to give evidence which may be used against him in a criminal case or be twice put in jeopardy for the same offense. (P.L. No. 7-123, § 1.)

§ 394. Rights of accused. — In all criminal prosecutions, the accused has the right to a speedy public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (P.L. No. 7-123, § 1.)

§ 395. Involuntary servitude; slavery. — Neither involuntary servitude, except as punishment for crime, nor slavery may exist in Kosrae District. (P.L. No. 7-123, § 1.)

§ 396. Capital punishment. — Capital punishment is prohibited. (P.L. No. 7-123, § 1.)
§ 397. Debt imprisonment. — Imprisonment for debt is prohibited. (P.L. No. 7-123, § 1.)

§ 398. Freedom of movement and migration. — No law may be passed which restricts movement or migration of citizens of the Trust Territory except in extreme situations where the requirements of public order and security necessitate such a law. (P.L. No. 7-123, § 1.)

§ 399. Quartering of soldiers. — No soldier may, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law. (P.L. No. 7-123, § 1.)

§ 400. Eminent domain. — There shall be no taking of private property for any public purpose until authorized and prescribed by general law enacted pursuant to this section. Such general law shall provide for just compensation, good faith negotiations for lease or purchase prior to a taking, the manner of the taking, and may prescribe further restrictions, conditions and requirements; except, that nothing in this charter shall in any way restrict or impair the paramount power of eminent domain in the central government of the Trust Territory. (P.L. No. 7-123, § 1.)

§ 401. Local customs and existing laws recognized. — Due recognition shall be given to local customs in providing a system of law, and nothing in this charter shall be construed to limit or invalidate any part of the existing law, except as otherwise provided by law. (P.L. No. 7-123, § 1.)

§ 402. Construction of charter rights. — The enumeration of certain rights in this article may not be construed as a denial of other rights retained by the people. (P.L. No. 7-123, § 1.)

ARTICLE II.

The Executive.

§ 403. Governor and lieutenant governor; election of governor; administration of executive affairs. — At a general election the people of Kosrae shall choose from amongst themselves a governor, in whom the executive power of the district government is vested.

The governor is responsible for the administration of the executive affairs of the Kosrae District government, and all executive offices and agencies shall operate under the direction of the governor, unless otherwise provided by law.

The governor is personally and legally responsible to the High Commissioner of the Trust Territory for the administration of programs, projects and activities of the Trust Territory government including any appropriation, apportionment, reapportionment or allotment of funds from the United States Congress, the Congress of Micronesia, the legislature, or from any other source.

The High Commissioner may issue executive orders prescribing the manner in which the governor’s personal and legal responsibility shall be discharged. (P.L. No. 7-123, § 1.)

§ 404. Same; eligibility; election; term; limitations of terms. — No person is eligible for the office of governor unless he is at least thirty-five years of age, is a citizen of the Trust Territory by birth, has resided in Kosrae for not less than twenty years cumulatively, at least five of those years to immediately precede the date of election, and is registered to vote at the time of filing for office.
No person is eligible for the office of governor, having been convicted of a felony, unless he has had his civil rights fully and unconditionally restored under a pardon granted pursuant to an official determination of absence of moral turpitude in connection with the crime for which convicted.

In the general election among the qualified voters of Kosrae District, the person receiving a majority of the total votes cast shall be the governor. In case no person receives a majority of the total votes cast, the selection of the governor is determined by special election between the two persons receiving the highest number of votes in the general election.

The term of office of the governor begins at noon on the first Monday in January following the general election, and ends at noon on the first Monday in January, four years thereafter.

No person who has been elected governor for two full terms in succession may again be eligible to hold that office until one full term has intervened. (P.L. No. 7-123, § 1.)

§ 405. Same; lieutenant governor. — The people of Kosrae shall elect a lieutenant governor at the same time, for the same term, and in the same manner as the governor. The lieutenant governor shall meet the same qualifications for holding office as the governor.

The lieutenant governor shall perform such duties as may be delegated by the governor, or as may be prescribed by law. (P.L. No. 7-123, § 1.)

§ 406. Same; vacancy in office. — In the event that the office of governor becomes vacant, the lieutenant governor becomes governor.

If at any time, the governor is unable to exercise or discharge the powers and responsibilities of office, due either to absence from Kosrae District or some disability, the lieutenant governor shall act as governor for the duration of such absence or disability.

Whenever for a period of five months the governor or lieutenant governor has been absent from office, or has been unable to discharge the duties of office by reason of mental or physical disability, the office shall be deemed vacant.

The office of lieutenant governor is succeeded to, in the event of vacancy or for the duration of any absence or disability to discharge the duties of office, by such officials of the government and in such order as provided by law.

Laws providing procedures for determining such absence or disability as creates a vacancy in the executive offices, and laws providing for the order of succession to the office of lieutenant governor, shall be promulgated during the first session of the district legislature following the date upon which this charter becomes effective. (P.L. No. 7-123, § 1.)

§ 407. Same; salaries; not to hold other public office; conflicts of interest. — The governor and lieutenant governor receive annual salaries as provided by law. These salaries may not be increased or decreased for the duration of the term of office in which the increase or decrease became law, except that a reduction in salary may be made by general law applying to all officers or employees of the district government, reducing their salaries by a uniform percentage.

Neither the governor, nor the lieutenant governor may hold any other public office, or accept any other public employment, during their terms of office. The governor and lieutenant governor may not engage in any activity which conflicts with the proper discharge of their duties. (P.L. No. 7-123, § 1.)

§ 408. Same; powers and duties of governor generally. — The governor is responsible for the faithful execution of the law, and shall enforce compliance with the provisions of this charter and all laws created under the legislative power granted herein.
By appropriate action or proceeding before the courts, brought in the name of the district government, and through the offices and agencies of the district government, the governor shall enforce all powers, duties or rights existing under Kosrae District law, but this power may not be construed to authorize any action or proceeding against the legislature. (P.L. No. 7-123, § 1.)

§ 409. Offices and departments. — All executive and administrative offices, departments and instrumentalities of the district government, and their respective functions, powers and duties shall be prescribed by law.

Each principal department of the executive branch is headed by a director nominated and appointed by the governor, with the advice and consent of the legislature. Such directors serve at the pleasure of the governor during his term of office and until the appointment and qualification of their successors, except that the removal of the chief legal officer of the district shall be with the advice and consent of the legislature.

Whenever a board, commission or other body directs a principal department or regulatory or quasi-judicial agency, the members thereof are nominated and appointed by the governor with the advice and consent of the legislature. The terms of office and procedures for removal of members shall be provided by law. (P.L. No. 7-123, § 1.)

§ 410. Power of governor to reprieve, commute and pardon. — The governor may grant reprieves, commutations and pardons, after conviction, for offenses other than impeachment, subject to regulation by law. The governor is authorized in all such cases to make a declaration or statement of the official grounds for the action taken. No reprieve, commutation or pardon may be granted to a person holding the office of governor or lieutenant governor. (P.L. No. 7-123, § 1.)

§ 411. Address to legislature. — The governor shall deliver, in person, an address to the legislature at the beginning of each regular session, in which the state of the district is reviewed, and recommendations for legislative action may be submitted. The governor may communicate with the legislature at such other times as he may deem necessary. (P.L. No. 7-123, § 1.)

§ 412. Declaration of emergency. — 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 governor may declare a state of emergency and issue appropriate decrees.

A declaration of emergency may not impair the power of the judiciary and all actions taken under such declaration are subject to judicial review to determine if the exercise of emergency powers was justified and if all measures taken were reasonable means of meeting any real and present danger. A declaration of emergency may impair a civil right to the extent actually required for the preservation of peace, health or safety.

Within five days after the issuance of a declaration of emergency, the legislature shall convene at the call of the speaker or the governor and is empowered to revoke, amend or extend the declaration. Unless it expires by its own terms, is revoked or extended, a declaration of emergency is effective for ten days. (P.L. No. 7-123, § 1.)
ARTICLE III.

The Legislature.

§ 413. Legislative power. — The legislative power of the district government is vested in the Kosrae District legislature and extends to all rightful subjects of legislation; except, that no legislation may be inconsistent with this charter, the United Nations charter and trusteeship agreement, laws of the United States applicable in the Trust Territory, applicable orders of the President of the United States and the secretary of the department of the interior, and the laws of the Trust Territory. (P.L. No. 7-123, § 1.)

§ 414. Composition of legislature. — The legislature is composed of fourteen members, who are elected by the qualified voters of their respective election districts. (P.L. No. 7-123, § 1.)

§ 415. Electoral districts. — There are four electoral districts in Kosrae District as follows: Lelu, Malem, Tafunsak, and Utwa. (P.L. No. 7-123, § 1.)

§ 416. Apportionment of legislators. — Until reapportionment, the members of the legislature are apportioned as follows: Lelu elects five legislators; Malem elects three legislators; Tafunsak elects four legislators; and Utwa elects two legislators. Reapportionment of the legislature shall be made on the basis of population not later than two years following the date of each official Trust Territory census; provided, that in 1980 a study shall be made to determine whether the apportionment specified in this section is substantially fair. (P.L. No. 7-123, § 1.)

§ 417. General election; term. — The members of the legislature are elected at a general election. The term of office is four years commencing, unless otherwise provided by law, at noon on the first Monday of January following their election. (P.L. No. 7-123, § 1.)

§ 418. Vacancies. — Any vacancy in the legislature shall be filled for the unexpired term by special election, except that an unexpired term of less than one year is filled by appointment by the governor of a resident of the electoral district in which the vacancy exists, such appointee to meet the qualifications of legislators set forth in section 419 of this title. (P.L. No. 7-123, § 1.)

§ 419. Eligibility. — No person is eligible to serve as a legislator unless he has been, at the time of election, a citizen of the Trust Territory for not less than ten years, a resident of Kosrae District for not less than five consecutive years immediately preceding the election, a resident of his electoral district for a period of not less than one year immediately preceding the election, able to read and write, and not less than twenty-five years of age on the day of election. A person convicted of a felony is not eligible to serve as a member of the legislature unless the person so convicted has received a pardon restoring his civil rights. (P.L. No. 7-123, § 1.)

§ 420. Legislators not to hold other public office or employment; conflicts of interest. — No member of the legislature may, during the term for which he is elected or appointed, be elected or appointed to any public office or employment which was created, or which had its emoluments increased, by legislative act during such term. The term "public office," for purposes of this section, does not include notaries public, officers of emergency organizations for disaster relief, or an office created by the Congress of Micronesia or the legislature which specifically provides for a member of the legislature to hold
such office. A member of the legislature may not engage in any activity which conflicts with the proper discharge of his duties.

This section does not apply to employment by or election to a constitutional convention or commission. (P.L. No. 7-123, § 1.)

§ 421. Immunities afforded legislators. — Members of the legislature, during their attendance at sessions of the legislature and meetings of its committees, and in going to and returning from the same, are not subject to civil process, and are, in all cases except treason, felony or breach of the peace, privileged from arrest. No member may be held to answer before any tribunal other than the legislature itself for any speech or debate in the legislature. (P.L. No. 7-123, § 1.)

§ 422. Salaries. — The members of the legislature shall receive such compensation as provided by law. No law increasing salaries may take effect until the end of the term of office for which the members voting thereon were elected. (P.L. No. 7-123, § 1.)

§ 423. Procedure for convening; special sessions; budget review sessions; recesses. — The legislature shall convene annually in regular session at 9:30 a.m. on the third Tuesday of July and continue in session for a period not to exceed thirty calendar days, excluding weekends and holidays. The legislature shall meet on the first Monday of January following a general election for the purpose of organizing and selecting its committees and officers, such meeting being specifically restricted to organizational matters.

At the written request or vote of two-thirds of the members of the legislature, the speaker of the legislature shall convene the legislature in a special session. The governor may convene the legislature in special session. At a special session convened by the governor, legislation is limited to subjects designated in the proclamation convening the session or to subjects presented by the executive branch. A special session may not exceed fifteen days in length, excluding weekends and holidays.

A budget review session may be called by the speaker, such session specifically restricted to reviewing the budget prepared by the governor. The budget review session may not exceed five days in length, excluding weekends and holidays.

Any session may be recessed by a majority vote of the members of the legislature. Any days in recess pursuant to such vote are excluded in computing the number of days in any session. (P.L. No. 7-123, § 1.)

§ 424. Adjournment. — The legislature may adjourn sine die during any session by a majority vote of the members of the legislature. (P.L. No. 7-123, § 1.)

§ 425. Powers generally. — The legislature is the judge of the qualifications of its members and has, for misconduct, disorderly behavior or neglect of duty by any member, power to punish such member by censure or, upon a vote of two-thirds of the members, by suspension or expulsion of such member. An expulsion creates a vacancy in the legislature, to be filled in accordance with section 418 of this title. The members of the legislature are subject to recall by the voters in a manner prescribed by law.

The legislature shall choose its own officers, determine its rules of procedure, and keep a journal. The legislature has and may exercise all the authority and attributes inherent in legislative bodies, including, but not limited to, the power to institute and conduct investigations, issue subpoenas to witnesses and other concerned parties, and administer oaths. (P.L. No. 7-123, § 1.)
A vetoed bill may be amended to meet the objections of the governor and, if so amended and passed upon one reading, it shall again be presented to the governor, and becomes law only if signed within ten days after presentation. (P.L. No. 7-123, § 1.)

§ 432. Publication and distribution of resolutions and laws. — The governor shall have the laws published in both Kosraean and English within sixty days after they become laws. Resolutions shall be published in both Kosraean and English within sixty days of their adoption by the legislature. The laws and resolutions so published shall be distributed to public officials and offered for sale to the public at the actual cost of publication. In the event of a conflict between the English version of a law and the Kosraean translation of such law, the English version is controlling. (P.L. No. 7-123, § 1.)

§ 433. Impeachment of governor, lieutenant governor or district court justice. — The legislature has the power to impeach, following thorough investigation of all charges, and may exercise such power by a resolution of impeachment. The legislature shall, by law, provide for the manner and procedure for removal by impeachment.

The governor, lieutenant governor, and justices of the district court may be removed from office upon a vote of impeachment for misfeasance and malfeasance in office, or for conviction of a felony.

Justices of the district court may be subject to impeachment upon petition from the governor setting forth in detail the grounds for impeachment.

The governor and lieutenant governor may be subject to impeachment upon petition from the chief justice of the district court setting forth in detail the grounds for impeachment.

Upon receipt of a petition for impeachment, the legislature shall immediately convene to receive evidence and hear the testimony of witnesses. After reviewing all evidence, an affirmative vote of three-fourths of the membership of the legislature is required to adopt a resolution of impeachment.

The power of impeachment may not extend beyond removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the district government, but such person impeached may, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to the law.

No officer may exercise his official duties after he has been notified by the legislature of the initiation of the impeachment process. An officer who is being tried by the legislature may return to his official duties upon defeat of the resolution of impeachment. (P.L. No. 7-123, § 1.)

ARTICLE IV.

The Judiciary.

§ 434. Vesting of judicial power. — The judicial power of the district government is vested in the district court and such other courts or tribunals as may be created by law; except, that nothing contained in this article shall be construed to limit, restrict, or modify the authority or jurisdiction of the High Court for the Trust Territory. (P.L. No. 7-123, § 1.)

§ 435. District courts; declared highest court; composition; selection of justices. — The district court is the highest court of the district and shall initially consist of a single justice. Additional justices may be added by law.
The procedure for selecting the chief justice shall be prescribed by law. As prescribed by law, retired justices of the district court may serve temporarily on the district court at the request of the chief justice. (P.L. No. 7-123, § 1.)

§ 436. Same; appointment, reconfirmation, conduct and retirement age of justices. — The governor nominates and appoints, with the advice and consent of three-fourths of the members of the legislature, the justices of the district court. If the legislature fails to approve two successive nominations for an appointment, the governor shall proclaim a special election to select a justice. Each justice is subject to reconfirmation by three-fourths of the members of the legislature at four-year intervals measured from the date of his original confirmation. A justice of the district court, so long as he is reconfirmed by the legislature, may hold office, during good behavior, until he has attained the age of sixty-five years. (P.L. No. 7-123, § 1.)

§ 437. Same; qualifications of justices. — Justices of the district court shall be citizens of the Trust Territory by birth, at least thirty-five years of age, a resident of Kosrae District for at least twenty years cumulatively and for the five years immediately preceding appointment, be learned in the law, and possess additional qualifications as may be prescribed by law. (P.L. No. 7-123, § 1.)

§ 438. Same; compensation of justices. — Justices of the district court receive compensation as prescribed by law. The compensation of a justice may not be reduced during his tenure, except by general law reducing the salaries of all officers or employees of the district government by a uniform percentage. (P.L. No. 7-123, § 1.)

§ 439. Judges of other courts. — Judges of other courts or tribunals which may be established by law shall be selected in a manner, for terms, and with qualifications as prescribed by law. (P.L. No. 7-123, § 1.)

§ 440. Jurisdiction; exercise of authority in unchartered administrative districts; unified judicial system. — The courts and tribunals of Kosrae District have original and appellate jurisdiction as prescribed by law. The district court shall also exercise the judicial authority of the government of the Trust Territory expressed in the laws of the Trust Territory applicable to district courts of unchartered administrative districts, with appeals to the High Court of the Trust Territory. The courts within Kosrae District shall constitute a unified judicial system for operation and administration. (P.L. No. 7-123, § 1.)

§ 441. Promulgation of rules of administration and procedure; district court declared court of record. — The district court shall make and promulgate rules governing the administration of all courts. The district court shall make and promulgate rules governing the practice and procedure in civil and criminal cases in all courts, which shall have the force and effect of law; provided, that the legislature may establish or change such rules by law. The district court is a court of record. (P.L. No. 7-123, § 1.)

§ 442. Administrative head of courts. — The chief justice of the district court shall be administrative head of all courts. The chief justice may, with the approval of the district court, appoint an administrative director to serve at his pleasure and to supervise the administrative operations of the judicial system; provided, that such appointment may not be made until at least two levels of courts exist in the district. (P.L. No. 7-123, § 1.)
ARTICLE V.

Elections and Suffrage.

§ 443. Qualifications for voting. — A citizen of the Trust Territory who has attained the age of eighteen and is lawfully registered to vote in Kosrae District is qualified to vote in district elections. (P.L. No. 7-123, § 1.)

§ 444. Suffrage requirements prescribed by legislature. — The legislature shall prescribe a minimum period of residence, and such other eligibility requirements as are customary and lawful. Procedures for voter registration, method of voting, criteria for disqualification, including conviction of crime or legal incapacity due to incompetence or insanity, shall be established by law. (P.L. No. 7-123, § 1.)

§ 445. Secrecy. — Secrecy of voting is required. (P.L. No. 7-123, § 1.)

§ 446. Schedule of elections. — There shall be a general election held every four years on the first Tuesday following the first Monday in November; provided, in the event of a natural disaster or other Acts of God, the effect of which precludes holding the election on the foregoing day, the governor may proclaim a later election date in the affected electoral district. (P.L. No. 7-123, § 1.)

§ 447. Contested elections. — Contested elections are decided by the election commission under rules and procedures established by law. Election commission determinations are subject to judicial review. (P.L. No. 7-123, § 1.)

§ 448. Plurality to determine election. — In all district government elections, unless otherwise provided by law or this charter, the person receiving the highest number of votes is elected and entitled to the office for which the election was held. (P.L. No. 7-123, § 1.)

§ 449. New election in case of tie. — Procedures for deciding elections where two or more persons receive the highest and an equal number of votes shall be provided by law. (P.L. No. 7-123, § 1.)

ARTICLE VI.

Public Finance and Taxation.

§ 450. Power; surrender, suspension, etc., of power. — The district government is empowered to impose and collect taxes. The power of taxation may not be surrendered, suspended, contracted away or allocated among the political subdivisions of the district government, nor may any exemption from obligation be granted, except as may be provided by laws promulgated pursuant to the provisions of this article. (P.L. No. 7-123, § 1.)

§ 451. Public purpose. — No tax may be levied or appropriation of public money made, nor may public property be transferred or public resources utilized, except for a public purpose. (P.L. No. 7-123, § 1.)

§ 452. Treasury withdrawals; obligations for payment; unobligated appropriations. — No money may be withdrawn from the district government treasury except in accordance with appropriations made by law.
No obligation for payment of money may be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law are void. (P.L. No. 7-123, § 1.)

§ 453. Provisions controlling expenditures. — Provisions for the control of the rate of expenditures of appropriated moneys, and for the reduction of expenditures when revenues are deemed insufficient to meet proposed expenditures during a given fiscal period may be provided by law. Such provisions as would establish priority allocations and limit further obligations of moneys may be made. (P.L. No. 7-123, § 1.)

§ 454. Submission of budget, bills to provide for expenditures. — The governor shall submit to the legislature, at a time prescribed by law, a budget setting forth a complete plan of proposed expenditures, and a statement estimating the anticipated receipts of the district government for the ensuing fiscal years. The governor shall also provide the legislature with other information that may be required to promote sound fiscal planning. The budget is submitted in a form prescribed by law.

The governor shall also submit to the legislature bills to provide for proposed expenditures and for any recommended additional revenues by which the proposed expenditures are to be met. (P.L. No. 7-123, § 1.)

§ 455. Audit. — The legislature is empowered to require an audit of all expenditures of public funds, a report of which shall be made to the legislature and the governor at such time and in such manner as may be prescribed by law. (P.L. No. 7-123, § 1.)

§ 456. Standards of appraisal. — Standards of appraisal of all property assessed by the district government or its political subdivisions shall be prescribed by law. (P.L. No. 7-123, § 1.)

§ 457. Residency not to affect rate. — The property of citizens of the Trust Territory domiciled outside Kosrae District may not be taxed at a higher rate than the property of residents of Kosrae District. (P.L. No. 7-123, § 1.)

§ 458. Exemption of government. — The property of the government of the Trust Territory and the district government and its political subdivisions is exempt from taxation. (P.L. No. 7-123, § 1.)

§ 459. Private leaseholds; contracts or interests in government property. — Private leaseholds, contracts or interests in property owned or held by the Trust Territory, the district government or its political subdivisions are taxable to the extent of such private interest. (P.L. No. 7-123, § 1.)

§ 460. Religious activities exempt. — The district government may not levy any tax upon the religious activities of churches within Kosrae District. (P.L. No. 7-123, § 1.)

§ 461. Land tax. — No law may be passed which imposes a tax upon land within Kosrae District. (P.L. No. 7-123, § 1.)

§ 462. Other exemptions. — Other exemptions may be granted by law. (P.L. No. 7-123, § 1.)
ARTICLE VII.

Health, Education and Welfare.

§ 463. Promotion of public health and safety. — The district government shall provide for the protection and promotion of the public health and safety by establishing and maintaining such health care facilities and programs as are deemed necessary. (P.L. No. 7-123, § 1.)

§ 464. Public schools; libraries. — The district government shall provide for the establishment and administration of a comprehensive program of public education which is free of sectarian control. The district government shall assure to all the people of Kosrae equal access to public education. There shall be no discrimination in public education because of race, sex, religion or ancestry.

The district government shall also establish public libraries and other educational institutions as may be deemed desirable. (P.L. No. 7-123, § 1.)

ARTICLE VIII.

Environmental Protection, Conservation of Resources and Land Use.

§ 465. Environment declared public trust; duties of Kosrae District as trustee of environment. — The environment of Kosrae District, including, but not limited to, the land, sea and air, is a public trust of which all Kosraeans, living and yet unborn, are beneficiaries. As trustee, the Kosrae District government is obligated to act in a manner calculated to assure the protection of the air, water and other natural resources and the public trust therein from pollution, impairment or destruction. The Kosrae District government, as trustee, is further obligated to secure the fundamental and inalienable right of all its citizens to live in a healthful environment. (P.L. No. 7-123, § 1.)

§ 466. Government to promote conservation and development of resources. — The district government shall promote the conservation and development of agricultural, marine, mineral, forest, water, land and other natural resources. (P.L. No. 7-123, § 1.)

§ 467. Preservation of natural beauty, historic or cultural interests. — The district government is empowered to conserve and develop Kosrae's natural beauty and objects and places of historical or cultural interest.

Any object or site which has been determined to be of historical or cultural value, such determination having been made in a manner prescribed by law, shall be protected from destruction or misuse under regulations which may not interfere with the reasonable use and enjoyment of private property. (P.L. No. 7-123, § 1.)

§ 468. Harmful substances. — Radioactive, toxic chemical or other harmful substances may not be tested, stored, used or disposed of within the jurisdiction of Kosrae District without the express approval of the district government, which may be granted only in a manner to be prescribed by law. (P.L. No. 7-123, § 1.)

§ 469. Acquisition of title to land or waters. — Title to land or waters within Kosrae District may be acquired only by citizens of the Trust Territory or corporations wholly owned by such citizens. (P.L. No. 7-123, § 1.)
§ 470. **Zoning regulations.** — The district government is empowered to promote a safe and healthy physical order in the residential, civic, and rural sectors of all communities through such zoning regulations as conditions may require. (P.L. No. 7-123, § 1.)

§ 471. **Public land trust.** — The district government is empowered to establish a public land trust which is administered in a manner prescribed by law. (P.L. No. 7-123, § 1.)

**ARTICLE IX.**

*Municipal Government.*

§ 472. **Chartering; powers generally.** — There shall be a municipal level of government within Kosrae District. The legislature may charter municipalities and provide for the government thereof. The municipalities shall have and exercise such powers as are conferred by this article, or by general law; except, that nothing contained in this article shall authorized the legislature to alter existing municipalities, villages, or political subdivisions without the expressed consent of a majority of the inhabitants of the area to be affected in a manner prescribed by law. (P.L. No. 7-123, § 1.)

§ 473. **Taxing power.** — Municipalities are empowered to impose and collect taxes, except as prohibited by this charter or where the district government imposes and collects taxes. The legislature has the power to apportion district revenues among the several municipalities. (P.L. No. 7-123, § 1.)

§ 474. **Agreements between municipalities and/or district government.** — Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any municipality with any other municipality, or with the district government, unless otherwise provided by law. (P.L. No. 7-123, § 1.)

§ 475. **Council on municipal government.** — There shall be a council on municipal government which shall advise the governor and the legislature on subjects concerning municipalities. The council shall be composed of the highest executives of the respective municipalities of Kosrae District. The chairman of the council shall be selected annually. The chairmanship shall rotate evenly among the municipalities. (P.L. No. 7-123, § 1.)

**ARTICLE X.**

*General Provisions.*

§ 476. **Boundaries of district.** — Kosrae District consists of all the islands of the Trust Territory and their adjacent waters measured outward from appropriate baselines to the maximum distance recognized by international law which lie within the area beginning at a point 0° latitude 161°45' east longitude, then north to a point 08°10' north latitude 161°45' east longitude, then southeast to a point 05° north latitude 166° east longitude, then west to the point of beginning. (P.L. No. 7-123, § 1.)
§ 477. Capital. — The Kosrae District capital shall be designated by law. (P.L. No. 7-123, § 1.)

§ 478. Cooperation with other governments. — The district government and its political subdivisions may cooperate with the United States and its territories, the Trust Territory, and other districts and their political subdivisions on matters of common interest, and funds may be appropriated to effect such cooperation. (P.L. No. 7-123, § 1.)

§ 479. Civil service employment. — The employment of persons in the civil service, as defined by law, or under the district government, is governed by the merit principle. (P.L. No. 7-123, § 1.)

§ 480. Oath for public officials. — All elected public officials, executive appointees and law enforcement officers shall, before entering upon the duties of their offices, take and subscribe to the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support and defend the charter of the Kosrae District government, and that I will faithfully discharge my duties as ______________ to the best of my ability."

The legislature may prescribe other oaths or affirmations. (P.L. No. 7-123, § 1.)

§ 481. Provisions of charter to be self-executing. — The provisions of this charter are self-executing to the extent that is permitted or required by the terms thereof. (P.L. No. 7-123, § 1.)

§ 482. Enumerated powers not exclusive. — The enumeration of certain powers in this charter may not be construed as a limitation upon the power of the district government to provide for the general welfare of the people. (P.L. No. 7-123, § 1.)

ARTICLE XI.

Amendment and Revision.

§ 483. Procedure for passage. — Revisions of, or amendments to, this charter may be proposed by the legislature by passage in the manner required for legislation, that is, by a two-thirds vote of the members of the legislature.

At a general or special election, or a referendum authorized by law, the proposed amendments or revisions shall be submitted to the electorate for approval or rejection.

The amendments or revisions are effective only if at least thirty percent of the registered voters have cast ballots and a majority of the votes tallied upon the question is in favor of the proposed amendment or revision. (P.L. No. 7-123, § 1.)

§ 484. Not to be vetoed by governor. — No proposal for amendment or revision of this charter adopted in a manner provided by this article may be vetoed by the governor. (P.L. No. 7-123, § 1.)

§ 485. Power of High Commissioner. — The High Commissioner may amend or revise this charter on his own initiative. (P.L. No. 7-123, § 1.)
ARTICLE XII.

Transition.

§ 486. Previous consistent laws to continue in force. — All district laws in force in Kosrae District on the effective date of this charter and consistent herewith continue in force until they expire by their own limitation, are amended or repealed. All Trust Territory laws in force in Kosrae District on the effective date of this charter shall continue in force and effect until they expire by their own limitation, are amended or repealed. The provisions of this charter shall be interpreted in a manner consistent with Trust Territory law and no provisions of this charter shall be construed to repeal by implication Trust Territory law except where a contrary intent is clearly indicated. (P.L. No. 7-123, § 1.)

§ 487. Effect of charter on contracts, suits, etc. — Except as otherwise provided in this charter, all rights, titles, actions, suits, contracts, liabilities and all civil, criminal and administrative proceedings continue unaffected, and the district government is the legal successor to the unchartered district government in all such matters. (P.L. No. 7-123, § 1.)

§ 488. Performance of duties by current officers. — All officers of the unchartered district government, or under its laws, shall continue on the effective date of the charter to perform the duties of their offices in a manner consistent with this charter until they are succeeded by officers of the chartered district government. (P.L. No. 7-123, § 1.)

§ 489. Villages deemed municipalities. — Villages existing on the effective date of this charter shall be deemed municipalities, and shall continue to exercise their powers and functions in a manner consistent with this charter, pending enactment of legislation to carry out the provisions of this charter. (P.L. No. 7-123, § 1.)

§ 490. Effective date. — This charter takes effect upon its passage by the Congress of Micronesia and its approval by the High Commissioner. (P.L. No. 7-123, § 1.)

§ 490A. First general election. — The first general election shall be on the first Tuesday following the first Monday in November of 1978. (P.L. No. 7-123, § 1.)

§ 491. Kosraean translation. — The legislature shall adopt an official Kosraean translation of this charter after the charter is approved by the High Commissioner. (P.L. No. 7-123, § 1.)
Editor's note. — Section 1 of P.L. No. 7-124 provides, in part:
"We, THE PEOPLE OF THE PONAPE DISTRICT, believing in the Almighty God as the source of life, liberty, peace, and public good, and exercising the rights derived therefrom, do through our representatives hereby establish this Charter for the self-government of the Ponape District.
With this Charter, we affirm our common wish to live together in peace and harmony, to preserve our heritage, and to promote our general welfare."

Article I.
Territory.

Sec.
492. Area comprising Ponape District.

Article II.
Civil Rights.

493. Freedom of religion, speech and press; right to assemble and petition for redress of grievances.
494. Slavery; involuntary servitude.
495. Search and seizure.
496. Due process; eminent domain; double jeopardy; self-incrimination; rights of accused.
497. Bills of attainder; ex post facto laws; impairment of contracts.
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527. Enactment of laws; bills required; subjects; reference to title; enacting clauses.
528. Same; readings.
529. Same; action by governor.
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532. Impeachment of governor, lieutenant governor or district court justice.

Article VI.
Executive.

533. Governor and lieutenant governor; executive powers vested; election; term; limitation of terms.
534. Same; eligibility.
535. Same; lieutenant governor.
536. Same; procedure for election; terms.
537. Same; vacancy in office.
§ 492. Area comprising Ponape District. — Ponape District is comprised of all those islands of the Trust Territory constituting the administrative district of Ponape immediately prior to the effective date of this charter. Marine boundaries between Ponape District and other legal entities shall be determined by law. (P.L. No. 7-124, § 1.)
Article II.

Civil Rights.

§ 493. Freedom of religion, speech and press; right to assemble and petition for redress of grievances. — No law may be enacted nor government action taken in Ponape District respecting the establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition the government for a redress of grievances. (P.L. No. 7-124, § 1.)

§ 494. Slavery; involuntary servitude. — Neither slavery nor involuntary servitude, except as the latter is punishment for crime whereof the party shall have been duly convicted, may exist in Ponape District. (P.L. No. 7-124, § 1.)

§ 495. Search and seizure. — The rights of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures may not be violated, and no warrants may issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. (P.L. No. 7-124, § 1.)

§ 496. Due process; eminent domain; double jeopardy; self-incrimination; rights of accused. — No person may be deprived of life, liberty or property without due process of law, nor may private property be taken for public use without just compensation, nor may any person be subject for the same offense to be twice put in jeopardy of life or limb, nor may any person be compelled in any criminal case to be a witness against himself. In all prosecutions the accused shall enjoy the right to a speedy trial, public or private as he may request, to be informed of the nature and cause of the accusation, to be confronted with witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (P.L. No. 7-124, § 1.)

§ 497. Bills of attainder; ex post facto laws; impairment of contracts. — No bill of attainder, ex post facto law, or law impairing the obligations of contracts may be enacted. (P.L. No. 7-124, § 1.)

§ 498. Excessive bail; excessive fines; cruel and unusual punishments. — Excessive bail may not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (P.L. No. 7-124, § 1.)

§ 499. Capital punishment. — No crime under the laws of Ponape District may be punishable by death. (P.L. No. 7-124, § 1.)

§ 500. Equal rights; equal protection. — No law may be enacted which discriminates against any person on account of race, sex, language, or religion, nor may the equal protection of the laws be denied. (P.L. No. 7-124, § 1.)

§ 501. Freedom of migration and movement. — Subject only to the requirement of public order and security, the inhabitants of Ponape District shall be accorded freedom of migration and movement within the district. (P.L. No. 7-124, § 1.)

§ 502. Imprisonment for failure to discharge contract. — No person may be imprisoned solely for failure to discharge a contractual obligation. (P.L. No. 7-124, § 1.)
§ 503. Privilege of habeas corpus. — The privilege of the writ of habeas corpus may not be suspended, unless the public safety shall require it in cases of insurrection, rebellion or invasion or imminent danger thereof. (P.L. No. 7-124, § 1.)

§ 504. Quartering of soldiers. — In time of peace, no soldier may be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law. (P.L. No. 7-124, § 1.)

ARTICLE III.

Traditional Rights.

§ 505. Traditional leaders. — The role of a traditional leader as recognized by custom and tradition is unaffected by this charter. A traditional leader may be recognized, honored and given formal or functional roles at the district and local levels of government. (P.L. No. 7-124, § 1.)

§ 506. Protection of traditions. — Traditions in Ponape District may be protected by statute. If the statute is challenged as violative of the provisions in article II, the courts in determining whether a compelling social purpose exists for the governmental action shall consider protection of the traditions of Ponape. (P.L. No. 7-124, § 1.)

§ 507. Length of leases. — Leases of undue length may be prohibited by law. (P.L. No. 7-124, § 1.)

ARTICLE IV.

Suffrage and Elections.

§ 508. Voter qualifications. — A citizen of the Trust Territory who has attained the age of eighteen years, has legally resided in the district for not less than three years immediately preceding the date of election, has been a legal resident of the electoral precinct for a period of not less than one year immediately preceding the date of election, and is not under a criminal sentence at the time of election shall be qualified to vote in district elections. Other qualifications may be prescribed by law. (P.L. No. 7-124, § 1.)

§ 509. Registration; conduct of elections; secrecy of voting. — Voter registration and the conduct of elections shall be provided for by law. Secrecy of voting shall be preserved. (P.L. No. 7-124, § 1.)

§ 510. Schedule of elections. — General elections shall be held on the second Friday of November, 1979, and every four years thereafter. In the event of inability to hold the election due to declaration of emergency, natural disaster or other comparable reason, the governor shall proclaim an election not later than thirty days thereafter. Special elections may be held as provided by law. (P.L. No. 7-124, § 1.)
ARTICLE V.

Legislature.

§ 511. Legislative power. — The legislative power of the district government is vested in the Ponape District legislature and shall extend to all rightful subjects of legislation; except, that no legislation may be inconsistent with this charter, the United Nations Charter and trusteeship agreement, laws of the United States applicable in the Trust Territory, applicable orders of the President of the United States and the Secretary of the United States Department of the Interior, and the laws of the Trust Territory. (P.L. No. 7-124, § 1.)

§ 512. Composition, terms of members. — The legislature shall be composed of not more than twenty members, elected every four years at the general election. The terms of the members shall commence on the third day of January following their election, except for legislators elected or appointed to fill vacancies. The size of the legislature may be reduced by statute. (P.L. No. 7-124, § 1.)

§ 513. Electoral precincts. — Until otherwise provided by statute, there shall be eleven electoral precincts in Ponape District as follows: Kapingamarangi, Kitti, Kolonia, Madolenihmw, Mokil, Nett, Ngatik, Nukuoro, Pingelap, Sokehs, and Uh.

Until reapportionment, members of the Legislature shall be elected as follows: Kapingamarangi, Mokil, Ngatik, Nukuoro, and Pingelap shall each have one representative; Kolonia, Nett, and Uh shall each have two representatives; Kitti, Madolenihmw, and Sokehs shall each have three representatives.

Reapportionment on a population basis shall take place before the general election for the first legislature which follows the publication of the results of an official population census taken by the Trust Territory government, or by the Ponape District. (P.L. No. 7-124, § 1.)

§ 514. Vacancies. — Vacancies in the legislature shall be filled in the manner prescribed by statute. (P.L. No. 7-124, § 1.)

§ 515. Eligibility. — No person is eligible to serve as a member of the legislature unless he is at least twenty-five years of age at the time his term of office commences, a citizen of the Trust Territory, has actually resided in Ponape District for at least ten years cumulatively, has legally resided in Ponape District for at least three years immediately preceding his election or appointment, has not voted in any congressional or district legislature election of any other district of the Trust Territory for at least three years immediately preceding his election or appointment, and has been a legal resident of his electoral precinct for at least one year immediately preceding his election or appointment. (P.L. No. 7-124, § 1.)

§ 516. Felons not eligible. — A person convicted of a felony is ineligible to serve as a member of the legislature unless he has received a pardon restoring his civil rights. (P.L. No. 7-124, § 1.)

§ 517. Legislators holding other public offices, commissions, etc. — No member of the legislature may hold another public office in, or be employed by, or receive other compensation or remuneration from, any government or governmental instrumentality, or any nonprofit organization whose financing comes principally from public moneys.
Nothing in this section prohibits any member of the legislature from participating as a member of a charter commission, constitutional convention or governing or policy board of any governmental, quasi-governmental, or nonprofit organization or association, nor prohibits the member from receiving his necessary expenses and the difference between his regular daily legislature compensation and the higher daily compensation for service in such body. (P.L. No. 7-124, § 1.)

§ 518. Holding public offices created during term; conflicting activities. — No member of the legislature may, during the term for which he is elected or appointed, be elected or appointed to any public office or employment which has been created or the emoluments of which have been specifically increased by statute during such term.

No member of the legislature may engage in any activity which conflicts with the proper discharge of his duties. The legislature may prescribe further restrictions. (P.L. No. 7-124, § 1.)

§ 519. Salary increases. — The members of the legislature shall receive annual salaries and allowances, as prescribed by law. A statute increasing salaries may not apply to the legislature that enacted it, nor until after a general election has occurred between the passage of the statute and its being applied; except by general law applying to all salaried officers of the district and in the same average percentage. Allowances shall be reasonably related to official expenses. (P.L. No. 7-124, § 1.)

§ 520. Immunities afforded legislators. — Members of the legislature shall in all cases, except felony or breach of the peace, be privileged from arrest during and while going to and from sessions or committee meetings of the legislature. A member answers only to the legislature for his statements in the legislature or a committee thereof. (P.L. No. 7-124, § 1.)

§ 521. Schedule for convening. — The legislature shall convene on the second Monday of January each year in regular session, or as soon thereafter as is possible. (P.L. No. 7-124, § 1.)

§ 522. Special sessions. — A special session of the legislature may be convened either by the governor or by the speaker of the legislature, upon a petition of one-third of its members. When convened by the governor, its proceedings shall be confined to the subjects stated in the convening call. (P.L. No. 7-124, § 1.)

§ 523. Power to judge, discipline, suspend or expel members; recall elections. — The legislature shall be the sole judge of the qualifications of its members, may discipline a member, and by an affirmative vote of a three-fourths majority of members, may suspend or expel a member.

Upon the petition to recall a member, signed by one-third of the total number of registered voters in his electoral precinct, the governor shall call a special recall election. A legislator shall be recalled upon a majority vote of the total number of registered voters in his electoral precinct.

Upon a vacancy occurring under this section, it shall be filled as provided by section 514 of this article. (P.L. No. 7-124, § 1.)

§ 524. Officers; rules of procedure; journal. — The legislature shall choose its own officers, determine its own rules of procedure, and keep and publish a journal. (P.L. No. 7-124, § 1.)
§ 525. Investigations, hearings, etc. — As incidents of its authority, the legislature and its committees duly authorized may conduct investigations, hold public hearings, subpoena witnesses and documents, and administer oaths. The rules of the legislature shall provide for the enforcement of the contempt power and other incidents of the legislative authority. (P.L. No. 7-124, § 1.)

§ 526. Quorum. — Three-fourths of the members of the legislature shall constitute a quorum. A smaller number than a quorum may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the legislature may provide, including the withholding of salary. The final passage of a bill or resolution shall require the affirmative vote of a majority of members, entered on the journal. (P.L. No. 7-124, § 1.)

§ 527. Enactment of laws; bills required; subjects; reference to title; enacting clauses. — No law may be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. A provision outside the subject expressed in the title is void.

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 reenacted at full length.

The enacting clause of a bill shall be: "Be it enacted by the Ponape District legislature..." (P.L. No. 7-124, § 1.)

§ 528. Same; readings. — To become law, a bill shall pass two readings on separate days. The first reading may be on the day of introduction.

Any bill pending at the final adjournment of a regular session shall carry over with the same status to the next regular session, but in no event beyond the term for which the members have been elected.

Bills disapproved by the governor and returned to the legislature require only one reading to override his veto.

A resolution may be adopted on the same day it is introduced. (P.L. No. 7-124, § 1.)

§ 529. Same; action by governor. — Every bill which has passed the legislature shall be certified by the speaker and the clerk and presented to the governor. If the governor approves the bill, he shall sign it and it becomes law.

If he does not approve the bill, he shall return it with his objections to the legislature. The governor may veto any specific item or items of appropriation in any bill which appropriates money for specific purposes by striking out or reducing the same, but he may veto other bills only as a whole.

The governor has ten calendar days to consider bills presented to him ten or more days before a recess of at least a week's duration or before adjournment sine die of the legislature. For all other bills he has thirty calendar days after they are presented to him. Any bill neither signed nor returned on or before the time specified shall become law in like manner as if the governor had signed it. (P.L. No. 7-124, § 1.)

§ 530. Same; procedure after veto by governor. — Upon the receipt of a veto message from the governor, the legislature may reconsider the vetoed bill or the item or items vetoed, and again vote upon the bill, item or items vetoed. If approved by a two-thirds majority of members the same shall become law.

If the receipt of the veto message is within the last ten days of the session during which the bill was passed, or during a recess of the legislature, the bill, item or items so vetoed may be reconsidered at the next subsequent session or after the legislature reconvenes. (P.L. No. 7-124, § 1.)
§ 531. Resolutions directed to governor. — Resolutions which are directed to the governor shall be answered in writing by him, or his authorized representative, not later than thirty days after receipt of the resolution. If action is requested of the governor, the answer shall include a progress statement or the reasons why such action is not feasible. (P.L. No. 7-124, § 1.)

§ 532. Impeachment of governor, lieutenant governor or district court justice. — The governor, lieutenant governor or a justice of the district court may be impeached for conviction of a felony, serious misfeasance, malfeasance or neglect of duty in office, or serious misconduct in election to office. The legislature may exercise the power of impeachment by resolution of impeachment adopted by three-fourths majority of members.

Upon the adoption of a resolution of impeachment of the governor or lieutenant governor, a notice of impeachment shall be forthwith served by the clerk of the legislature upon the chief justice of the district court, who shall call a session of the district court to meet within fifteen days after such notice to try the impeachment.

Upon adoption of a resolution of impeachment of a justice of the district court, a notice of impeachment shall be forthwith served by the clerk of the legislature upon the governor, who shall convene a special tribunal as prescribed by law to meet within thirty days at the capital, to sit as a court to try the impeachment, which court shall organize by electing one of its members to preside.

A conviction of impeachment shall require the concurrence of two-thirds of the members of the district court or special tribunal.

Judgments in cases of impeachment shall not extend beyond removal from office and disqualification to hold and enjoy any office of honor, trust and profit under the district government, but a person so convicted may nevertheless be liable and subject to indictment, trial, judgment and punishment according to the law.

No officer may exercise his official duties after he has been impeached and notified thereof, and until he has been acquitted. (P.L. No. 7-124, § 1.)

ARTICLE VI.

Executive.

§ 533. Governor and lieutenant governor; executive powers vested; election; term; limitation of terms. — The executive power of the Ponape District government is vested in the governor. He shall be elected by the qualified voters of the Ponape District every four years at the general election. No person may serve more than two full terms, consecutively, as governor. (P.L. No. 7-124, § 1.)

§ 534. Same; eligibility. — No person is eligible to become governor unless he is at least thirty years of age, was either born in or at least one of his parents was born in the area now comprising Ponape District, has been a citizen of the Trust Territory for at least thirty years, has legally resided in the district for at least ten years cumulatively and actually resided in the district for at least three years immediately preceding the date of election, and is a registered voter in the district. Absence from the district while on governmental service shall not constitute an interruption of actual residence. A person convicted of a felony is ineligible to serve, unless he has received a pardon restoring his civil rights. (P.L. No. 7-124, § 1.)
§ 535. Same; lieutenant governor. — There shall be a lieutenant governor who shall have the same qualifications as the governor. He shall be elected at the same time, for the same term, and in the same manner as the governor. He shall perform the duties prescribed by law and those delegated to him by the governor. (P.L. No. 7-124, § 1.)

§ 536. Same; procedure for election; terms. — Nominations for the office of governor and the office of lieutenant governor shall be by separate petitions signed by qualified voters, as provided for by law. If no candidate receives a majority of votes cast for the office of governor or lieutenant governor, a runoff election shall be held between the two candidates for that office receiving the highest number of votes in the general election. Tied elections shall be resolved in the manner provided by law, except that if there are only two candidates running, a tied vote shall be decided by the new legislature after organizing.

The terms of governor and lieutenant governor shall begin at noon on the first Wednesday after the second Monday of January following their election, and shall end four years thereafter. (P.L. No. 7-124, § 1.)

§ 537. Same; vacancy in office. — When the office of the governor is vacant, the lieutenant governor shall become governor. In the absence of the governor from the district, or if he is unable to exercise his powers and perform his duties, during his absence or disability such powers and duties devolve upon the lieutenant governor.

When the office of lieutenant governor is vacant, or in the event of the absence or disability of both governor and lieutenant governor, such powers and duties shall devolve upon such officer as may be provided by law. (P.L. No. 7-124, § 1.)

§ 538. Same; salaries. — The governor and lieutenant governor shall receive salaries which may not be increased or reduced during their terms, except by general law applying to all salaried officers of the district and in the same average percentage. (P.L. No. 7-124, § 1.)

§ 539. Same; responsibility of governor for execution of charter. — The governor is responsible for the faithful execution of the provisions of this charter and of the laws. (P.L. No. 7-124, § 1.)

§ 540. Same; reprieves, commutations and pardons. — The governor may grant reprieves, commutations and pardons after conviction for offenses other than impeachment, subject to regulation by law. (P.L. No. 7-124, § 1.)

§ 541. Same; communication by governor to legislature. — The governor shall communicate to the legislature at the beginning of each session on the condition of the district, and may do so at other times. He may in like manner recommend measures he deems desirable. (P.L. No. 7-124, § 1.)

§ 542. Departments; executive reorganization plans. — Until otherwise provided by law, there shall be six departments, all under the supervision of the governor, each with a single director as its executive head. Directors shall be appointed by the governor with the advice and consent of the legislature, and shall serve at the pleasure of the governor, except that the removal of the chief legal officer of the district prior to the termination of the term for which the governor was elected shall be subject to the advice and consent of the legislature.

All executive and administrative offices and instrumentalities of the district shall be allocated among the departments. The executive branch, or any part thereof, may be reorganized by statute, or by the governor. Executive
reorganization plans of the governor may not take effect until after sixty days from their presentation to the legislature, within which time they may be rejected by resolution of the legislature. (P.L. No. 7-124, § 1.)

§ 543. Declaration of emergency. — 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 governor may declare a state of emergency and issue appropriate decrees.

A declaration of emergency may impair a civil right to the extent actually required for the preservation of peace, health or safety.

After the declaration of emergency, the legislature shall convene to consider revocation, amendment or extension of the declaration. If not convened by the speaker or governor earlier, the legislature shall automatically convene on the thirtieth day after the declaration, unless it has expired or is revoked. Unless it expires by its own terms, is revoked or extended, a declaration of emergency is effective for thirty days. (P.L. No. 7-124, § 1.)

ARTICLE VII.

Judiciary.

§ 544. Vesting of judicial power. — The judicial power of the Ponape District government is vested in a district court, and such inferior courts and conciliatory bodies as may be established by law. No administrative agency or body may be given final judicial authority; except, that nothing contained in this article shall be construed to limit, restrict, or modify the authority or jurisdiction of the High Court for the Trust Territory. No administrative agency or body may be given final judicial authority. (P.L. No. 7-124, § 1.)

§ 545. District courts; court of record; composition. — The district court is a court of record and the highest court of the district. It shall consist of a chief justice and two associate justices, who shall be appointed by the governor with the advice and consent of the legislature. (P.L. No. 7-124, § 1.)

§ 546. Same; term of justices; incapacity of justices; vacancies. — Justices shall serve for a term of four years, unless so physically or mentally incapacitated as to be unable to serve, or otherwise removed for cause after hearing. The procedure for determining incapacity, and removal for cause, shall be provided by law. While the chief justice is absent or unable to perform his duties, or there is a vacancy in the office, the eldest associate justice shall serve as acting chief justice. (P.L. No. 7-124, § 1.)

§ 547. Same; eligibility of justice. — No person is eligible to serve as a justice of the district court unless he is at least thirty-five years of age. A person convicted of a felony is ineligible to serve, unless he has received a pardon restoring his civil rights. (P.L. No. 7-124, § 1.)

§ 548. Compensation of justices, judges and conciliatory body members. — Compensation of justices, judges of inferior courts and members of conciliatory bodies shall be prescribed by law. Compensation may not be diminished during their terms of office, except by general law applying to all salaried officers of the district in the same average percentage. (P.L. No. 7-124, § 1.)
§ 549. Jurisdiction of courts; rules of procedure and evidence; administrative head of courts. — The district court, inferior courts and conciliatory bodies shall have the jurisdiction prescribed by district law. In addition, the district court shall exercise the judicial authority of the government of the Trust Territory expressed in the existing laws of the Trust Territory applicable to district courts of unchartered administrative districts, with appeals to the high court of the Trust Territory. When meeting as a trial court, single justices may hold sessions of the district court, as assigned by the chief justice.

The district court shall establish rules of procedure and evidence for the courts of the district, which shall have the force and effect of law, and rules governing the administration of the judiciary.

The chief justice shall serve as the administrative head of the judicial system, and with the approval of the associate justices, may appoint an administrative officer to serve at his pleasure to supervise the administration of the judiciary. (P.L. No. 7-124, § 1.)

ARTICLE VIII.

Finance.

§ 550. Taxation. — The district government shall have the power to impose and collect taxes not otherwise limited by this charter or applicable law. No exemptions from taxation may be granted except by general law. The property of nonresident Trust Territory citizens shall not be taxed at higher rates than Ponape residents. The property of the Trust Territory and the district government or its political subdivisions shall be exempt from taxation. No tax may be levied, appropriation of money made or public property transferred except for a public purpose.

All tax revenues and other receipts shall be paid into the general fund, except as provided by law. Money may be withdrawn from the treasury of the district government only in accordance with appropriations made by law. Obligations for the payment of money or the transfer of public property may be incurred only as authorized by law. (P.L. No. 7-124, § 1.)

§ 551. Indebtedness. — The district government may incur indebtedness not exceeding at any time the average annual amount of district revenues collected locally during the preceding three fiscal years. The district government shall be solely responsible and liable for any indebtedness incurred under this section. The legislature shall annually appropriate moneys sufficient to retire on schedule any existing indebtedness owed by the district government. The provision of this section on the maximum debt which may be incurred is not applicable to indebtedness incurred for a public project where the only security for such indebtedness is the revenues to be generated by the project. (P.L. No. 7-124, § 1.)

§ 552. Budget; appropriation bill. — The governor shall annually prepare and submit to the legislature a budget setting forth a complete plan of proposed expenditures, anticipated grant funds, revenues, and other receipts of the district government for at least the ensuing one year fiscal period, as well as such other information as the legislature may by law require.

The governor shall submit to the legislature his proposed district requests for United States grant funds. The requests submitted from the district shall be as approved by the legislature, or an authorized committee thereof, and agreed to by the governor.
No authorizations of expenditures or appropriations bills, except those recommended by the governor for immediate passage, may be enacted until the bill appropriating money for the budget is enacted. (P.L. No. 7-124, § 1.)

§ 553. Rate of expenditure. — Provisions shall be made by law for the control of the rate of expenditures of appropriated district moneys and grant funds, and for the reduction of such expenditures when revenues and other receipts are deemed insufficient to meet proposed expenditures during a given fiscal period. (P.L. No. 7-124, § 1.)

§ 554. Auditor. — A district auditor shall be appointed by the governor, with the advice and consent of the legislature, to serve for a term of four years and until a successor is appointed. The legislature, by a two-thirds majority of members, may remove the auditor for cause. The auditor shall be responsible for conducting post-audits of all transactions and of all accounts kept by or for all district departments, offices, agencies and instrumentalities certifying to the accuracy of all financial statements issued by the respective accounting officers, and reporting his findings and recommendations to the legislature. The auditor shall make such additional reports and provide such additional information as the legislature may require. The auditor shall require the installation of an accounting system which will assure strict financial accountability. The auditor may contract to augment the capabilities of his office. (P.L. No. 7-124, § 1.)

ARTICLE IX.

Local Government.

§ 555. Provision for local governments by law; existing municipalities and towns. — The legislature shall by general law provide for local government, and delegate taxing power thereto. Municipalities and towns existing on the effective date of the charter shall continue to exercise their powers and functions as prescribed by law. (P.L. No. 7-124, § 1.)

§ 556. Structure, organization and boundaries of municipalities and towns. — The structure, organization and boundary of an existing municipality or town shall not be altered by law enacted by the legislature unless the law provides for approval of the alteration by the government of the municipality or town. (P.L. No. 7-124, § 1.)

§ 557. Power to tax real property. — The power to tax real property shall be vested in the governments of municipalities and towns; provided, that such power may only be exercised pursuant to general law enacted by the legislature. (P.L. No. 7-124, § 1.)

ARTICLE X.

General Provisions.

§ 558. Capital. — The capital of the Ponape District government shall be established by statute. (P.L. No. 7-124, § 1.)

§ 559. Eminent domain. — There may be no taking of private property for public purpose without just compensation. The legislature by general statute
shall provide for the exercise of the power of eminent domain by the governor, but shall reserve the right to annul the action of the governor, by resolution adopted within sixty days after the governor's decision to condemn. Nothing in this charter shall in any way restrict or impair the paramount power of eminent domain in the central government of the Trust Territory. (P.L. No. 7-124, § 1.)

§ 560. Education, health care and legal services. — The Ponape District government shall take every step reasonable and necessary to provide education, health care and legal services. (P.L. No. 7-124, § 1.)

§ 561. Collective bargaining encouraged. — The legislature may enact laws respecting persons organizing for the purpose of collective bargaining. (P.L. No. 7-124, § 1.)

§ 562. District defense corps. — All able-bodied adult residents of Ponape District shall comprise the Ponape District Defense Corps, established for the purpose of maintaining peace and order in times of crisis or natural disaster, and furnishing services in the promotion of public projects and programs in the district. The legislature may provide by law for the organization and mobilization of the corps and the maintenance of an active branch of the corps. (P.L. No. 7-124, § 1.)

§ 563. Civil service employment. — The employment of persons in the service of the district government shall be under a civil service law, and be governed by the merit principle. (P.L. No. 7-124, § 1.)

ARTICLE XI.

Amendment.

§ 564. Procedure for revising or amending charter. — The legislature may propose amendments to or revise the charter by adopting the same in the manner required for legislation, by a two-thirds majority of members on final reading. No proposal for amendment or revision of the charter is subject to veto by the governor.

Upon adoption, the proposed amendments or revision shall be published as provided by law, and submitted to a vote of the electorate at the next general election unless required to be submitted at a special election called prior thereto. The amendments or revision shall be effective only if approved by a majority of all the votes tallied thereon, a majority of the persons registered to vote having cast ballots at a special election. If a majority of registered voters fails to cast ballots at a special election, unless withdrawn by the legislature, the proposed amendments or revision shall be submitted at another special election called within a reasonable time thereafter. (P.L. No. 7-124, § 1.)

§ 565. Power of High Commissioner to amend or revise. — The High Commissioner may amend or revise this charter on his own initiative, unless otherwise provided by law. (P.L. No. 7-124, § 1.)
ARTICLE XII.

Transition.

§ 566. Effective date. — This charter shall take effect upon its passage by the Congress of Micronesia and its approval by the High Commissioner. (P.L. No. 7-124, § 1.)

§ 567. Powers and duties of district government to comply with U.N. charter, etc. — For the duration of the trusteeship agreement, the powers and duties of the Ponape District government as granted, permitted or required under this charter shall be deemed limited or expanded, as necessary, to comply with the charter of the United Nations, the trusteeship agreement, laws of the United States applicable in the Trust Territory, applicable orders of the president of the United States or the secretary of the interior, and the laws of the Trust Territory. (P.L. No. 7-124, § 1.)

§ 568. Continuation of laws existing prior to charter. — All district laws, and municipal ordinances in force in the unchartered Ponape administrative district on the effective date of this charter and consistent herewith shall continue in force until they expire by their own limitation or are amended, superseded or repealed. All Trust Territory laws in force in Ponape District on the effective date of this charter shall continue in force until they expire by their own limitations, are amended, or repealed. The provisions of this charter shall be interpreted in a manner consistent with Trust Territory law and no provisions of this charter shall be construed to repeal by implication Trust Territory law except where a contrary intent is clearly indicated. (P.L. No. 7-124, § 1.)

§ 569. Continuation of performance of duties by officers and employees prior to charter. — On the effective date of this charter, all officers and employees of the district and municipal courts in Ponape, those whose salaries are included in the unchartered Ponape administrative district government budget or in the general appropriation act of the district legislature, and any other officers and employees in Ponape whose functions and duties are succeeded to by the chartered Ponape District government shall continue to perform the duties of their office or employment in a manner consistent with this charter until they are superseded by officers or employees of the chartered Ponape District government. The classification and recognized seniority under the Territorial civil service laws of employees transferred to the service of the district government shall be protected under district law. (P.L. No. 7-124, § 1.)

§ 570. Effect of charter on pre-existing writs, etc. — 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 shall continue unaffected, notwithstanding the taking effect of this charter, and the chartered Ponape District government shall be the legal successor to the unchartered administrative district government in these matters. (P.L. No. 7-124, § 1.)

§ 571. Transfer of Trust Territory property to district. — When an interest in property held by the government of the Trust Territory and attributable to Ponape District is to be transferred to the chartered Ponape District government, it shall be accomplished in accordance with agreements reached between the High Commissioner and the governor, and ratified by the
§ 572. Establishment of transition procedures by legislature. — The legislature shall, by law, establish procedures to ensure a smooth and orderly transition from unchartered administrative district government to the chartered Ponape District government. (P.L. No. 7-124, § 1.)

§ 573. Legislators not prohibited from holding office created in first term of first legislature. — The provisions of section 518 of article V do not prohibit a member of the first legislature under this charter from holding any office or employment created during his term. (P.L. No. 7-124, § 1.)

§ 574. Responsibility of governor to High Commissioner. — The governor shall be personally and legally responsible to the High Commissioner for the administration of programs, projects and activities of the Trust Territory government, including any appropriation, apportionment, reapportionment or allotment of funds of the United States Congress, the Congress of Micronesia, the legislature, or from any other source. The High Commissioner may issue executive orders prescribing the manner in which the governor's personal and legal responsibility shall be discharged. (P.L. No. 7-124, § 1.)

§ 575. Powers, duties and composition of departments. — Until otherwise provided, the departments of education, health services, and public works shall retain their present functions, powers and duties. The department of resources and development shall include the divisions of agriculture, forestry, lands and surveys (including the land commission and land management), labor, marine resources (including the Ponape fishing authority), economic development, and tourism. The department of legal affairs shall include the office of district attorney, public safety, and immigration, and the district attorney shall be director of the department. The department of revenue and administration shall include the revenue office, treasury office, finance and accounting office, budget office, personnel office, planning office, procurement and supply office, public affairs, and transportation and communications.

Allocation of any executive office, department or instrumentality by this charter includes any office or program subordinate to it, and any board or commission advisory to it, or with quasi-legislative or quasi-judicial powers specifically linked to it, or which is attached to it for administrative servicing. (P.L. No. 7-124, § 1.)

§ 576. Executive offices before first election. — Until the election of the first governor and lieutenant governor, the district administrator shall serve as acting governor, and the deputy district administrator shall serve as acting lieutenant governor. In the event of a vacancy in the office of acting governor or acting lieutenant governor prior to such election, the position shall be filled by appointment of the High Commissioner, with the advice and consent of the legislature. (P.L. No. 7-124, § 1.)

§ 577. Effect of charter on acts relating to fishery zones. — This charter does not per se remove Ponape District from the application of any act of the Congress of Micronesia relating to fishery zones. (P.L. No. 7-124, § 1.)
Title 4.

Municipalities, Towns and Local Governments.


2. Responsibilities and Powers, § 51.


CHAPTER 1.

GENERAL PROVISIONS.

Sec. Sec.
1. Incorporation of a community. 3. Use of terms "congress" and "legislature" by municipal governments.
2. Local political institutions, systems or customs preserved.

§ 1. Incorporation of a community. — When in the opinion of the High Commissioner such action is warranted by the circumstances and by the stage of development of a community, the High Commissioner may, upon application of the advisory council, grant a charter for the community represented by the council. Such charter shall provide for the organization of the community to exercise governmental functions not inconsistent with the laws of the Trust Territory. The charter shall provide for legislative, executive, and judicial instrumentalities which shall exercise such powers as may be assigned to them by the charter. (Code 1966, § 42; Code 1970, tit. 4, § 1.)

§ 2. Local political institutions, systems or customs preserved. — Nothing in section 1 of this chapter or section 55, title 3 of this code shall be construed to affect the authority of existing municipalities, organized advisory councils or other local political institutions, systems or customs insofar as they are in consonance with the trusteeship agreement and the laws of the Trust Territory. (Code 1966, § 42-A; Code 1970, tit. 4, § 2.)

§ 3. Use of terms "congress" and "legislature" by municipal governments. — (1) No municipal government shall use, designate, label or refer to itself as "congress" or "legislature" or use any combination of the two terms as a part of its corporate or chartered name in any way whatsoever.

(2) Prior to the effective date of this section any chartered or incorporated municipal government heretofore formed or existing and coming within the purview of the provisions of subsection (1) shall by resolution recommend to the High Commissioner, and the High Commissioner may adopt such charter name as may be deemed appropriate and consistent with this section.

(3) Nothing herein shall in any way be construed to apply to the district governments, or the legislative bodies thereof. (Code 1966, § 42-A; Code 1970, tit. 4, § 3.)
§ 51. Enumeration; limitations. — (1) Subject to all territory-wide laws and all district laws of their respective districts, municipalities shall be primarily responsible for:
(a) Legislation affecting particularly the peace, safety, and public welfare of their own inhabitants without special or discriminatory effect on those from outside the municipality who are licensed by either the district or the Trust Territory.
(b) Licensing and collecting license fees of all retail and service business within the municipality, subject, however, to all applicable territorial government or district laws.
(c) The imposition and collecting of head taxes, property taxes on any items other than foodstuffs, and such excise taxes as the district may authorize; provided, however, that none of these shall be based on imports, or the value or volume of imports.
(d) The construction and maintenance of public roads and docks which have not been designated as either primary or secondary, including acquiring or providing for adequate space for public utilities and set-back from such roads and docks and control of harbors in which such docks are located, if deemed advisable.
(e) All necessary law enforcement not otherwise provided for.
(f) Making available to the courts a suitable municipal building for court sittings away from established courthouses; providing incidental clerical assistance for such sittings, including all sittings of the community court in their municipality, to the extent this may be done without serious detriment to municipal business; and providing a bailiff for all community court sittings and such occasional sittings of the high court or the district court as may be held for short periods in their municipality away from established courthouses.
(g) Support of public education and health as may be required by law.
(2) No municipal ordinance shall provide for any penalty greater than a one hundred dollar fine, or ninety days imprisonment, or both; nor shall any municipality legislate on any of the subjects specified in section 1, chapter 1, title 2 or section 2, title 3 of this code as the primary responsibility of the territorial and the district governments.
(3) Effective July 1, 1966, any municipal charter inconsistent herewith is hereby amended to accord with this section. (Code 1966, § 48; Code 1970, tit. 4, § 51; P.L. No. 4C-27, § 1; P.L. No. 4C-59, § 1.)
CHAPTER 3.

MUNICIPAL ORDINANCES.

§ 101. Adoption. — Municipalities may adopt ordinances not in conflict with other written laws. The method of adoption (including decision as to who within the municipality need consent and whether or not the district administrator need approve) shall be as determined in the case of each municipality by the district administrator and may vary from one district to another as the district administrator deems best in the public interest particularly in view of the organization of the municipality, the wishes of its inhabitants, and their cultural and educational development, or as provided by charter in accordance with section 1, chapter 1 of this title. (Code 1966, § 31(a); Code 1970, tit. 4, § 101.)

§ 102. Promulgation. — After its adoption, each municipal ordinance shall be made public as follows:

(1) By posting a copy thereof in both the local language and in English, both signed by the magistrate or a secretary of the municipality, in one or more conspicuous public places within the municipality; or

(2) By posting such a copy in the local language only, in the case of municipalities where the district administrator determines that posting in English would be an undue burden, but posting in the local language is practical; or

(3) By public oral proclamation in the presence of the magistrate or a secretary of the municipality, at a meeting to which all adult residents present in the municipality are invited by whatever means is usual there, in the case of municipalities where the district administrator determines that any posting would be an undue burden.

Each district administrator shall publish a list of the municipalities where he determines posting in English would be an undue burden but posting in the local language is practical, and a list of those where he determines any posting would be an undue burden; shall send a copy of each of these lists, and of any changes in them, to the High Commissioner and to the clerk of courts in his district; and shall notify each municipality of his determination as to it. (Code 1966, § 31(b); Code 1970, tit. 4, § 102.)

§ 103. Effective date. — Each municipal ordinance shall become effective on the date it is made public as directed in section 102 of this chapter or on such later date, if any, as may be specified in the ordinance. (Code 1966, § 31(c); Code 1970, tit. 4, § 103.)

§ 104. Notice to district administrator and clerk of courts. — Each municipality required to make its ordinances public by posting shall send a copy of each ordinance as posted to its district administrator and clerk of courts as soon as practicable with a statement of the date of posting. Each municipality permitted to make public its ordinances by oral proclamation shall notify the district administrator and the clerk of courts of the substance of each ordinance and the date it was proclaimed as soon as practicable. (Code 1966, § 31(d); Code 1970, tit. 4, § 104.)
Ordinance passed prior to executive order requiring filing. — Fact that no signed copy of municipal ordinance is on file with the clerk of courts for the Truk District is immaterial in conviction for a violation of ordinance, where ordinance was passed prior to executive order requiring such filing. Timas v. Trust Territory, 2 TTR 109 (1959).

§ 105. Construction. — In construing municipal ordinances which are made public by posting in both a local language and in English, both versions shall be considered; but, in case of doubt as to the intent of any part of the ordinance, special weight shall be given to the version in the local language. (Code 1966, § 31(e); Code 1970, tit. 4, § 105.)

§ 106. Revocation, amendment, or suspension by higher authority. — Any municipal ordinance may be revoked, amended, or suspended (indefinitely or for a stated period which may later be altered, or upon any conditions deemed best) by the High Commissioner or the district administrator at any time by written notice. Such notice shall become effective on being made public in the same manner the ordinance involved was made public except that the notice shall be signed by the official issuing it. A copy of each such notice with a statement of the date it was made public as provided in section 103 of this chapter, shall be sent to the clerk of courts of the district involved as soon as practicable after it is made public. (Code 1966, § 31(f); Code 1970, tit. 4, § 106.)

§ 107. Delegation of authority to revoke, amend, or suspend. — Authority to issue and sign a notice or notices under section 106 of this chapter may be delegated in writing by the High Commissioner or the district administrator to anyone, subject to such limitations, if any, as the official making the delegation deems best. A copy of each such delegation shall be filed with the clerk of courts of any district as to which it is to be used either before it is used or as soon as practicable thereafter. (Code 1966, § 31(g); Code 1970, tit. 4, § 107.)

§ 108. Notice to High Commissioner. — Each district administrator shall send to the High Commissioner a copy in English of each municipal ordinance received by him or a statement of the substance thereof in the case of those of which only the substance reported to him. He shall similarly send to the High Commissioner a copy of each notice issued by him or under his authority under section 106 of this chapter. (Code 1966, § 31(h); Code 1970, tit. 4, § 108.)

§ 109. Existing municipal ordinances. — Nothing contained in this chapter or in section 101 of title 1 of this code shall of itself affect the validity of any existing municipal ordinance, but all such ordinances shall be subject to revocation, amendment, and suspension as provided in this chapter. (Code 1966, § 31(i); Code 1970, tit. 4, § 109.)
CHAPTER 4.

KWAJALEIN ATOLL ORDINANCES.

§ 151. Definitions. — (1) Kwajalein missile range includes those islands, parts of islands, and the territorial waters adjacent thereto, in the Kwajalein Atoll, Marshall Islands District that are now or may hereafter be used by the United States military establishment pursuant to agreement with the government of the Trust Territory.

(2) Notice is written communication by teletype or air mail as appropriate, but does not include communication by regular mail. (Code 1966, § 49(a); Code 1970, tit. 4, § 151.)

§ 152. Adoption. — Whenever the commanding officer of Kwajalein missile range in the Kwajalein Atoll, Marshall Islands District desires the adoption of an ordinance applicable within Kwajalein missile range, he may propose that such an ordinance be adopted by forwarding a draft thereof to the district administrator of the Marshall Islands District. If the district administrator approves the proposed ordinance he shall adopt it. (Code 1966, § 49(b); Code 1970, tit. 4, § 152.)

§ 153. Promulgation. — Whenever an ordinance is adopted as provided in this chapter, it shall be promulgated by the commanding officer of Kwajalein missile range, who shall cause a copy thereof to be posted in a place that is accessible to all the residents of and visitors to Kwajalein missile range. (Code 1966, § 49(c); Code 1970, tit. 4, § 153.)

§ 154. Effective date. — Any ordinance adopted as provided in this chapter shall become effective on the date it is promulgated. (Code 1966, § 49(d); Code 1970, tit. 4, § 154.)

§ 155. Notice. — Within three days after the promulgation of an ordinance, the commanding officer who promulgated it shall notify the district administrator of the Marshall Islands District of the date that the ordinance was promulgated and forward copies thereof to the legislature of the Marshall Islands District, the clerk of courts for the Marshall Islands District Court, the High Commissioner and the legislative counsel of the Congress of Micronesia. (Code 1966, § 49(e); Code 1970, tit. 4, § 155.)

§ 156. Revocation or suspension. — Any ordinance adopted and promulgated as provided in this chapter may be revoked or suspended by the commanding officer of Kwajalein missile range, the district legislature or district administrator for the Marshall Islands District, the High Commissioner or the Congress of Micronesia. All officials or legislative bodies having such power and the clerk of courts of the Marshall Islands district court shall be notified of such revocation or suspension, and the date thereof, within three days after such action by the official or legislative body taking such action. (Code 1966, § 49(f); Code 1970, tit. 4, § 156.)

§ 157. Limitations. — No ordinance adopted and promulgated as provided in this chapter shall provide for a criminal penalty exceeding a fine of one
hundred dollars, or thirty days imprisonment, or both, nor shall an ordinance be effective with respect to any person who is unable to read and understand the English language unless the substance of the provisions of such an ordinance have been translated into the language understood by such a person. (Code 1966, § 49(g); Code 1970, tit. 4, § 157.)
Title 5.

Judiciary.


2. High Court, §§ 51 to 55.

3. District Court, §§ 101 to 103.

4. Community Court, §§ 151 to 153.

5. Judges, Officers and Employees, §§ 201 to 356.

6. Concurrent Jurisdiction, §§ 401 to 403.


CHAPTER 1.

GENERAL PROVISIONS.

Sec. Sec.

1. Separation of powers; grant of authority; appointment of judges and justices; budget requests.

3. Jurisdiction; persons and offenses.

4. General powers of courts; admission and discipline of attorneys.

5. Same; territorial jurisdiction.

6. Sessions to be public.

7. Actions taken outside Trust Territory or territorial jurisdiction.


§ 1. Separation of powers; grant of authority; appointment of judges and justices; budget requests. — (1) The judiciary shall be independent of the executive and legislative powers and shall be vested in a high court for the Trust Territory, a district court for each administrative district, and a community court for each municipality, or for individual communities therein if the district administrator of the district in which the municipality is situated so determines.

(2) The Secretary of the Department of the Interior shall appoint the chief justice and associate justices of the high court, may make temporary appointments when a vacancy exists, and in addition may appoint temporary judges to serve on the high court.

(3) Budgetary requests for the territorial judiciary, with supporting justification, shall be drawn up by the chief justice of the Trust Territory and be submitted for the approval of the Department of the Interior by the High Commissioner as a separate item in the annual budget for the Trust Territory. (Department of Interior Order No. 2918, part IV; Code 1966, § 115; Code 1970, tit. 5, § 1.)

§ 2. General powers of courts; admission and discipline of attorneys. — (1) Each court of the Trust Territory shall have power to issue all writs and other process, make rules and orders, and do all acts, not inconsistent with law and with the rules made by the chief justice of the Trust Territory, as may be requisite for the due administration of justice, and, without limiting the generality of the foregoing powers, may grant bail, accept and forfeit security therefor, make orders for the attendance of witnesses with or without documents, make orders for the disposal of exhibits, and punish contempt of court.

(2) The high court may admit qualified persons as attorneys at law to practice in all the courts of the Trust Territory and may, for cause, discipline or disbar them. (Code 1966, § 179; Code 1970, tit. 5, § 2.)
Nature of disciplinary proceedings. —
Disciplinary proceedings are not considered
criminal or civil in nature, but are special
proceedings, sui generis, in the nature of an
inquiry concerning the conduct of an attorney
as it relates to his fitness to practice law. Such
proceedings are not for the purpose of
punishment of the attorney but to protect the
court and the public from persons unfit to
practice a profession imbued with the public
trust. Although such proceedings are sui
generis, a party to them is entitled to
procedural due process, i.e., notice of the
charges and an opportunity to be heard.
Abrams v. Trust Territory High Court

Power of disciplinary panel. —
Disciplinary panel composed of three judges of
the high court may enter an order affecting the
rights of a party to a disciplinary proceeding
even though section does not expressly provide
for adoption or promulgation of rules or
procedures governing the practice of law in the
Trust Territory. Abrams v. Trust Territory High
Court Disciplinary Panel (App. Div., May,
1977).

Disciplining of attorneys. — There is no
question that the high court has the power and
authority to discipline attorneys. It is expressed
in statute, as well as being an inherent power
correlated to the power to admit attorneys to
practice in courts. Courts not only have the
inherent power to discipline attorneys, but they
are also charged with an obligation and duty to
regulate attorneys practicing within their
jurisdiction. Abrams v. Trust Territory High
Court Disciplinary Panel (App. Div., May,
1977).

It is well accepted that the discipline of
attorneys is a judicial function of the courts.
Abrams v. Trust Territory High Court

Procedural due process does not require
appellate review. This is a principle which has
been specifically applied to disciplinary
proceedings. Abrams v. Trust Territory High
Court Disciplinary Panel (App. Div., May,
1977).

Power of court to adopt procedures. —
Implicit in the power of the high court to admit
and discipline attorneys is the authority to
adopt procedures for carrying out its
obligations. Abrams v. Trust Territory High
Court Disciplinary Panel (App. Div., May,
1977).

§ 3. Jurisdiction; persons and offenses. — (1) A court of the Trust
Territory may exercise personal jurisdiction in civil cases only over persons
residing or found in the Trust Territory and who have been duly summoned or
persons who voluntarily appear.

(2) Criminal cases shall be prosecuted and tried only in a court having
territorial jurisdiction over the place where the crime was committed, except
as provided in section 451 of this title. (Code 1966, § 117; Code 1970, tit. 2, § 3.)

Actions against United States. — Unless
and until congressional authority exists for
actions against United States to be brought in
Trust Territory court, court has no jurisdiction
to entertain them. Alig v. Trust Territory, 3
TTR 64 (1965).

§ 4. Same; territorial jurisdiction. — (1) The jurisdiction of the high court
shall extend to the whole of the Trust Territory.

(2) The jurisdiction of a district court shall extend to the whole of the
administration district for which it is constituted, or any part thereof.

(3) The jurisdiction of a community court shall extend to the whole of the
municipality or community for which it is constituted, or any part thereof.

§ 5. Actions taken outside Trust Territory or territorial jurisdiction.
— Any action taken by a court or judge thereof outside the Trust Territory or
the territorial jurisdiction of the court shall be valid and effective within the
Trust Territory to the same extent as if taken therein and within the territorial

§ 6. Sessions to be public. — The proceedings of every court shall be
public, except when otherwise ordered by the court for good cause. (Code 1966,
§ 186; Code 1970, tit. 2, § 6.)
§ 51. Court of record; seal. — The high court shall be a court of record and shall have a seal, which shall be kept in the custody of the clerk of courts at Truk. A duplicate original of the seal shall be kept in the custody of the clerk of courts for each other district. (Code 1966, § 128; Code 1970, tit. 5, § 51.)

§ 52. Divisions of high court. — The high court shall consist of a trial division and an appellate division. The trial division shall consist of the chief justice and the associate justices; however, sessions of the trial division may be held by any judge alone. The appellate division shall consist of three judges assigned thereto by the chief justice, two of whom shall constitute a quorum; provided, that either the chief justice or any associate justice may also sit as a member of the three-judge appellate division, in a case which he has not heard as a judge of the trial division. The concurrence of two judges shall be necessary to a determination of any appeal by the appellate division of the high court, but a single judge may make all necessary orders concerning any appeal prior to the hearing and determination thereof, and may dismiss an appeal for want of jurisdiction, or failure to take or prosecute it in accordance with the applicable law or rules of procedure, or at the request of the appellant. (Code 1966, § 121; Code 1970, tit. 5, § 52.)

Absence of one judge from panel. — While a full panel of three judges in the appellate division should be the rule, the absence of one judge, for whatever reason, does not deprive those remaining of the authority to render a valid decision, since two judges constitute the required quorum. Guerrero Family, Inc. v. Micronesian Line, Inc., 5 TTR 531 (1971).

The term “quorum,” as applied to courts, generally refers to the requirement that a certain number of judges must be present in order to render a valid decision. Guerrero Family, Inc. v. Micronesian Line, Inc., 5 TTR 531 (1971).


§ 53. Original jurisdiction of trial division. — The trial division of the high court shall have original jurisdiction to try all causes, civil and criminal, including probate, admiralty, and maritime matters and the adjudication of title to land or any interest therein. (Code 1966, § 123; Code 1970, tit. 5, § 53.)

Similarity to U.S. Constitution. — This section is somewhat similar to article 3, section 2 of the Constitution of the United States. Lakemba v. Milne, 4 TTR 44 (1968).

Foreclosure actions to be brought in high court. — Under present Trust Territory law, court action regarding foreclosure of mortgages in Palau District would have to be brought in the high court. Iyar v. Sungiyama, 2 TTR 154 (1960).

Jurisdiction over land disputes. — Adjudication of land disputes is within exclusive original jurisdiction of the trial division of the high court. Tasio v. Trust Territory, 3 TTR 262 (1967).


Claim for money damages based on alleged interest in land. — Where claim of plaintiff for money damages is based on alleged interest in land superior to defendant’s interest, matter is within original jurisdiction of high
court to try title or any interest in land, and not within district court's jurisdiction, which is limited in land matters to right of immediate possession. Remoket v. Olekeril, 3 TTR 339 (1967).

**Action for recovery of money because of rights in land.** — Where complaint asks for recovery of money because of rights in land from which money is derived, action should be brought in trial division of the high court, and district court has no jurisdiction of subject matter. Remoket v. Olekeril, 3 TTR 339 (1967).

**Admiralty and maritime matters.** — This section accords jurisdiction in admiralty and maritime matters to the high court. Lakemba v. Milne, 4 TTR 44 (1968).

**Substantive maritime law not stated.** — The Trust Territory Code does not specifically state the substantive law to be applied in maritime cases. Lakemba v. Milne, 4 TTR 44 (1968).

§ 54. **Appellate jurisdiction and review.** — (1) The appellate division of the high court shall have jurisdiction to review on appeal the decisions of the trial division of the high court:

(a) In all cases originally in the high court;

(b) In all cases decided by the high court on appeal from a district court, involving construction or validity of any law of the United States, or of any law or regulation of the Trust Territory, or of any written enactment intended to have the force of law of any official, board, or body in the Trust Territory;

(c) In all cases decided by the high court on review of a district court or community court decision under section 353, of title 6 of this code, in which the high court has reversed or modified the decision so as to affect the substantial rights of the appellant.

(2) The trial division of the high court shall have jurisdiction to review on appeal the decisions of the district courts in all cases and shall also have jurisdiction to review on the record, as provided by section 353, of title 6 of this code, final decisions of the district courts and the community courts in which no appeal is taken.

(3) The appellate division of the high court shall, however, have jurisdiction, in its discretion, to review on appeal directly from a district or community court decisions involving construction or validity or any law of the United States, or of any law or regulation of the Trust Territory, or of any written enactment intended to have the force of law, if the appellate division considers that the public interest will be served thereby. (Code 1966, § 124; Code 1970, tit 5, § 54.)


**Correction of trial division judgments.** — The only remedy to correct a judgment of the trial division is to appeal to the appellate division of the high court. Rilometo v. Lanlobar, 4 TTR 172 (1968).

**Adoption of common law includes admiralty and maritime matters.** — The Trust Territory adoption of the rules of common law and the specific provision for jurisdiction in admiralty and maritime matters was intended to include adoption of the substantive and general rules of the law maritime as customarily applied in suits at common law in the United States. Lakemba v. Milne, 4 TTR 44 (1968).

**Suit against government for return of land comes within sovereign immunity doctrine.** — Suit against Trust Territory and certain of its officers for return of land taken by Japanese government and for damages and rents comes within doctrine of sovereign immunity, whereby government is immune from suit without its consent. Alig v. Trust Territory, 3 TTR 603 (App. Div. 1967).

**Effect of appellate decision.** — Where high court decides case on appeal from district court and appeal does not involve construction or validity of a law, regulation or enactment, further appeal rights are cut off. Ngerelwang Clan v. Sechelong (App. Div., February, 1976).

**Nature of the right to appeal.** — The right to appeal is purely a statutorily conferred right and the legislature has a large measure of discretion in prescribing the manner of criminal procedure. Trust Territory v. Elias (App. Div., January, 1975).
Schedule of appeal does not deny equal protection. — Where original conviction is in district court, and the decision is reviewed and affirmed by the trial division of the high court, appellants are not denied equal protection under the law because they are then denied a review by a three-judge panel even though there is no doubt that if the charge had originally been heard in the trial division of the high court the appeal would be to the appellate division of the high court. Trust Territory v. Elias (App. Div., January, 1975).

Purpose of section. — Section is designed to facilitate the orderly and efficient processing of cases, not to arbitrarily decide whether an appellant receives a single-judge review or a three-judge appellant panel. Trust Territory v. Elias (App. Div., January, 1975).

Effect of prosecutor's discretion to choose court in which to file complaint. — Fact that prosecuting attorney can file complaint or information in either the district court or the trial division of the high court does not, in any way, invalidate the appeals process. In the final analysis the prosecuting attorney does not have the discretion to decide which appeal process the defendant shall have because the courts have the power to transfer cases. Trust Territory v. Elias (App. Div., January, 1975).

The fact that the district attorney can arbitrarily file a grand larceny charge in the district court, thereby limiting any appellate review to a single sitting in the trial division of the high court rather than a three-judge panel in the appellate division is not violative of equal protection. Trust Territory v. Elias (App. Div., January, 1975).

§ 55. Sessions. — (1) Sessions of the appellate division of the high court shall be held at such places and at such times as the chief justice may determine by rules or order from time to time.

(2) Sessions of the trial division shall be held, if practicable, four times in each year in each administrative district pursuant to rules or orders promulgated from time to time by the chief justice. (Code 1966, § 127; Code 1970, tit. 5, § 55.)
§ 101. Jurisdiction. — (1) Each district court shall have original jurisdiction concurrently with the trial division of the high court:

(a) In all civil cases (including proceedings for changes of name) where the amount claimed or value of the property involved does not exceed one thousand dollars, except admiralty and maritime matters and the adjudication of title to land or any interest therein (other than the right to immediate possession); provided, that each district court shall have jurisdiction to award alimony and support for children in divorce cases and separate support or separate maintenance for a spouse and support for children in support and maintenance cases regardless of whether the awards may ultimately exceed one thousand dollars, and to include in such award land or any interest therein owned by any parties in the case (but this shall not include jurisdiction to adjudicate the validity of such party's ownership of the land or interest therein in question);

(b) In all criminal cases involving offenses against the laws of the Trust Territory including generally recognized local customs, where the maximum punishment which may be imposed does not exceed a fine of two thousand dollars or imprisonment for five years, or both.

(2) Each district court shall have jurisdiction to review on appeal the decisions of the community courts of the district in all cases, civil and criminal.

(Code 1966, § 138; Code 1970, tit. 5, § 101.)

Adjudication of land disputes. —
Adjudication of land disputes is within exclusive original jurisdiction of the trial division of the high court. Tasio v. Trust Territory, 3 TTR 262 (1967).

Jurisdiction of action for money damages resulting from land dispute. —
Where complaint asks for recovery of money because of rights in land from which money is derived, action should be brought in trial division of the high court, and district court has no jurisdiction of subject matter. Remoket v. Olekeriil, 3 TTR 339 (1967).

Jurisdiction of high court to determine interest in land. —
Where claim of plaintiff for money damages is based on alleged interest in land superior to defendant's interest, matter is within original jurisdiction of high court to try title or any interest in land, and not within district court's jurisdiction, which is limited in land matters to right of immediate possession. Remoket v. Olekeriil, 3 TTR 339 (1967).

District court's lack of jurisdiction concerning interests in land. —
Wife's action against her husband for specific performance of alleged promise to transfer land depended upon what interest, if any, wife had in the land, which had been conveyed to the husband only and which wife claimed a one-half interest ownership of; and district court properly dismissed for want of jurisdiction due to statute providing district court did not have jurisdiction where title to or interest in land was involved. Taisakan v. Taisakan, 6 TTR 283 (1973).

Distinction between claim for money and land dispute. —
There is distinction between action relating to claim for money, which is within jurisdiction of district court, and action which determines interests in land, which is not within power of district court to decide. Remoket v. Olekeriil, 3 TTR 339 (1967).

In action for specific performance of promise to transfer land, statute providing district court had no jurisdiction where title to or interest in land was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. Taisakan v. Taisakan, 6 TTR 283 (1973).

Jurisdiction of land possession questions similar to forcible entry and detainer action. —
Trust Territory law which gives district court jurisdiction to determine right to
immediate possession of land is similar to forcible entry and detainer action, which is regarded as possessory action, in which plaintiff need not be owner of property in dispute and issue of title is not raised. Remoket v. Olekiriil, 3 TTR 339 (1967).

When district court has original jurisdiction. — District court has original jurisdiction in all civil cases where amount claimed or value of property involved does not exceed $1,000, except admiralty and maritime matters and adjudication of title to land or interests therein. Sam v. Sam, 3 TTR 203 (1966).

Authority of district courts as to orders to right to possess land. — District courts in Trust Territory have clear authority to determine and make orders as to right to immediate possession of land. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Purpose of the Trust Territory law allowing district courts to determine right to immediate possession of land is to have courts readily available to determine such rights in orderly manner in order to avoid resort to force. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Authority of district courts in Trust Territory to issue orders regarding right to immediate possession of land is not limited to situations in which high court action is pending. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Although district and community courts cannot adjudicate title to land or any interest therein, this does not prevent district or community court from ordering transfer of land as payment for damages where there is no dispute about ownership and when value of land does not exceed jurisdictional limitation of court. Miko v. Keit, 2 TTR 582 (1964).

Authority of district court does not extend to prayers for support. — There is no authorization for district court to consider prayers for support except in actions for divorce or annulment and unless prayer is for amount within jurisdiction of court. Sam v. Sam, 3 TTR 203 (1966).


§ 102. Sessions. — Each district court shall hold its sessions from time to time at the headquarters of the district or elsewhere therein as its business and the public interests may require and as the rules of procedure prescribed for it by the chief justice of the Trust Territory may direct. (Code 1966, § 139; Code 1970, tit. 5, § 102.)

§ 103. Record to be filed with clerk of courts. — The presiding judge of the district court shall promptly make, or cause to be made, and file with the district clerk of courts a record of each case heard and decided by the court. (Code 1966, § 140; Code 1970, tit. 5, § 103.)
§ 151. Jurisdiction. — Each community court shall have original jurisdiction, concurrently with the trial division of the high court and the district court, in all civil cases where the amount claimed or value of the property involved does not exceed one hundred dollars, except admiralty and maritime matters and the adjudication of title to land or any interest therein (other than the right to immediate possession), and in all criminal cases involving offenses against the laws of the Trust Territory, including generally recognized local customs, where the maximum punishment which may be imposed does not exceed a fine of one hundred dollars, or imprisonment for six months, or both. (Code 1966, § 149; Code 1970, tit. 5, § 151.)

Limitation of jurisdiction of community courts. — Jurisdiction of community courts in criminal cases is limited to those in which maximum punishment which may be imposed does not exceed one hundred dollars or imprisonment for six months, or both. Purako v. Efou, 1 TTR 236 (1955).

Community court has no jurisdiction to try any person for bigamy, and conviction of this offense in community court is void. Purako v. Efou, 1 TTR 236 (1955).

Authority to order transfer of land as payment for damages. — Although district and community courts cannot adjudicate title to land or any interest therein, this does not prevent district or community court from ordering transfer of land as payment for damages where there is no dispute about ownership and when value of land does not exceed jurisdictional limitation of court. Miko v. Keit, 2 TTR 582 (1964).

Trial division of high court has jurisdiction over land disputes. — Adjudication of land disputes is within exclusive original jurisdiction of the trial division of the high court. Tasio v. Trust Territory, 3 TTR 262 (1967).

§ 152. Oral process and returns. — All process and reports of service of process of a community court may be oral if the court deems best, but such oral process shall only be effective within the territorial jurisdiction of the court issuing it. (Code 1966, § 336; Code 1970, tit. 5, § 152.)

§ 153. Filing of record. — As promptly as possible after the final decision of a case in a community court, the presiding judge shall make, or cause to be made, and send a record of the case in the form prescribed by the rules of procedure adopted by the chief justice of the Trust Territory to the clerk of courts for the district in which the court was held. (Code 1966, § 150; Code 1970, tit. 5, § 153.)
CHAPTER 5.

JUDGES, OFFICERS AND EMPLOYEES.

Subchapter I.

High Court.

§ 201. Appointment of justices. — (1) There shall be a chief justice of the Trust Territory and one or more associate justices appointed by the Secretary of the Department of the Interior.

(2) The chief justice shall preside at any session of the high court which he attends.

(3) Whenever the chief justice is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon any associate justice designated by the chief justice, or in the absence of such designation, upon the senior associate justice in point of service, until such disability is removed or another chief justice is appointed and takes office. (Code 1966, § 120; Code 1970, tit. 5, § 201.)

Discretion of chief justice in assigning cases not violative of due process. — Action of chief justice who is disqualified from hearing case in assigning case first to one judge then to another does not violate plaintiff's right to due process of law. Sonoda v. Burnett (Tr. Div., April, 1977).

§ 202. Rule-making power of chief justice. — The chief justice of the Trust Territory shall have administrative supervision over all the courts of the Trust Territory and their officers, and he may make rules not inconsistent with law regulating the pleading, practice and procedure, and the conduct of business in the several courts of the Trust Territory. (Code 1966, § 178; Code 1970, tit. 5, § 202.)

Promulgation of rules as supplement to a statutory policy. — Where there are rules promulgated as an administrative interpretation of, and administrative supplement to, a statutory policy, failure of the legislating authority to repudiate such an interpretation by later enactments raises a presumption in favor of the correctness of such interpretation. Marbou v. Termeteet, 5 TTR 655 (1971).
Administrative interpretation of statutes. — With direct notice of administrative interpretation of the statutes and past opportunities to correct or amend, through legislation, any errors on the part of the rule-making authority, inaction by the legislating authority implies validation through acquiescence. Marbou v. Termeteet, 5 TTR 655 (1971).

§ 203. Temporary judges. — The Secretary of the Department of the Interior may from time to time designate temporary judges, learned in the law, who shall be qualified to sit in the appellate division of the high court during such period of time as the secretary may designate. During such period, each of these temporary judges shall be qualified to hold sessions of the trial division of the high court upon assignment by the chief justice. (Code 1966, § 122; Code 1970, tit. 5, § 203.)

Discretion of chief justice in assigning cases not violative of due process. — Action of chief justice who is disqualified from hearing case in assigning case first to one judge then to another does not violate plaintiff’s right to due process of law. Sonoda v. Burnett (Tr. Div., April, 1977).

§ 204. Special judges for murder cases. — (1) The High Commissioner shall from time to time appoint for definite specified terms two or more special judges of the high court for each administration district to sit in the trial division of the court in the trial of murder cases.

(2) When a murder case is assigned for trial, the judge of the high court assigned to preside shall assign two of the special judges appointed for the district in which the trial is to take place to sit with him in the trial thereof. The special judges shall participate with the presiding judge in deciding, by majority vote, all questions of fact and sentence, but the presiding judge alone shall decide all questions of law involved in the trial and determination of the case. If the trial is by jury, however, the special judges shall participate only as assessors and in deciding on the question of sentence. (Code 1966, § 125; Code 1970, tit. 5, § 204.)

Appointment of special judges for murder cases. — Under this section special judges of the high court are appointed to sit in the trial of murder cases in the trial division and participate with a presiding judge of the high court in deciding, by majority vote, all questions of fact. Helgenberger v. Trust Territory, 4 TTR 530 (App. Div. 1969).

Triers of fact in murder case. — In the Trust Territory in a prosecution for murder the triers of fact are the presiding judge together with two special judges provided for under this section. Helgenberger v. Trust Territory, 4 TTR 530 (App. Div. 1969).

Function of special judges. — The special judges sit, in effect, in the place of a jury, since they are limited to participating with the presiding judge in deciding, by majority vote, all questions of fact and sentence; the judge of the high court, who presides, alone decides all questions of law. Helgenberger v. Trust Territory, 4 TTR 530 (App. Div. 1969).

Qualification of special judges. — It is not required that special judges appointed to sit in trial of murder cases be learned in the law; they do not sit as judges, but as triers of fact when no jury is provided. Helgenberger v. Trust Territory, 4 TTR 530 (App. Div. 1969).

Power of special judges to question witnesses. — As special judges participate in deciding facts and sentence, and as the court has the authority to examine witnesses, it follows that special judges may question witnesses just the same as the high court justice. Trust Territory v. Minor (App. Div., May, 1976).

Instruction of special judges as to law. — Presiding judge is not required to instruct the special judges concerning the law as is required in a trial by jury. The procedure whereby the presiding judges inform the special judges concerning the law applicable is discretionary. Trust Territory v. Techur (App. Div., June, 1976).
§ 205. Compensation of officers and employees. — The rates of compensation of special judges of the trial division of the high court, associate judges of the district courts, presiding and associate judges of the community courts, assessors, clerks of courts and other officers and employees of the courts shall be fixed by the chief justice of the Trust Territory with the approval of the High Commissioner, and shall be paid out of funds appropriated or allotted to the judiciary of the Trust Territory. (Code 1966, § 184; Code 1970, tit. 5, § 205.)

Subchapter II.

District Court.

§ 251. Appointment, tenure and salary of judges. — The district court for each administrative district shall consist of a presiding judge and may include one or more associate judges, all of whom shall be appointed by the High Commissioner, by and with the advice and consent of the Congress of Micronesia as provided by law, for three-year terms, subject to removal by the trial division of the high court for cause after hearing. The presiding judge of a district court shall receive a salary to be fixed by the chief justice, with the approval of the High Commissioner, which salary shall not be diminished during his term of office. No judge of a district court may be an officer or employee of the Trust Territory government, or any political subdivision thereof, during his tenure in office. The High Commissioner may appoint a special judge of the high court appointed for a district pursuant to section 204 of this title to serve also as presiding or associate judge of the district court for the district. (Code 1966, § 136; Code 1970, tit. 5, § 251; P.L. No. 6-23, § 1.)

§ 252. Assignment of associate judges. — If associate judges have been appointed for a district court, one or more of them shall be assigned by the presiding judge of the district court from time to time to sit in the court for the hearing and determination of particular cases or proceedings pursuant to the rules of procedure prescribed for the court by the chief justice of the Trust Territory. (Code 1966, § 137; Code 1970, tit. 5, § 252.)

Subchapter III.

Community Courts.

§ 301. Appointment and tenure of judges. — The community court for each municipality or community therein shall consist of a presiding judge and may include one or more associate judges, all of whom shall be appointed by the district administrator of the district in which the municipality is located, upon nominations made as provided in section 302 of this chapter for definite terms specified by him, subject to removal by the trial division of the high court for cause after hearing. The trial division of the high court may suspend a judge of a community court for cause. (Code 1966, § 145; Code 1970, tit. 5, § 301.)

§ 302. Nomination of judges. — The presiding judge and associate judge or judges of a community court shall be nominated by popular vote or otherwise as the district administrator of the district in which the municipality or community concerned is located deems most in accord with the wishes of the people of the municipality or community and consistent with the proper administration of justice. If nominations are to be made by popular vote, the
§ 303. Assignment of associate judges. — If associate judges have been appointed for a community court they may individually hold separate sessions of the court when assigned to do so by the presiding judge or two or more of them may sit together in sessions of the court when so assigned by the presiding judge. When two or more judges sit together in a community court, the presiding judge or, in his absence, the oldest judge present, shall preside and the decision of the court shall be determined by the majority vote of the judges present. (Code 1966, § 147; Code 1970, tit. 5, § 303.)

§ 304. Assignment of other judges. — Any judge of a community court may be invited by the presiding judge of another community court to sit in that court either for the hearing and determination of a particular case or cases or for a specified period of time, and, if willing and able to accept, the judge so invited shall have all the powers of an associate judge of that community court for the hearing and determination of the cases or during the period specified. (Code 1966, § 148; Code 1970, tit. 5, § 304.)

Subchapter IV.

Miscellaneous Provisions.

§ 351. Disqualification of judges. — No judge shall hear or determine or join in hearing and determining an appeal from the decision of any case or issue decided by him. No judge shall sit in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to participate in the hearing and determination of the case. (Code 1966, § 181; Code 1970, tit. 5, § 351.)


Judge's powers of discretionary action suspended. — Section, in disqualifying a judge, suspends his powers only so far as discretionary action in the case is concerned. Sonoda v. Burnett (Tr. Div., April, 1977).

Discretionary power of chief justice in assigning cases not violative of due process. — Action of chief justice who is disqualified from hearing case in assigning first to one judge then to another does not violate plaintiff's right to due process of law. Sonoda v. Burnett (Tr. Div., April, 1977).

Original hearing in appellate division creates no "lower court" decision. — Where original hearing is in the appellate division from which there is no appeal, there has been no "lower court" decision within the terms of section which would preclude dismissing this matter for lack of jurisdiction. Abrams v. Trust Territory High Court Disciplinary Panel (App. Div., May, 1977).

§ 352. Clerk of courts; other officers and employees. — (1) The chief justice of the Trust Territory shall appoint a clerk of courts for each
administration district who shall act as clerk of the high court when held in the
district and of the district court for the district.

(2) The chief justice may also appoint such other officers and employees of
the courts as he deems necessary and may remove any clerk or other officer or
employee. (Code 1966, § 182; Code 1970, tit. 5, § 352.)

§ 353. Assessors. — A judge presiding in the trial division of the high court
may select one or more assessors to sit with him at the trial of any case to
advise him in regard to the local law and custom which may be involved, but
not to participate in the determination of the case. (Code 1966, § 126; Code
1970, tit. 5, § 353.)

§ 354. Utilization of citizens. — Citizens of the Trust Territory shall be
employed as judges, officers and employees of the courts to the maximum
extent consistent with proper administration of such courts. (Code 1966, § 183;
Code 1970, tit. 5, § 354.)

§ 355. Authority to administer oaths. — The following officials are
authorized to administer oaths:

(1) Any court;
(2) Any judge;
(3) The clerk of courts for a district, subject to such limitations as the chief
justice of the high court may impose;
(4) Any other person authorized in writing by the High Commissioner, and
a certified copy of whose authorization is filed with the clerk of courts for the
district in which he acts. (Code 1966, § 447; Code 1970, tit. 5, § 355.)

§ 356. Authority of judicial officers to exercise powers of notary
public. — Each judge, clerk of courts and assistant clerk of courts shall have
authority to administer oaths and affirmations and take acknowledgements of
deeds, mortgages, and other instruments, and exercise all other powers of a
§ 401. Trial division of high court. — The trial division of the high court has original jurisdiction concurrently with the district and community courts in all cases within the original jurisdiction of the latter courts, but need not exercise that jurisdiction in any case which it determines can be promptly and properly tried in the district or community court having jurisdiction, and may transfer the case to that court for trial and determination. (Code 1966, § 161; Code 1970, tit. 5, § 401.)

§ 402. District court. — The district court shall exercise its original jurisdiction in all cases in which it has concurrent jurisdiction with a community court and which can be heard by it with convenience to the parties and witnesses and without undue delay. (Code 1966, § 162; Code 1970, tit. 5, § 402.)

§ 403. Transfer of cases. — Any case brought in the trial division of the high court or a district court may be transferred by the court in which it has been brought to any other court which has jurisdiction to try it. Any case brought in a community court may be transferred by the court in which it has been brought to the trial division of the high court or the district court having jurisdiction, with the consent of the court to which it is transferred. Any case pending in a district court or community court may be transferred to the trial division of the high court, or to the district court for the district in which the case was brought, by order of the trial division of the high court. Upon receiving a certified copy of an order of the trial division of the high court making such transfer, the court in which the case was pending shall take no further action on the merits of the case, but may make orders of a temporary nature which justice may require and which are not inconsistent with the orders of the trial division of the high court. (Code 1966, § 163; Code 1970, tit. 5, § 403.)

Purpose of section. — Section is designed to facilitate the orderly and efficient processing of cases, not to arbitrarily decide whether an appellant receives a single-judge review or a three-judge appellant panel. Trust Territory v. Elias (App. Div., January, 1975).

Effect of prosecutor's discretion to choose court in which to file complaint. — Fact that prosecuting attorney can file complaint or information in either the district court or the trial division of the high court does not, in any way, invalidate the appeals process. In the final analysis the prosecuting attorney does not have the discretion to decide which appeal process the defendant shall have because the courts have the power to transfer cases. Trust Territory v. Elias (App. Div., January, 1975).
CHAPTER 7.

EXTRATERRITORIAL JURISDICTION.

Sec. 451. Crimes committed outside the Trust Territory.

Sec. 452. Effect of previous trial.

Sec. 453. Place of trial.

Sec. 454. Application of Trust Territory laws on vessels and aircraft.

Sec. 455. Application of other law.

Sec. 456. "Trust Territory vessel" defined.

§ 451. Crimes committed outside the Trust Territory. — The jurisdiction of the courts of the Trust Territory shall extend to all criminal offenses committed outside the territorial limits of the Trust Territory by any person on board a Trust Territory vessel or aircraft. (Code 1966, § 208; Code 1970, tit. 5, § 251; P.L. No. 4C-61, § 1.)

Non-citizen resident protected while employed on sea-going vessel; obligated to observe laws. — For the duration of the time non-citizen resident was enlisted or employed aboard a vessel licensed under the provisions of the Code and at sea, he would still receive the protections and benefits accorded any Trust Territory resident, and would also be subject to the obligations and liabilities of a Trust Territory resident, and that, of course, includes the obligation to observe all Trust Territory criminal prohibitions. Kodang v. Trust Territory, 5 TTR 581 (1971).

§ 452. Effect of previous trial. — No person shall be tried by a court of the Trust Territory for an offense committed outside the territorial limits of the Trust Territory who has already been lawfully tried on the merits for substantially the same offense by a court of another jurisdiction. (Code 1966, § 209; Code 1970, tit. 5, § 452.)

§ 453. Place of trial. — Trials for offenses committed outside the territorial limits of the Trust Territory may be held in any court of the Trust Territory competent to try the offender for the offense charged, provided that it is within that court's territorial jurisdiction that the offender is found or into which he is first brought or in which he resides. (Code 1966, § 210; Code 1970, tit. 5, § 453.)

Editor's note. — In the 1970 Code, the last part of this section read: "... competent to try the offender for the offense charged within which court's territorial jurisdiction the offender is found or into which he is first brought or in which he resides." The language has been changed to achieve clarity.

§ 454. Application of Trust Territory laws on vessels and aircraft. — The criminal laws of the Trust Territory shall, except where a contrary intent is clearly indicated in the law, apply outside the territorial limits of the Trust Territory to all persons on board a Trust Territory vessel or aircraft. (Code 1966, § 211; Code 1970, tit. 5, § 454; P.L. No. 4C-61, § 2.)

Criminal laws to be given extra-territorial effect. — All criminal laws of the Trust Territory are to be given their lawful extra-territorial effect unless the contrary intent is clearly indicated. Kodang v. Trust Territory, 5 TTR 581 (1971).

Non-citizen residents protected while on sea-going vessel; obligated to observe laws. — For the duration of the time non-citizen resident was enlisted or employed aboard a vessel licensed under the provisions of the Trust Territory Code and at sea, he would still receive the protections and benefits accorded any Trust Territory resident, and would also be subject to the obligations and liabilities of a Trust Territory resident, and that, of course, includes the obligation to observe all Trust Territory criminal prohibitions. Kodang v. Trust Territory, 5 TTR 581 (1971).
§ 455. Application of other law. — The criminal law of any other jurisdiction which is applicable under international law may also be enforced by courts of the Trust Territory in trial of offenses committed outside the territorial limits of the Trust Territory, whenever, in the opinion of the court, justice and comity will be aided thereby. (Code 1966, § 212; Code 1970, tit. 5, § 455.)

§ 456. "Trust Territory vessel" defined. — The term "Trust Territory vessel" as used in this chapter shall mean a vessel belonging in whole or in part to the government of the Trust Territory, or to any permanent resident of the Trust Territory, or to any association, partnership, company, or other entity organized under the laws of the Trust Territory, or to any government corporation authorized by the United States Congress to conduct business in the Trust Territory, or to any corporation created by the High Commissioner of the Trust Territory or by any subordinate of his or by any successor in responsibility. (Code 1966, § 213; Code 1970, tit. 5, § 456.)

Non-resident citizen protected while employed on sea-going vessel; obligated to observe laws. — For the duration of the time non-citizen resident was enlisted or employed aboard a vessel licensed under the provisions of the Code and at sea, he would still receive the protections and benefits accorded any Trust Territory resident, and would also be subject to the obligations and liabilities of a Trust Territory resident, and that, of course, includes the obligation to observe all Trust Territory criminal prohibitions. Kodang v. Trust Territory, 5 TTR 581 (1971).
CHAPTER 8.

JURIES AND JURY TRIAL.

Sec. 501. Right to trial by jury. — Subject to the restriction set forth in section 513 of this chapter:

1. Criminal actions. Any person accused by information of committing a felony punishable by more than five years imprisonment or by more than two thousand dollars fine, or both, shall be entitled to a trial by a jury of six persons and the federal rules of criminal procedure heretofore or hereafter promulgated shall be applicable thereto, except that the jury shall be of six persons or such smaller number as the parties may stipulate with the approval of the court. The government shall be entitled to three peremptory challenges and the defendant or defendants jointly to five peremptory challenges. If there is more than one defendant, the court may allow the defendants additional peremptory challenges and permit them to be exercised separately or jointly.

2. Civil actions. (a) In civil actions in the trial division of the high court where the amount claimed or value of the property involved exceeds one thousand dollars exclusive of interest and costs, the parties shall be entitled to a trial by a jury of six persons, of all legal (as distinguished from equitable) issues, to the same extent and under the same circumstances that they would be entitled to a trial by jury if the case were pending in a United States district court and were within the jurisdiction of that court, and the federal rules of civil procedure heretofore or hereafter promulgated, which are not inconsistent with this subsection, shall be applicable so far as all matters affecting trial by jury are concerned; provided, however, that there shall be no right to trial by jury in actions against the Trust Territory specified in subsection (3), section 251 of title 6 of this Code, or for annulment, divorce, adoption or eminent domain proceedings.

(b) Any party on demanding a trial by jury shall pay to the clerk of courts a jury fee of five dollars unless permission to proceed without prepayment of fees under section 404 of title 6 of this Code has been granted or is granted upon a motion on or before the day of filing of the demand for trial by jury. If the jury fee is not so paid and permission to proceed without prepayment of fees is not so granted, the demand for trial by jury shall be of no force and effect. (Code 1966, §§ 215, 227; Code 1970, tit. 5, § 501.)

Right to jury trial limited. — Section gives a limited right to trial by jury. Provision was sought to provide for jury trial only in cases where jurisdiction lay exclusively with trial division of high court and to ban jury trial in the district courts. Those cases which could be tried before district courts clearly were not regarded as so serious as to warrant being tried by juries. Sonoda v. Trust Territory (App.Div., November, 1976).

§ 502. Challenges permitted in civil actions. — In civil cases tried before a jury, each party shall be entitled to two peremptory challenges. Several defendants or several plaintiffs shall be considered as a single party for the purposes of making challenges; if there is more than one defendant, the court may allow the defendants additional peremptory challenges and permit them
to be exercised separately or jointly. All challenges for cause or favor, whether
to array or panel or to individual jurors, shall be determined by the court. (Code
1966, § 229; Code 1970, tit. 5, § 502.)

§ 503. Qualifications of jurors. — Any citizen of the Trust Territory or of
the United States who has attained the age of eighteen years and who has
resided within the district for a period of one year immediately prior to jury
service is competent to serve as a juror unless:
(1) He has been convicted in a court of record in any jurisdiction of a crime
punishable by imprisonment for more than one year and his civil rights have
been restored by pardon or amnesty; or,
(2) He is unable to read, write, speak, and understand either English or the
principal local language of the part of the district in which he is to serve; or,
(3) He is incapable by reason of mental or physical infirmities to render
efficient jury service; or,
(4) He is exempted from service as a juror by any law of the Trust Territory.
(Code 1966, § 216; Code 1970, tit. 5, § 503.)

Accepting interested juror reversible error. — For a court to accept a juror whose
Iroij Erik was counsel for one of the parties was

§ 504. Exemptions from jury service. — The following persons shall be
exempt from jury service:
(1) Members in actual service in the armed forces of the United States;
(2) Members of the Micronesia police or fire department of the Trust
Territory or a subdivision thereof who are actively engaged in the performance
of official duties;
(3) Public officers in the executive, legislative, or judicial branches of the
government of the Trust Territory or a subdivision thereof who are actively
5, § 504.)

§ 505. Exclusion or excuse from service. — (1) A judge of the high court
may, for good reason, excuse or exclude from jury service any person called as
a juror.
(2) Any class or group of persons may, for the public interest, be excluded
from the jury panel or excused from service as jurors by order of a high court
judge based on a finding that such jury service would entail undue hardship,
extreme inconvenience, or serious obstruction or delay in the fair and impartial
administration of justice; provided, that no citizen of the Trust Territory or of
the United States shall be excluded from service as a juror on account of race,
color or religion. (Code 1966, § 218; Code 1970, § 505.)

§ 506. Manner of drawing jurors. — (1) The names of jurors for an array
shall be publicly drawn from a box containing the names of not less than one
hundred qualified persons at the time of each drawing. The jury box shall from
time to time be refilled by the clerk of courts of the district or one of his
assistant clerks of courts and the presiding judge of the district court or an
associate district court judge designated by such presiding judge.
(2) The judge and the clerk or assistant clerk shall alternately place one
name in the box until the box shall contain at least one hundred names or such
larger number as the court determines. The judge and the clerk or assistant
clerk shall obtain these names in a manner approved by the court. (Code 1966,
§ 219; Code 1970, tit. 5, § 506.)
§ 507. Apportionment of jurors within districts. — (1) Jurors shall from time to time be selected from such parts of the districts as the court directs so as to be most favorable to an impartial trial and not incur unnecessary expense or unduly burden the residents of any part of the district with jury service. To this end the court may direct the maintenance of separate jury boxes for some or all of the places for holding court in the district.

(2) Jurors summoned for service at one place for holding court in a district may, if the public convenience so requires and the jurors will not be unduly burdened thereby, be directed by the court to serve at another place in the same district. (Code 1966, § 220; Code 1970, tit. 5, § 507.)

§ 508. Talesmen summoned from bystanders. — Whenever sufficient jurors are not available, the court may require the chief of police to summon a sufficient number of talesmen from the bystanders. (Code 1966, § 221; Code 1970, tit. 5, § 508.)

§ 509. Summoning jurors. — (1) When a court orders an array of jurors to be drawn, the clerk of courts or an assistant clerk of courts shall issue summonses for the number of jurors determined by the court to be required, and deliver such summons to the chief of police for service.

(2) Each person drawn for jury service may be served personally or by registered or certified mail addressed to such person at his usual residence or place of business.

(3) Such service shall be made by the chief of police or a member of the Micronesia police selected by him, who shall attach to his return the addressee's receipt for the registered or certified summons where service is made by mail. (Code 1966, § 222; Code 1970, tit. 5, § 509.)

§ 510. Disqualification of chief of police. — Whenever in the opinion of the court the chief of police is disqualified to summon jurors, the court may appoint some other disinterested person who shall take an oath to perform such duty truly and impartially. (Code 1966, § 223; Code 1970, tit. 5, § 510.)

§ 511. Challenge for frequency of service. — A juror may be challenged on the ground that he has been summoned and served as a juror in another array within one year of the challenge. (Code 1966, § 224; Code 1970, tit. 5, § 511.)

§ 512. Jury fees. — (1) Jurors shall receive the following fee for actual attendance at the place of trial and for the time necessarily occupied in going to and from such place at the beginning and end of such service or at any time during the same: five dollars per day.

(2) For the distance necessarily traveled to and from a juror's residence by the shortest practicable route in going to and returning from the place of service, at the beginning and end of the term of service, and for all additional necessary daily transportation expense: three cents per mile, except that if a juror is transported at government expense without charge to him, he shall receive no mileage allowance for the distance he is so transported. If daily travel appears impracticable, subsistence of four dollars per day shall be allowed. Whenever in any case the jury is ordered to be kept together and not to separate, the cost of subsistence during such period shall be paid upon order of the court in lieu of the foregoing subsistence allowance. (Code 1966, § 225; Code 1970, tit. 5, § 512.)

§ 513. Application of chapter; adoption by district legislature. — This chapter may be adopted as to any district of the Trust Territory by an act of the district legislature thereof and shall have the force and effect of law. After
the effective date of such an act, all trials in that district subject to the terms hereof shall be governed by this chapter. This chapter shall have no force and effect in any district whose district legislature has not adopted it. (Code 1966, §§ 214, 226; Code 1970, tit. 5, § 513.)
Title 6.
Civil Procedure.

Chap. 1. Process, §§ 1 to 46.
2. Absent Defendants, §§ 51 to 54.
3. Venue, §§ 101 to 104.
5. Actions for Wrongful Death, §§ 201 to 203.
6. Actions Against the Trust Territory, §§ 251 to 253.
7. Limitation of Actions, §§ 301 to 314.
8. New Trial; Appeal and Review, §§ 351 to 357.
9. Fees and Costs; Disposition of Fines, §§ 401 to 452.

CHAPTER 1.

Subchapter I. Process.

Issuance, Service and Return.

Sec.
1. Definition; issuance of process.
2. Service and execution of process.
3. Return of service or execution.

Subchapter III. Foreign Service of Process.

Sec.
41. Jurisdiction over acts of nonresidents.
42. Personal service outside the Trust Territory.
43. Manner of service.
44. Default.
45. Effect of jurisdiction limited.
46. Effect of act on other methods of service.

Subchapter I.

Issuance, Service and Return.

§ 1. Definition; issuance of process. — (1) Definition. As used in this Code, the term "process" shall include all forms of writs, warrants, summonses, citations, libels and orders used in judicial proceedings.

(2) Designation of private persons. The court issuing any process in any proceeding may specially appoint and name in the process any person it deems suitable to execute or serve the process, except that a witness summons may not be served by a party or by a person who is less than eighteen years of age.

A private person to whom a process is directed for service or execution shall, upon acceptance of the said process, be responsible for the proper execution or service of such process according to law. No private person shall be compelled by any court or official to accept a process directed to him for service or execution. The special appointments authorized by this section shall be used freely when this will effect a saving of time or expense. (Code 1966, § 249(a) and (c); Code 1970, tit. 6, § 1.)
§ 2. Service and execution of process. — Every official who is made responsible by law for the service or execution of process and every private person who accepts the responsibility for the service or execution of process shall serve or execute such process as prescribed by law within a reasonable time after the receipt of such process unless prevented from doing so by conditions beyond his control. (Code 1966, § 250; Code 1970, tit. 6, § 2.)

§ 3. Return of service or execution. — The chief of police or policemen shall certify, and a private person shall report under oath, or affirm by endorsement on or attached to every process delivered to him for execution or service the manner and time of such execution or service or the reason for failure to make such execution or service. The process so endorsed, together with a statement of all fees and expenses charged, shall be returned without delay to the court or official by which issued. In no event shall the process be returned later than the date specified by the issuing court or official. (Code 1966, § 251; Code 1970, tit. 6, § 3.)

Subchapter II.

Fees and Costs.

§ 31. Fees. — Each chief of police, policeman or person authorized to execute or serve process, other than a member of the Micronesia police executing or serving a process in a criminal or civil contempt proceedings, or in juvenile delinquency proceedings, shall be entitled to collect the following fees for duties performed by him:

1. For serving any form of process, one dollar plus three cents per mile for any travel actually performed and necessary in connection with the service. Any process delivered to the chief of police or any policeman shall be sent by him to a policeman who is located where he can serve it more quickly or with less travel;

2. For levying a writ of execution and making a sale thereunder, the fees provided above for serving of any process, plus five dollars for conducting the sale, and five cents for every dollar collected up to fifty dollars, and two cents for every dollar collected over fifty dollars.

3. In addition to the above, any chief of police shall be allowed his actual, reasonable and necessary expenses for caring for any property seized under an attachment or levy of execution; provided, however, that no caretaker or watchman shall be allowed in excess of one dollar for each twelve hours of service. (Code 1966, §§ 256 and 249(b); Code 1970, tit. 6, § 31.)

§ 32. Prepayment for service. — Except when the process is issued on behalf of the Trust Territory or an officer or agency thereof or under section 704 of this title, any chief of police, policeman, or other person authorized to serve or execute process may require the person requesting him to act to prepay his fees and estimated expenses or give reasonable security therefor before serving or executing any process. (Code 1966, § 257; Code 1970, tit. 6, § 32.)

§ 33. Disposition of proceeds. — Each chief of police, policeman or other person authorized to serve or execute process, shall be entitled to retain for his own use the fees authorized in this subchapter, provided he is not an employee of the Trust Territory as a member of the Micronesia police or otherwise when the services are performed. If he is such an employee, he shall remit monthly to the treasurer of the Trust Territory all fees collected for services and travel in servicing or executing process, less any reasonable expenses actually paid
by him personally for travel in connection with these duties. Being a salaried employee of a municipality, however, shall not prevent a policeman or other authorized person from retaining his fees for his own use. (Code 1966, § 258; Code 1970, tit. 6, § 33.)

**Subchapter III.**

*Foreign Service of Process.*

§ 41. Jurisdiction over acts of nonresidents. — Any person, corporation or legal entity, whether or not a citizen or resident of the Trust Territory, who in person or through an agent does any of the acts enumerated in this subchapter, thereby submits himself or its personal representative to the jurisdiction of the courts of the Trust Territory as to any cause of action arising from:

1. The transaction of any business within the Trust Territory;
2. The operation of a motor vehicle within the Trust Territory;
3. The operation of a vessel or craft within the territorial waters or airspace of the Trust Territory;
4. The commission of a tortious act within the Trust Territory;
5. Contracting to insure any person, property or risk located within the Trust Territory at the time of contracting;
6. The ownership, use or possession of any real estate within the Trust Territory;
7. Entering into an express or implied contract, by mail or otherwise, with a resident of the Trust Territory to be performed in whole or in part by either party in the Trust Territory;
8. Acting within the Trust Territory as director, manager, trustee or other officer of any corporation organized under the laws of or having a place of business within the Trust Territory, or as executor or administrator of any estate within the Trust Territory;
9. Causing injury to persons or property within the Trust Territory arising out of an act of omission outside of the Trust Territory by the defendant, provided in addition, that at the time of the injury either:
   a. The defendant was engaged in the solicitation or sales activities within the Trust Territory;
   b. Products, materials, or things processed, serviced or manufactured by the defendant anywhere were used or consumed within the Trust Territory;
10. Living in the marital relationship within the Trust Territory notwithstanding subsequent departure from the Trust Territory, as to all obligations arising for alimony, child support or property rights under title 39 of this Code, if the other party to the marital relationship continues to reside in the Trust Territory. (P. L. No. 7-24, § 1.)

§ 42. Personal service outside the Trust Territory. — Service of process may be made upon any person subject to the jurisdiction of the courts of the Trust Territory under this subchapter by personally serving the summons upon the defendant outside the Trust Territory. Such service has the same force and effect as though service had been personally made within the Trust Territory. (P. L. No. 7-24, § 2.)

§ 43. Manner of service. — Service of summons shall be made under this subchapter in like manner as service within the Trust Territory by any officer or person authorized to make service of summons in the state or jurisdiction
where the defendant is served. An affidavit of the server shall be filed with the
court issuing said summons stating the time, manner and place of service. The
court may consider the affidavit or any other competent proofs in determining
whether service has been properly made. (P. L. No. 7-24, § 3.)

§ 44. Default. — No default shall be entered until the expiration of at least
thirty days after service. A default judgment rendered on service made under
this subchapter may be set aside only on a showing which would be timely and
sufficient to set aside a default judgment entered upon personal service within
the Trust Territory. (P. L. No. 7-24, § 4.)

§ 45. Effect of jurisdiction limited. — Only causes of action arising from
acts or omissions enumerated in this subchapter may be asserted against a
defendant in an action in which jurisdiction over him is based upon this
subchapter. (P. L. No. 7-24, § 5.)

§ 46. Effect of act on other methods of service. — Nothing contained in
this subchapter limits or affects the right to serve any process in any other
manner now or hereafter provided by law. (P. L. No. 7-24, § 6.)
§ 51. Order to appear or plead. — In any action in the high court for annulment, divorce or adoption or to enforce or remove any lien upon or claim to real or personal property within the Trust Territory, or to adjudicate title to any interest in such property, where any defendant cannot be served within the Trust Territory, or does not voluntarily appear, the court may order the absent defendant to appear or plead by a certain day. (Code 1966, § 338; Code 1970, tit. 6, § 51.)

§ 52. Personal service of order. — Such orders may be served on the absent defendant personally, wherever found, or, in the case of property, upon the person or persons in possession or charge thereof, if any, or by mailing, postage prepaid, a copy of the order to the absent defendant at his last known address. Where personal service is not practicable, the order shall be posted in one or more conspicuous places as the court may direct, for a period of not less than two weeks. (Code 1966, § 338; Code 1970, tit. 6, § 52.)

§ 53. Procedure if absent defendant fails to appear or plead. — If an absent defendant does not appear or plead within the time allowed, the court may proceed as if the absent defendant had been served with process within the Trust Territory, but any adjudication shall, as regards the absent defendant without appearance, affect only the property or status which is the subject of the action. (Code 1966, § 338; Code 1970, tit. 6, § 53.)

§ 54. Judgment may be set aside. — Any defendant not so personally notified may at any time within one year after final judgment enter his appearance and thereupon the court shall set aside the judgment and permit such defendant to plead, on payment of such costs as the court deems best; provided, however, that this right shall not extend to decrees of annulment, divorce or adoption. (Code 1966, § 338; Code 1970, tit. 6, § 54.)
CHAPTER 3.

VENUE.

§ 101. General provisions. — (1) Except as otherwise provided, a civil action in which one of the defendants lives in the Trust Territory shall be brought in a court within whose jurisdiction the defendant or the largest number of defendants live or have their usual places of business or employment.

(2) If an action is based on a wrong not connected with a contract, it may be brought in a court within whose jurisdiction the case of action arose.

(3) An action to collect a tax may be brought in a court within whose jurisdiction the defendant may be served.

(4) A civil action against a defendant who does not live in the Trust Territory may be brought in a court within whose jurisdiction the defendant can be served or his property can be attached.

(5) A civil action by or against the executor, administrator, or other representative of a deceased person for a cause of action in favor of or against the deceased may be brought in any court in which it might have been brought by or against the deceased. (Code 1966, § 339(a); Code 1970, tit. 6, § 101.)

Motion for change of venue denied where libel action is brought in Mariana Islands District against newspaper distributed throughout Trust Territory. — In libel action by chief public defender for the Trust Territory, a resident of Saipan, against newspaper published in the Marshall Islands and distributed throughout the Trust Territory, venue in the Mariana Islands District was, under both statute and the better common law view, properly laid, and motion for change of venue to the Marshall Islands District, made on ground it would be inequitable to require the action to be defended in Saipan, would be denied. St. Pierre v. The "Micronitor," 6 TTR 249 (1973).

§ 102. Admiralty and maritime. — Suit in an admiralty and maritime matter shall be brought in the district within which the defendant can be served, or within which his property can be attached, or, when the suit is against property itself, in the district within which the ship, goods or other thing involved can be seized. (Code 1966, § 339(b); Code 1970, tit. 6, § 102.)

§ 103. Actions brought in high court. — (1) An action in the high court to enforce or remove any lien upon or claim to real or personal property within the Trust Territory, or to adjudicate title to any interest in such property, or any action affecting title to land within the Trust Territory or any interest therein, shall be brought in the district where the property or some part of it is located.

(2) Any other action in the high court in which one of the parties is a resident of the Trust Territory shall be brought in the district in which one of the parties thereto lives or has his usual place of business or employment or, if the action is based upon a wrong not connected with a contract, it may be brought in the district in which the cause of action arose.

(3) In all other cases, actions in the high court may be brought in the district within which any defendant can be served or his property attached. (Code 1966, § 339(c); Code 1970, tit. 6, § 103.)
Motion for change of venue denied where libel action is brought in Mariana Islands District against newspaper distributed throughout Trust Territory. — In libel action by chief public defender for the Trust Territory, a resident of Saipan, against newspaper published in the Marshall Islands and distributed throughout the Trust Territory, venue in the Mariana Islands District was, under both statute and the better common law view, properly laid, and motion for change of venue to the Marshall Islands District, made on ground it would be inequitable to require the action to be defended in Saipan, would be denied. St. Pierre v. The "Micronitor," 6 TTR 249 (1973).

§ 104. Change of venue. — (1) Nothing in this chapter shall impair the jurisdiction of a court over any matter involving a party who does not make timely and sufficient objection to the venue.

(2) If a matter is brought in the wrong venue, the court in which it is brought may, on its own motion or otherwise, transfer it to any court in which the matter might properly have been brought.

(3) The high court, if it deems the interests of justice will be served thereby, may hear any matter in a district other than that in which it is brought, or may hear it partly in one district and partly in another district or districts, or may transfer it from one district to another. (Code 1966, § 339(d); Code 1970, tit. 6, § 104.)
Section 151. Survival of claims after death of tort-feasor or other person liable.

§ 151. Survival of claims after death of tort-feasor or other person liable. — (1) A cause of action based on tort shall not be lost or abated because of the death of the tort-feasor or other person liable. An action thereon may be brought or continued against the personal representative of the deceased person, but punitive or exemplary damages may not be awarded nor penalties adjudged in the action.

(2) Where a cause of action arises simultaneously with or after the death of the tort-feasor or other person who would have been liable if his death had not occurred simultaneously with the act, omission, circumstance or event giving rise to the cause of action, or if his death had not intervened between the wrongful act, omission, circumstance or event and the coming into being of the cause of action, an action to enforce it may be maintained against the personal representative of the tort-feasor or other person. (Code 1966, § 25A; Code 1970, tit. 6, § 151.)
CHAPTER 5.

ACTIONS FOR WRONGFUL DEATH.

Sec. 201. Liability in action for wrongful death; proceedings. - (1) When the death of a person is caused by wrongful act, neglect or default such as would have entitled the party injured to maintain an action and recover damages in respect thereof if death had not ensued, the person or corporation which would have been liable if death had not ensued, or the administrator or executor of the estate of such person, as such administrator or executor, shall be liable to an action for damages notwithstanding the death of the person injured, and although the death was caused under circumstances which make it in law murder in the first or second degree, or manslaughter.

(2) When the action is against such administrator or executor the damages recovered shall be a valid claim against the estate of such deceased person.

(3) When death is caused by wrongful act, neglect or default in another state, territory or foreign country, for which a right to maintain an action and recover damages in respect thereof is given by a statute of that jurisdiction, such right of action may be enforced in the Trust Territory. Every such action brought under this section shall be commenced within the time prescribed for the commencement of such actions by the statute of such other state, territory or foreign country. (Code 1966, § 25(a); Code 1970, tit. 6, § 201.)

Extent of personal representative’s right to sue. — Personal representative of deceased may bring any action for wrongful death such as would have entitled party injured to maintain action if death had not ensued. Ychitaro v. Lotius, 3 TTR 3 (1965).

Wrongful death damages provision construed. — A wrongful death statute, in confining the damages recoverable to compensation for pecuniary loss, merely intends that no compensation be given for the loss of things without a definite pecuniary value. Sepeti v. Fitek, 5 TTR 613 (1972).

§ 202. Action to be brought in name of personal representative; beneficiaries of action. — Every action for wrongful death must be brought in the name of the personal representative of the deceased, but shall be for the exclusive benefit of the surviving spouse, the children and other next of kin, if any, of the decedent as the court may direct. (Code 1966, § 25(b); Code 1970, tit. 6, § 202.)

Limitation on damages award. — Court may award damages in wrongful death actions not exceeding ten thousand dollars, proportional to pecuniary injury resulting from such death, to surviving spouse, children or other next of kin. Ychitaro v. Lotius, 3 TTR 3 (1965).

Extent of personal representative’s right to sue. — Personal representative of deceased may bring any action for wrongful death such as would have entitled party injured to maintain action if death had not ensued. Ychitaro v. Lotius, 3 TTR 3 (1965).

Logical person to represent deceased. — Logical person to represent deceased in wrongful death action in Truk is father or maternal uncle of deceased child. Ychitaro v. Lotius, 3 TTR 3 (1965).

Proper name to bring action in is procedural matter. — Requirement of bringing action for wrongful death in name of personal representative of deceased is procedural matter which should not affect question of liability except to protect defendant from actions by other claimants. Ychitaro v. Lotius, 3 TTR 3 (1965).
§ 203. Damages; limitation period; action may be settled by personal representative. — (1) The trial court may award such damages, not exceeding the sum of one hundred thousand dollars, as it may think proportioned to the pecuniary injury resulting from such death, to the persons, respectively, for whose benefit the action was brought; provided, however that where the decedent was a child, and where the plaintiff in the suit brought under this chapter is the parent of such child, or one who stands in the place of a parent pursuant to customary law, such damages shall include his mental pain and suffering for the loss of such child, without regard to provable pecuniary damages.

(2) Except as otherwise provided, every such action shall be commenced within two years after the death of such person.

(3) A personal representative appointed in the Trust Territory may, with the consent of the court making such appointment, at any time before or after the commencement of the suit, settle with the defendant the amount to be paid. (Code 1966, § 25(c); Code 1970, tit. 6, § 203; P.L. No. 4C-36, § 1.)

Support obligation does not affect entitlement to damages. — Whether there is an obligation under Trukese custom to support parents or other members of the family, largely depending on their need, does not affect the next of kin's entitlement to damages for pecuniary loss under the wrongful death statute. Sepeti v. Fitek, 5 TTR 613 (1972).

Construction of "pecuniary". — The word "pecuniary" as used in death statutes has been said not to be used in a sense of the immediate loss of money or property but to look to prospective advantages of a pecuniary nature that have been cut off by the premature death of the person from whom the benefit would have come. Sepeti v. Fitek, 5 TTR 613 (1972).

Annuity and mortality tables. — The introduction of annuity and mortality tables is not a prerequisite to a recovery of substantial damages for wrongful death and the court is entitled to estimate life expectancy from observation of the witnesses, the survivors, and from such other evidence as may be available. Sepeti v. Fitek, 5 TTR 613 (1972).

Life expectancy of next of kin. — The life expectancy of the next of kin, if they are the only survivors, must govern the pecuniary benefits they might reasonably expect to receive from the decedent had his life not been cut short. Sepeti v. Fitek, 5 TTR 613 (1972).
§ 251. 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, title 5 of this Code 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. (Code 1966, Ch. 5; Code 1970, tit. 6, § 251.)

Sovereign immunity; suits against nations. — Implicit in sovereignty of nations is right to determine how, when and under what circumstances they may be sued. Urrimech v. Trust Territory, 1 TTR 534 (1958).

Claims originating during Japanese administration. — Although the Code now allows the maintenance of actions against the Trust Territory and its agents for claims arising after the effective date of this section there is no longer any provision of law allowing actions arising from claims originating during the Japanese administration. Rivera v. Trust Territory, 4 TTR 140 (1968).


Right of defendant in ejectment suit to name government as party defendant where he claims title through government. — In suit of ejectment against defendant whereby he claimed title through Trust
Territory government, the defendant was entitled as a matter of law to an order making the government a party defendant at any time up to trial. Chutaro v. Sandbargen, 5 TTR 541 (1971).

**Plaintiff has standing to maintain action against government where complaint alleges violation of law by High Commissioner.** — Plaintiffs had standing to maintain unconsented to action against the government where complaint alleged the High Commissioner acted in violation of law providing that lease be executed only after obtaining advice and opinion of the district land advisory board. Guerrero v. Johnston, 6 TTR 124 (1972).

§ 252. **Exceptions.** — The trial division of the high court shall not have jurisdiction under the foregoing section 251 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. (Code 1966, Ch. 5; Code 1970, tit. 6, § 252.)

**Federal tort claims act to be followed.** — The legislative history of statute demonstrates an intent to follow United States federal tort claims act. Ikosia v. Trust Territory (Tr. Div., December, 1975).

**Plaintiffs have standing to maintain unconsented to action against government where complaint alleges violation of law by High Commissioner.** — Plaintiffs had standing to maintain unconsented to action against the government where complaint alleged the High Commissioner acted in violation of law providing that lease be executed only after obtaining advice and opinion of the district land advisory board. Guerrero v. Johnston, 6 TTR 124 (1972).

§ 253. **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. (Code 1966, Ch. 5; Code 1970, tit. 6, § 253.)

**§ 301. Presumption of satisfaction of judgment.** — A judgment of any court shall be presumed to be paid and satisfied at the expiration of twenty years after it is rendered. (Code 1966, § 315; Code 1970, tit. 6, § 301.)

**§ 302. Limitation of twenty years.** — (1) The following actions shall be commenced only within twenty years after the cause of action accrues:
   (a) Actions upon a judgment;
   (b) Actions for the recovery of land or any interest therein.
   (2) If the cause of action first accrued to an ancestor or predecessor of the person who presents the action, or to any other person under whom he claims, the twenty years shall be computed from the time when the cause of action first accrued. (Code 1966, § 316; Code 1970, tit. 6, § 302.)

Where prosecution of party's claim was effectively restrained by coming of war, and no adequate machinery was set up by the Trust Territory government for filing of appellant's claims until January 11, 1951, party's claim filed with land title officer on January 4, 1956, was filed in apt time. Esebei v. Trust Territory, 1 TTR 495 (1958).

**Claim for property taken 40 years prior not cognizable.** — Where taking of private property by the Japanese navy occurred 40 years prior to filing of claim, and 30 years have transpired since last effort to regain possession was made, claim is not cognizable by court of equity. Martin v. Trust Territory, 1 TTR 481 (1958).

**Effect of war on cause of action.** — Where a party's claim for return of land was an existing cause of action at the time further action in the Japanese courts was stopped on account of war, the claim was an existing cause of action on December 7, 1941. Since no adequate machinery was set up by the Trust Territory government for filing of claims against the government for return of land or payment of compensation until January 11, 1951, a claim filed with the district land title officer on February 23, 1954, was filed in apt time, the limitation of actions for the recovery of land within the Trust Territory being 20 years. Santos v. Trust Territory, 1 TTR 463 (1958).

Where prosecution of party's claim was effectively restrained by coming of war, and no adequate machinery was set up by the Trust Territory government for filing of appellant's claims until January 11, 1951, party's claim filed with land title officer on January 4, 1956, was filed in apt time. Esebei v. Trust Territory, 1 TTR 495 (1958).

**When present limitation went into effect.** — Adverse possession, under which one can establish ownership by holding adverse possession of land under claim of ownership for period of statute limiting bringing of actions for recovery of land, cannot be applied in the Trust Territory until 1971 because the present 20-year limitation went into effect in 1951 and began to run on that date as to causes of action then existing. Kanser v. Pitor, 2 TTR 481 (1963).

A route often used to bar an action to recover real property is the doctrine of adverse possession. However, this section, which

The Trust Territory 20-year statute of limitations for adverse possession of land does not become operative until 1971 because this section did not go into effect until May 28, 1951. Armaluuk v. Orrukem, 4 TTR 474 (1969).

Adverse possession, under which one can establish ownership by holding adverse possession of land under claim of ownership for the period of the statute limiting the bringing of actions for recovery of land, cannot be applied in Trust Territory until 1971 because present 20-year limitation went into effect in 1951 and began to run at that time as to causes of action then existing. Osaki v. Pekea, 5 TTR 255 (1970).

Requirements for establishing adverse possession. — The fact that claimant harvested food for his use on adjoining lands did not establish the "open, notorious, exclusive and hostile possession" required to obtain title by either adverse possession for the statutory period or by laches for an equivalent period. Osaki v. Pekea, 5 TTR 255 (1970).

Limitation on actions for recovery of land. — Actions for recovery of land in Trust Territory are subject to limitation of 20 years, except that all causes of action existing on May 28, 1951, are deemed to have accrued on that date. Ei v. Inasio, 2 TTR 317 (1962).

§ 303. Limitation of two years. — The following actions shall be commenced only within two years after the cause of action accrues:

1. Actions for assault and battery, false imprisonment, or slander;

2. Actions against a chief of police, policeman or other person duly authorized to serve process, for any act or omission in connection with the performance of his official duties.

3. Actions for malpractice, error, or mistake against physicians, surgeons, dentists, medical or dental practitioners, and medical or dental assistants.

4. Actions for injury to or for the death of one caused by the wrongful act or neglect of another, except as otherwise provided in sections 201-203 of this title, or a depositor against a bank for the payment of a forged or raised check, or a check which bears a forged or unauthorized endorsement. (Code 1966, § 317; Code 1970, tit. 6, § 303.)

Statutory limitation of tort actions — Judicial notice. — Judicial notice may be taken without request by party, of common law, constitutions and public statutes in force in part of Trust Territory, including statutory limitation of tort actions to two years. Butirang v. Uchel, 2 TTR 852 (1967).

Where complaint for personal injury shows on its face that cause of action arose more than three years prior to filing of complaint, court will take judicial notice that action is barred. Butirang v. Uchel, 3 TTR 852 (1967).

Statutory limitation for land actions. — The statute of limitations for an action for recovery of land or any interest therein does not begin to run until the plaintiff has notice that anyone else claims the land. The statute of limitations in such a case cannot be construed in any other manner. Muna v. Trust Territory (App. Div., May, 1977).

§ 304. Actions by or against the estate of a deceased person. — Any action by or against the executor, administrator or other representative of a deceased person for a cause of action in favor of, or against, the deceased shall be brought only within two years after the executor, administrator or other representative is appointed or first takes possession of the assets of the deceased. (Code 1966, § 318; Code 1970, tit. 6, § 304.)

Statutory limitation against estates applied to recovery of land. — The two-year statute of limitations relating to actions against representatives of decedents in possession of an estate precluded plaintiffs from recovering the land from defendants some ten years after the defendants took possession and control of the land upon the death of their predecessor. Obkal v. Armaluuk, 5 TTR 3 (1970).

Limitation not applicable when action is against government. — Where action is not against land trustee representing estate of deceased person but is against the government for return of land transferred to the government by the land trustee, statute is not applicable. Crisostimo v. Trust Territory (App. Div., April, 1976).
§ 305. Limitation of six years. — All actions other than those covered in the preceding sections of this chapter shall be commenced within six years after the cause of action accrues. (Code 1966, § 319; Code 1970, tit. 6, § 305.)

Removal of limitation on action to recover balance due on mutual or open account. — The bar to suit created by six-year statute of limitations for an action to recover balance due on a mutual or open account, or upon a cause of action upon which partial payments have been made, can be removed by a promise to pay, partial payment or an acknowledgment of the debt from which a promise can be inferred. Techong v. Peleliu Club, 6 TTR 275 (1973).

Claims for construction work and erection of neon sign. — Where claims asserted are for original construction work and for erection of a neon sign, section sets out applicable statutes of limitation. Techong v. Peleliu Club (App. Div., April, 1976).

Action against government for return of land transferred to it by estate of deceased. — Where action is not against land trustee representing estate of deceased person but is against the government for return of land transferred to the government by the land trustee, the so-called "catch-all" statute is applicable and is the proper statute of limitations to apply. Cristostimo v. Trust Territory (App. Div., April, 1976).

§ 306. Disabilities. — If the person entitled to a cause of action is a minor or is insane or is imprisoned when the cause of action first accrues, the action may be commenced within the times limited in this chapter after the disability is removed. (Code 1966, § 320; Code 1970, tit. 6, § 306.)

§ 307. Mutual account. — In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action upon which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account. (Code 1966, § 321; Code 1970, tit. 6, § 307.)

Removal of limitation on action to recover balance due on mutual or open account. — The bar to suit created by six-year statute of limitations for an action to recover balance due on a mutual or open account, or upon a cause of action upon which partial payments have been made, can be removed by a promise to pay, partial payment or an acknowledgment of the debt from which a promise can be inferred. Techong v. Peleliu Club, 6 TTR 275 (1973).

Removal of statute of limitations bar on claim for money due. — Although claim for money due, based on completed items of account, was asserted after applicable statute of limitations had run out, the bar of limitations was removed as to the amount ultimately proven to be due where defendants acknowledged that it was true they owed some sum of money, but alleged it was not true that the sums stated in the complaint were the sums owed as of the date stated in the complaint. Techong v. Peleliu Club, 6 TTR 275 (1973).

Accrual of statute of limitations applying to action for balance due on mutual and open account. — Where plaintiff entered charges for merchandise sold defendant, credited defendant with payments received, and, at the end of each year, prepared a statement of indebtedness remaining for the year, there was a mutual and open account and statute of limitations providing that, for an action for balance due on a mutual and open account, the cause of action accrues at the time of the last item in the account applied, not general six-year statute of limitations, so that items entered by plaintiff more than six years before suit and claimed by plaintiff were not barred. George N. Market, Inc. v. Peleliu Club, 6 TTC 458 (1974).

§ 308. Extension of time by absence from the Trust Territory. — If at the time a cause of action shall accrue against any person he shall be out of the Trust Territory, such action may be commenced within the times limited in this chapter after he comes into the Trust Territory. If, after a cause of action shall have accrued against a person he shall depart from and reside out of the Trust Territory, the time of his absence shall be excluded in determining the time limited for commencement of the action. (Code 1966, § 322; Code 1970, tit. 6, § 308; P.L. No. 4C-55, § 1.)
§ 309. Extension of time by fraudulent concealment. — If any person who is liable to any action shall fraudulently conceal the cause of action from the knowledge of the person entitled to bring it, the action may be commenced at any time within the times limited within this chapter after the person who is entitled to bring the same shall discover or shall have had reasonable opportunity to discover that he has such cause of action, and not afterwards. (Code 1966, § 323; Code 1970, tit. 6, § 309; P.L. No. 4C-55, § 2.)

§ 310. Effect upon causes existing on May 28, 1951. — For the purposes of computing the limitations of time provided in this chapter, any cause of action existing on May 28, 1951 shall be considered to have accrued on that date. (Code 1966, § 324; Code 1970, tit. 6, § 310.)

Effect of war. — Where Japanese courts determined clan’s claim for return of property taken by government in 1939, and within two years and any other effective action that might have been taken was barred by coming of war, adequate time for recourse to courts or elsewhere for redress of wrongs was not available to clan prior to change of sovereignty. Tamael v. Trust Territory, 1 TTR 520 (1958).

Where prosecution of party’s claim for return of property taken by Japanese government was effectively stayed because of coming of World War II, and no machinery was set up for filing of such claims until January 11, 1951, party’s claim is timely filed under applicable land management regulation. Tamael v. Trust Territory, 1 TTR 520 (1958).

Where party’s claim for return of land taken by Japanese government in 1925 was effectively stayed by coming of war, and no machinery was set up by Trust Territory government for filing of such claims until January 11, 1951, filing of claim with district land title officer on May 25, 1954, was in apt time. Rusasech v. Trust Territory, 1 TTR 472 (1958).

Where action filed by party in high court of Japanese government was stopped on account of war, and Trust Territory law provides that cause of action existing on May 28, 1951, is considered to have accrued on that date, party’s claim was existing cause of action on December 7, 1941, and also on May 28, 1951, and is considered to have accrued on latter date. Rusasech v. Trust Territory, 1 TTR 472 (1958).

Accrual of limitation on actions involving land. — Twenty-year limitation on actions involving land or interests therein is not yet applicable in Trust Territory since, for purpose of computing time, any cause of action existing on May 21, 1951, is considered to have accrued on that date. Naoro v. Inekis, 2 TTR 232 (1961).

Accrual of limitations in general. — For purpose of determining impact of limitations, any cause of action existing on May 28, 1951, is considered to have accrued on that date. Santos v. Trust Territory, 1 TTR 463 (1958).

Accrual of adverse possession claims. — Adverse possession, under which one can establish ownership by holding adverse possession of land under claim of ownership for the period of the statute of limiting the bringing of actions for recovery of land cannot be applied in Trust Territory until 1971 because present 20-year limitation went into effect in 1951 and began to run at that time as to causes of action then existing. Kanser v. Pitor, 2 TTR 481 (Tr. Div., 1963); Osaki v. Pekea, 5 TTR 255 (1970).

The 20-year statute of limitations within which an action to recover land may be brought is not a bar to recovery until 1971. Penno v. Katarina, 3 TTR 416 (1968).

A route often used to bar an action to recover real property is a doctrine of adverse possession, however, section 302 of title 6 of the Code, which establishes a 20-year statute of limitation on land matters, will not go into effect until 1971 because this section accrued all prior causes of action as of May 28, 1951. Oneitam v. Suain, 4 TTR 62 (1968).

§ 311. Limitation of time for commencing. — A civil action or proceedings to enforce a cause of action mentioned in this chapter may be commenced within the period of limitation herein prescribed, and not thereafter, except as otherwise provided in this chapter. (P.L. No. 4C-55, § 3.)

§ 312. Reckoning of period. — Except as otherwise provided, periods herein prescribed shall be reckoned from the date when the cause of action accrued. (P.L. No. 4C-55, § 3.)
§ 313. **Contrary agreements.** — No agreement made subsequent to the effective date of this section for a period of limitation different from the period described in this chapter shall be valid. (P.L. No. 4C-55, § 3.)

§ 314. **Existing rights of action.** — Revision of this chapter shall not be construed to extinguish any rights or remedies which have accrued to any party prior to such revision, unless specifically provided otherwise. (P.L. No. 4C-55, § 3.)
§ 351. Effect of irregularities. — No error in either the admission or exclusion of evidence, and no error or defect in any ruling or order, or in anything done or omitted by the court, or by any of the parties shall constitute a ground for granting a new trial, or for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. (Code 1966, § 337; Code 1970, tit. 6, § 351.)

Appellant’s burden. — In an appeal the burden is on the appellant to affirmatively show that there has been some error and that he has been prejudiced thereby. Eram v. Trust Territory, 3 TTR 442 (1968).

Appellate courts — Standard for disturbing lower court judgments. — Appellate courts in the Trust Territory are not expected to disturb judgment for error in admission or exclusion of evidence, or any other error, unless refusal to take such action appears inconsistent with substantial justice. Borja v. Trust Territory, 1 TTR 280 (1955).

Appellate courts in Trust Territory may not disturb judgment for error in admission or exclusion of evidence, or any other error, unless refusal to take such action appears inconsistent with substantial justice. Oingerang v. Trust Territory, 2 TTR 385 (1963).

Error of trial court in receipt or rejection of evidence or other procedural irregularity is not a ground for disturbing a judgment on appeal by virtue of this section unless refusal to take such action appears to the court inconsistent with substantial justice. Jetnil v. Lajoun, 5 TTR 366 (1971).

Erroneous admission of evidence. — If erroneous admission of evidence is highly prejudicial to an accused, it will be deemed to be “inconsistent with substantial justice” and warrant disturbing a judgment. Trust Territory v. Miller, 6 TTR 193 (1972).

Erroneous citation of code provision. — That judgment order was based upon section of former code and should, rather, have recited provisions of code then in effect did not warrant disturbing the order. In re Alleged Delinquent Minor, 6 TTR 3 (1972).

Erroneous and inappropriate words. — Where a part of written judgment contained erroneous and inappropriate words, but the findings were fully supported by the record and the court correctly decided the case, there was no reversible error. Lino v. Trust Territory, 6 TTR 561 (1973).

§ 352. When appeals may be taken. — Any appeal authorized by law may be taken by filing a notice of appeal with the presiding judge of the court from which the appeal is taken, or with the clerk of court for the district in which the court was held, within thirty days after the imposition of sentence or entry of the judgment, order or decree appealed from, or within such longer time as may be prescribed by rules of procedure adopted by the chief justice of the Trust Territory under section 202 of title 5 of this Code. (Code 1966, § 198; Code 1970, tit. 6, § 352.)


Review of record by appellate court. — In order to avoid substantial injustice, appellate court may in its discretion review the record in cases where appeal is not timely filed. Aguon v. Rogoman, 2 TTR 258 (1961).


Filing of notice of appeal within time limited by provisions of this Code is essential to the jurisdiction of the court upon appeal in the absence of some most unusual circumstance. Exception to timely filing of notice of appeal is recognized where the failure to file is the result of default of some officer of the court. Ngiralois v. Trust Territory, 3 TTR 637 (App. Div. 1968).


Filing requirement for notice of second appeal. — Notice of second appeal after first appeal results in remand must be filed within time limited by this Code after judgment based on new trial. You v. Gaameu, 2 TTR 264 (1961).

Calculation of time-period for filing. — Where statute provides that notice of appeal in a civil action shall be filed within thirty days after entry of judgment, the running of time commences as of the date of entry of judgment and not as of the date counsel is in receipt of notice thereof. Abrams v. Johnston (App. Div., November, 1975).


§ 353. Right of Trust Territory government to appeal. — (1) In a criminal case, the government shall have the right of appeal only when a written enactment intended to have the force and effect of law has been held invalid. Action on any such appeal shall be limited as provided in section 355 of this chapter.

(2) In civil cases, the government shall have the same right of appeal as private parties. (Code 1966, § 198; Code 1970, tit. 6, § 353.)

§ 354. Review of district and community courts' decisions. — The trial division of the high court shall review on the record every final decision of the district courts and the community courts in annulment, divorce, and adoption cases in which no appeal has been taken, and it may, in its discretion, review on the record any other final decision of a district or community court in which no appeal has been taken. (Code 1966, § 199; Code 1970, tit. 6, § 354.)

High court review of district court order. — District court judgment placing juvenile in delinquency proceeding in custody of his uncle having been brought to high court's attention
§ 355. **Powers of courts on appeal or review.** — (1) The high court on appeal or review and the district court on appeal shall have power to affirm, modify, set aside, or reverse the judgment or order appealed from or reviewed and to remand the case with such directions for a new trial or for the entry of judgment as may be just.

(2) The findings of fact of the trial division of the high court in cases tried by it shall not be set aside by the appellate division of that court unless clearly erroneous, but in all other cases the appellate or reviewing court may review the facts as well as the law.

(3) In a criminal case, the appellate or reviewing court may set aside the judgment of conviction, or may commute, reduce (but not increase), or suspend the execution of the sentence, and, if the defendant has appealed or requested a new trial, the appellate or reviewing court may order a new trial; but if the government has appealed in a criminal case as authorized in section 353 of this chapter, the appellate or reviewing court may not reverse any finding of not guilty, and its powers shall be limited to a reversal of any determination of invalidity of an enactment intended to have the force of law. (Code 1966, § 200; Code 1970, tit. 6, § 355.)

**Paramount interest of appellate court.** — The paramount interest of appellate court is to assure that all efforts are made to consider any basis upon which the appellant in a criminal case may have a valid claim to reverse his conviction. Edwards v. Trust Territory (App. Div., February 1977).

**Authority to review a point of law on its own motion.** — Although the general rule is that appellate review is generally limited to matters complained of or points raised in the appeal, an appellate court may take up a point of law on its own motion if there is a basis for it in the record. The reviewing court is not bound to accept concessions of the parties as establishing the law applicable to a case. Crisostimo v. Trust Territory (App. Div., April, 1976).

**Authority to review law of laches on appeal.** — Pursuant to statute there is no restraint in reviewing the law of laches as it applies to cases on appeal and which may be applicable to other cases pending or not yet filed. Crisostimo v. Trust Territory (App. Div., April, 1976).

**Available evidence not covered by prosecution.** — Where it appears probable that there is evidence available on points not covered by prosecution in criminal trial, court will remand case with such directions as may be just, instead of merely reversing judgment and acquitting accused. Itelbong v. Trust Territory, 2 TTR 595 (1964).

**Authority to review facts as well as law.** — The trial division of the high court may review the facts as well as the law in the record of an appeal from the district court. Rengiil v. Derbai, 6 TTR 181 (1973).

**Disadvantage in evaluating credibility of trial court witnesses.** — Although trial division of the high court on appeals from district courts may review facts as well as law, it is not in as good a position as trial court to pass on credibility of witnesses who appeared and testified personally in trial court. Timulch v. Trust Territory, 3 TTR 208 (1966).

**Nature of review of facts.** — Though court was authorized by statute to review facts, it could not do so where they related to unresolved major conflicts in the evidence; and case would be remanded for resolution of the conflict. Ngitatulemau v. Merei, 6 TTR 245 (1973).

It is a principle of appellate review that where the evidence is in substantial conflict, the finding of the judge or jury is presumed to have been correct, and the evidence will not be reweighed by the appellate court. Trust Territory v. Macaranas (App. Div., April, 1976).


The findings of the trial court based upon the evidence will not be set aside unless there is
Substantial evidence in support of trial court's findings. — Trial court's findings were not clearly erroneous, and thus would not be set aside, where there was substantial evidence to support them. Rasa v. Trust Territory, 6 TTR 535 (1973).


Inability of appellate division to reweigh evidence. — The appellate division of the high court may not set aside findings of fact of the trial division unless the findings are clearly erroneous. The appellate division cannot reweigh the evidence and decide whether in its opinion it should reach the same or different conclusion as the trial judge did as to the facts. Ilisari v. Tarolimau (App. Div., April, 1976).

The appellate division of the high court on appeal from a decision of the trial division cannot reweigh the evidence and decide whether in its opinion it should reach the same or different conclusion as the trial judge did as to the facts. Arriola v. Arriola, 4 TTR 486 (App. Div. 1968).

Case remanded where essential point was omitted by prosecution at trial. — Where essential point in criminal prosecution has been omitted through inadvertence or misunderstanding, and it is probable there is evidence available on it, accused is not entitled to acquittal on appeal as matter of right, and case will be remanded with such directions for new trial as may be just. Tkel v. Trust Territory, 2 TTR 513 (1964).

In criminal proceedings in the Trust Territory, where essential point of prosecution's case is omitted through inadvertence or misunderstanding, and it is probable there is sufficient evidence available on it, appellate court will remand case with such directions for new trial as may be just, instead of merely reversing judgment. Firetamag v. Trust Territory, 2 TTR 413 (1963).

Failure of counsel on appeal to point out applicable parts of trial transcript. — Where appellant's counsel asks court to review transcript of trial court to determine if trial court was clearly erroneous and counsel does not even bother to point out what parts of the transcript are applicable, counsel is in fact asking appellate court to reweigh the evidence. Edwards v. Trust Territory (App. Div., February, 1977).

Repeat of assertions made before the trial judge. — Where notice of appeal and brief of appellant is nothing more than a repeat of the assertions made before the trial judge, there is nothing to demonstrate that the findings were clearly erroneous and the findings of fact of the trial judge shall not be set aside. In re Estate of Bulele (App. Div., January, 1977).

Appellate power to set aside judgment and remand. — The trial division of the high court has broad powers on appeal to set aside judgment and remand case with such directions for new trial as may be just, instead of merely reversing judgment. Ngirimdoi v. Trust Territory, 1 TTR 273 (1955).

Essential elements of offense not alleged. — Appellate court may order new trial and direct trial court to permit amendment of complaint where complaint does not allege essential elements of offense. Willianter v. Trust Territory, 3 TTR 227 (1966).

Approach of appellate court to evidence presented at trial. — It is the function of the trial court to make determinations of fact which are dependent on conflicting evidence; it is not the function of the appellate court to do so. Likewise, in considering a case on appeal, the appellate court must make every reasonable presumption in favor of the determinations of the trial court. An appellate court will not examine the evidence in an attempt to determine whether it more strongly favors one conclusion or another; that is to say, that on appeal the appellate court may not consider the sufficiency of the evidence as it relates to the weight or probative value of conflicting evidence. Not only must the appellate court refrain from reweighing the evidence, its duty is to make every reasonable presumption in favor of the correctness of the decision of the lower court. Olper v. Damarlane (App. Div., January, 1977).

Presumption in favor of trial court determination. — The trial division of the high court may review facts as well as law on appeal from district courts but will make every reasonable presumption in favor of determination of trial court. Soilo v. Trust Territory, 2 TTR 368 (1962).

Judgment of trial judge accorded weight. — Where the trial judge was the exclusive judge of the credibility of witnesses and the weight to be given to their testimony, a judgment supported by the testimony of a witness who has not been discredited and whose testimony is not inherently improbable will be affirmed. Trust Territory v. Macaranas (App. Div., April, 1976).

Evidence considered in light favorable to government. — Under this Code and general principles of law, appellate court on criminal appeal is obligated to consider evidence in light most favorable to government. Uchel v. Trust Territory, 3 TTR 575 (App. Div. 1965).

In criminal appeal, court is under obligation of this Code and general principles of law to consider evidence in light most favorable to the

Relief from land commission determination. — Relief from a land commission determination is obtainable only by appeal, and not by declaratory judgment or default judgment. Arriola v. Arriola, 6 TTR 287 (1973).

Where record on appeal from land commission was inadequate and did not show who had appeared before the registration team, and the team members and claimants were inexperienced in establishing a record for appeal, and the statutory notice of hearing before the registration team did not actually reach appellant and the other claimants, court would, though appellant never appeared before the registration team and was not shown to be a party and aggrieved, as required by statute to appeal, remand for determination of claimants' claims. Arriola v. Arriola, 6 TTR 287 (1973).

§ 356. Stay of execution. — Pending review or the hearing and determination of an appeal, execution of the judgment, order or sentence of a court will not be stayed unless:

(1) The appellate court, reviewing court or the trial court orders a stay for cause shown and upon such terms as it may fix; or

(2) As otherwise provided by law. (Code 1966, § 201; Code 1970, tit. 6, § 356; P.L. No. 4C-17, § 1.)

Execution of judgment stayed by order only. — Execution of judgment will not be stayed pending appeal unless either appellate or reviewing or trial court orders stay for cause shown and upon such terms as it may fix. Mottan v. Lanjen, 2 TTR 347 (1962).

§ 357. Decisions of appellate division of high court final until action by U.S. Congress. — Unless and until the Congress of the United States provides for an appeal to a court created by act of Congress, the decisions of the appellate division of the high court shall be final. (Code 1966, § 202; Code 1970, tit. 6, § 357.)

Nature of appellate division of high court. — Where appellant has been afforded a full adversary hearing before a disciplinary panel in the appellate division of the high court, the decision is final as the appellate division of the high court is the highest court of the Trust Territory. Abrams v. Trust Territory High Court Disciplinary Panel (App. Div., May, 1977).

CHAPTER 9.
FEES AND COSTS; DISPOSITION OF FINES.

Subchapter I.
Fees and Costs.

Sec.
401. Witness fees for travel.
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Subchapter II.
Disposition of Fines.

451. Court fines.
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§ 401. Witness fees for travel. — (1) Except as otherwise provided in this chapter, every person attending as a witness in any judicial proceeding shall be entitled to receive three cents per mile for going from and returning to his place of residence or usual place of business or employment, whichever is nearer, to the place where he is to appear as a witness, unless suitable transportation is provided without expense to him.

(2) If transportation is not provided without expense to him, the witness shall be entitled to receive the generally accepted prevailing charge for such transportation, in place of the three cents per mile, for the part of his travel for which such transportation is reasonably needed and this charge shall be considered as part of his mileage.

(3) If part, but not all, of his transportation is provided without expense to him, the witness shall only be entitled to receive mileage for the part of his travel for which transportation is not provided to him without expense to him. Except as otherwise provided by subsection (4), section 404 of this chapter, this mileage shall be paid by the party on whose behalf the witness is called or summoned, for each trip the witness is reasonably required to make.

(4) If the witness is summoned, the mileage for one round trip shall be tendered to him at the time the witness summons is served, and the mileage for any further trips required shall be tendered in advance of each trip, except when the witness summons is issued on behalf of the Trust Territory or an officer or agency thereof or under section 404 of this chapter. (Code 1966, § 259; Code 1970, tit. 6, § 401.)

Compensation of witnesses. — A witness is entitled to no compensation for his time and travel other than that specified in this Code, and in certain cases, witness in Trust Territory may have to testify without any fee. Moap v. Kapuich, 1 TTR 449 (1958).

Limitation on travel fees. — Witness' right to fees for travel is limited by words "unless suitable transportation is provided without expense to him" in applicable Trust Territory law. Moap v. Kapuich, 1 TTR 449 (1958).

Requirement that witnesses cooperate concerning travel. — Parties and witnesses should cooperate in making the best of what transportation to site of trial is available at moderate cost and commonly used between points involved, and parties' counsel should arrange for transportation that is as convenient for witness as reasonably can be, but witnesses should not refuse transportation because it will not permit them to do personal business or because trip is not by most direct or convenient route possible. Moap v. Kapuich, 1 TTR 449 (1958).

No reimbursement for travel to victory party. — Witness may not claim reimbursement for travel to "celebration" of victory of person for whom he testifies. Moap v. Kapuich, 1 TTR 449 (1958).
§ 402. Witness fees for subsistence. — In any case in which a witness has attended or been summoned to attend before any court and it is necessary for him to remain in attendance for more than one day at a point so far removed from his residence or usual place of business or employment as to prohibit return thereto from day to day, the court before whom he has attended or been summoned may determine the amount reasonably needed to cover the witness' subsistence per day while in attendance, and this sum shall be tendered to the witness in advance by the party on whose behalf the witness was called or summoned, except when the summons is issued under section 404 of this chapter or where suitable subsistence is provided without expense to the witness. (Code 1966, § 260; Code 1970, tit. 6, § 402.)

Compensation of witnesses. — A witness is entitled to no compensation for his time and travel other than that specified in this Code, and in certain cases, witness in Trust Territory may have to testify without any fee. Moap v. Kapuich, 1 TTR 449 (1958).

§ 403. Effect of failure to tender sufficient witness fees. — The failure to tender the sums specified in sections 401 and 402 of this chapter for mileage or subsistence, or any part of either or both, however, shall not exempt the witness from complying with the summons if he has the means to comply. Any question as to the sufficiency of the amount tendered shall be brought promptly to the attention of the court or official before whom appearance is required, and the same is hereby authorized to make such order as to payment of the witness fees as is just. (Code 1966, § 261; Code 1970, tit. 6, § 403.)

Compensation of witnesses. — A witness is entitled to no compensation for his time and travel other than that specified in this Code, and in certain cases, witness in Trust Territory may have to testify without any fee. Moap v. Kapuich, 1 TTR 449 (1958).

§ 404. Proceedings when persons unable to pay fees. — (1) Any court may authorize the commencement, prosecution or defense of any case, action or proceeding, civil or criminal, or any appeal therein, without prepayment of fees for serving of process, jury fees, witness fees or filing fees, or giving security therefore by a permanent resident of the Trust Territory who makes a statement under oath that he is unable to pay such fees or give security therefor. This statement under oath shall state the nature of the case, action, or proceedings, defense, or appeal, and that the person making the statement believes that he is entitled to relief.

(2) The officers of the court and the designated policeman shall issue and serve all process, and perform all duties in such cases without prepayment of fees or the giving of security therefor. Witnesses shall attend as in other cases.

(3) The court may dismiss the case, action or proceeding if the statement that the person is unable to pay fees is untrue, or if the court is satisfied that the case, action or proceeding is malicious or has no substantial basis.

(4) The court before whom any criminal case is pending or a judge thereof may order at any time that a witness summons be issued and served without prepayment of fees upon request of an accused who cannot pay witness fees. The request shall be supported by a statement under oath in which the accused shall state the name and address of each witness and the testimony which he is expected by the accused to give if summoned, and shall show that the evidence of the witness is material to the defense, that the accused cannot safely go to the trial without the witness, and that the accused is actually unable to pay the fees of the witness. If the court or judge orders the witness summons to be issued and served without prepayment of fees the fees of the witness so summoned shall be paid in the same manner in which similar fees are paid in case of a witness summoned on behalf of the government.
(5) In the event that a court authorizes a party to proceed without payment of fees pursuant to this section, the director of the administrative office, Trust Territory judiciary, shall pay all fees which would otherwise be due under subsection (3) of section 405 of this chapter to the court reporter or other person who prepares a transcript. Such payment shall be made from funds appropriated for the operation of the judiciary and allocated to the district in which the proceeding appealed from was held. (Code 1966, § 262; Code 1970, tit. 6, § 404; P.L. No. 6-101, § 2.)

Compensation of witnesses. — A witness is entitled to no compensation for his time and travel other than that specified in this Code, and in certain cases, witness in Trust Territory may have to testify without any fee. Moap v. Kapuich, 1 TTR 449 (1958).

Appeal perfected without payment of transcript cost. — An appeal can be perfected without payment of cost of transcript in accordance with rule 32f(1), rules of criminal procedure, also applicable to civil procedure, and this section. Mendiola v. Quitugua, 5 TTR 351 (1971).

§ 405. Schedule of court fees. — Each clerk of courts shall charge and collect the following fees with regard to work handled by his office, and each community court shall charge and collect these fees with regard to work handled by it:

(1) Filing of fees in civil actions.
   (a) For filing of notice of appeal from the appellate division of the high court, five dollars;
   (b) For filing of notice of appeal from the district court to the trial division of the high court, one dollar;
   (c) For trial in the trial division of the high court, two dollars and fifty cents;
   (d) For filing of complaint under the small claims procedure, twenty-five cents;
   (e) For filing of motion for new trial under the usual procedure after a small claims judgment, twenty-five cents;
   (f) For filing of complaint in a district court or community court under the small claims judgment, fifty cents;
   (g) For filing of complaint in the trial division of the high court, one dollar.

(2) Copy of records. For a copy of any record, or other paper in his custody, comparison thereof, and certifying it to be a true copy, twenty-five cents plus ten cents for each hundred words in excess of the first hundred.

(3) Transcripts of evidence and notes of hearing. For a transcript of evidence in case of appeal from the trial division of the high court in either criminal or civil cases, one dollar per page, or part thereof, for the original and two copies ordered at the same time, and fifty cents per page, or part thereof, for each additional copy ordered at the same time. Any party desiring to raise an issue on appeal from the trial division to the appellate division of the high court depending on the whole or any part of the evidence, shall order at his own expense an original and not less than two copies of the transcript of evidence, the original for the court, one copy for the party ordering the transcript, and one copy for each of the opposite parties.

(4) Recording land transfer documents. For recording of all land transfers, fifty cents, except that there shall be no charge where the Trust Territory is the grantor. (Code 1966, § 263; Code 1970, tit. 6, § 405; P.L. No. 6-101, § 4.)

§ 406. Disposition of court fees. — (1) All court fees collected under section 405 of this chapter by any community court shall be remitted monthly or as nearly so as reliable means of transmission will reasonably permit to the clerk of courts for the district.
(2) All court fees collected by any clerk of courts under subsections (1), (2), and (4) of section 405 of this chapter, or received by him from any community court, shall be remitted monthly or as more often as may be directed by the chief justice, to the treasurer of the Trust Territory through the district finance officer.

(3) All court fees collected by any clerk of courts under subsection (3) of section 405 of this chapter shall be paid to the court reporter or other person who prepares the transcript, in addition to the regular compensation provided to such reporter or other person. (Code 1966, § 264; Code 1970, tit. 6, § 406; P.L. No. 6-101, § 1.)

§ 407. Additional costs may be taxed. — The court may allow and tax any additional items of cost or actual disbursement, other than fees of counsel, which it deems just and finds have been necessarily incurred for services which were actually and necessarily performed. (Code 1966, § 265; Code 1970, tit. 6, § 407.)

Plaintiff bringing action in good faith not charged with additional costs. — Where plaintiff in good faith brings action to determine ownership of land in Truk, plaintiff will not be charged with additional costs which may be granted in cases where action is groundless, even though evidence to refute plaintiff's claim is strong. Irons v. Mailo, 3 TTR 194 (1966).

Costs not allowed party to an action. — This section does not allow costs incurred for traveling and living expenses by a party to an action. Penno v. Katarina, 3 TTR 416 (1968).

§ 408. Allocation of costs. — All fees and expenses paid or incurred under this chapter for the service of process, witness fees, or filing fees on appeal, by any party prevailing in any matter other than a criminal proceeding, shall be taxed as part of the costs against the losing party or parties unless the court shall otherwise order; provided, that no fees paid to a witness who is a party in interest and is called and examined on his own behalf or on behalf of others jointly interested with him shall be allowed or taxed as costs; and provided further, that no costs shall be taxed against the United States of America or the Trust Territory. (Code 1966, § 265; Code 1970, tit. 6, § 408.)

Personal expenses not allowed party to an action. — Personal expenses incurred by a party to an action are not allowable under this section. Penno v. Katarina, 3 TTR 416 (1968).

§ 409. Apportionment of costs. — Where there is more than one prevailing or losing party, costs may be apportioned by the court as it deems just. (Code 1966, § 265; Code 1970, tit. 6, § 409.)

Subchapter II.

Disposition of Fines.

§ 451. Court fines. — All fines imposed by any court shall be paid into the treasury of the Trust Territory; except, that any fine imposed by any court under the authority of any district or municipal law shall be paid into the treasury of the jurisdiction which enacted the law. (Code 1966, § 175(a); Code 1970, tit. 6, § 451; P.L. No. 5-54, § 1.)

§ 452. Civil fines. — (1) Any fine imposed in accordance with law by anyone other than a court shall be paid into the treasury of the Trust Territory, unless the law under which it is imposed otherwise directs. Such fines shall be
considered civil fines and no person shall be imprisoned solely for failure to pay them, but any such fine may be collected in the manner provided for collection of taxes in chapter 7, title 77 of this Code, or as may be provided in the law under which the fine is imposed, provided it is not inconsistent with this section.

(2) In any civil suit to collect such a fine, the written statement of the person who assessed the fine shall have the same effect as that of the treasurer of a taxing unit under section 152 of title 77 of this Code. (Code 1966, § 175(c); Code 1970, tit. 6, § 452.)
§ 501. Single publication to give rise to one cause of action only. — No person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture. Recovery in any action shall include all damages for any such tort suffered by the plaintiff in all jurisdictions. Nothing in this section shall be construed as creating a cause of action which does not otherwise exist. (P.L. No. 4C-20, § 1.)

§ 502. Judgment as bar to other actions. — A judgment in any jurisdiction or against the plaintiff upon the substantive merits of any action for damages founded upon a single publication or exhibition or utterance as described in section 501 of this chapter shall bar any other action for damages by the same plaintiff against the same defendant founded upon the same publication or exhibition or utterance. (P.L. No. 4C-20, § 1.)
§ 551. Short title. — This chapter may be cited as the "Contribution Among Joint Tort-feasors Act." (P.L. No. 4C-22, § 1.)

§ 552. Right of contribution. — (1) Except as otherwise provided in this chapter, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tort-feasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tort-feasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(3) There is no right of contribution in favor of any tort-feasor who has intentionally, wilfully, or wantonly caused or contributed to the injury or wrongful death.

(4) A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor whose liability for the injury or wrongful death is not extinguished by the settlement nor is he entitled to recover in respect to any amount paid in a settlement which is in excess of what was reasonable.

(5) A liability insurer, who by payment has discharged in full or in part the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(6) This chapter does not impair any right of indemnity under existing law. Where one tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(7) This chapter shall not apply to breaches of trust or of other fiduciary obligation. (P.L. No. 4C-22, § 1.)

§ 553. Pro rata shares. — In determining the pro rata shares of tort-feasors in the entire liability:

(1) Their relative degrees of fault shall not be considered;

(2) If equity requires, the collective liability of some as a group shall constitute a single share; and

(3) Principles of equity applicable to contribution generally shall apply. (P.L. No. 4C-22, § 1.)

§ 554. Enforcement. — (1) Whether or not judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced by separate action.
(2) Where a judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tort-feasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(4) If there is no judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right of contribution is barred unless he has either:
   (a) Discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment, or
   (b) Agreed while action is pending against him to discharge the common liability and has within one year after agreement paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against one tort-feasor does not of itself discharge the other tort-feasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(6) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution. (P.L. No. 4C-22, § 1.)

§ 555. Release or covenant not to sue. — When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(1) It does not discharge any of the other tort-feasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the other to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater; and,

(2) It discharges the tort-feasor to whom it is given from all liability for contribution to any other tort-feasor. (P.L. No. 4C-22, § 1.)

§ 556. Retroactivity. — This act shall not be deemed to create any right or remedy to any joint tort-feasor in favor of whom the provisions of this chapter would otherwise apply, where such joint tort-feasor's cause of action accrued prior to the effective date of this chapter, and to this extent the provisions of this chapter are not retroactive. (P.L. No. 4C-22, § 1.)
Title 7.
Evidence.

Chap. 1. Privileges, §§ 1, 2.

CHAPTER 1.

PRIVILEGES.

Sec.
1. Spouses.
2. Certain conversations with anthropologists privileged.

§ 1. Spouses. — Neither husband nor wife shall be compelled to testify against the other in the trial of an information, complaint, citation or other criminal proceeding. (Code 1966, § 341; Code 1970, tit. 7, § 1.)

§ 2. Certain conversations with anthropologists privileged. — Subject to the limitations provided in this section, conversations held with an anthropologist in confidence in his professional character shall be privileged. No statement made in such a conversation nor the substance thereof shall be divulged without the consent of the person making it, nor shall the identity of any person making such a statement on any particular subject be divulged without his consent, except as provided herein. This privilege, however, shall not extend to the professional opinions or conclusions of an anthropologist even though they may be based in whole or in part on such conversations, nor shall it or the prohibition against divulging such statements or the identity of persons making them apply to admissions or confessions indicating that the person making them has committed murder in the first or second degree or voluntary manslaughter or is threatening to commit a crime in the future. (Code 1966, § 342; Code 1970, tit. 7, § 2.)
CHAPTER 2.
AUTHENTICATION AND CONTENT OF RECORDS.

Sec. 51. Official records.

§ 51. Official records. — Books or records of account or minutes of proceedings of any department or agency of the United States of America or of the Trust Territory, or of any predecessor thereof, shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept. Copies or transcripts (authenticated by the official having custody thereof) of any books, records, papers or documents of any department or agency of the United States of America or of the Trust Territory, or of any predecessor thereof, shall be admitted in evidence equally with the originals thereof. (Code 1966, § 340; Code 1970, tit. 7, § 51.)
Title 8.

Enforcement of Judgments.


2. Attachments; Execution; Orders in Aid of Judgment, §§ 51 to 61.

CHAPTER 1.

GENERAL PROVISIONS.

Sec. Sec.
1. Money judgments. 3. Other judgments.
2. Judgments affecting land. 4. Other methods of enforcement.

§ 1. Money judgments. — Every judgment for the payment of money shall bear interest at the rate of nine percent a year from the date it is entered. The process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment, as provided in chapter 2 of this title. (Code 1966, § 282; Code 1970, tit. 8, § 1; P.L. No. 6-97, § 1.)

Interest on judgment. — Interest on judgment begins from date judgment is entered. Torres v. Cruz, 3 TTR 569 (App. Div. 1965).

Money damages not available as a means of giving district court jurisdiction of action involving title to land. — In action for specific performance of promise to transfer land, statute providing district court had no jurisdiction where title to or interest in land was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. Taisakan v. Taisakan, 6 TTR 283 (1973).

§ 2. Judgments affecting land. — A judgment adjudicating an interest in land shall, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, operate the release or transfer any interest in land in accordance with the terms of the judgment, when a copy thereof, certified by the clerk of courts, or any judge of the court, is recorded in the office of the clerk of courts, in the case of unregistered land, or in the district registrar's office, in the case of registered land, for the district in which the land lies. (Code 1966, § 283; Code 1970, tit. 8, § 2; P.L. No. 4C-34, § 1.)

Enforcement of judgment stayed during appeal. — Enforcement of judgment during appeal is stayed unless an order has been entered that the appeal shall not stay the judgment. Where there is no such order in an action, the trial court does not have the authority to enter the order in aid of judgment, and if it does so that order is a nullity and of no force and effect and must be vacated and set aside by the appellate court. Reab v. Langrine (App. Div., June, 1977).

§ 3. Other judgments. — Judgment for any form of relief other than the payment of money or the adjudication of an interest in land, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been
entered that an appeal shall not stay the judgment, may be enforced by contempt proceedings; provided, that enforcement at such time is required to prevent irreparable injury or multiple damage to the interests of the winning party and is otherwise in the interests of justice. Upon a finding of contempt, the person against whom the judgment has been rendered may be fined or imprisoned at the discretion of the court until he or she complies with the judgment or is released by the court or has been imprisoned for six months, whichever happens first. (Code 1966, § 284; Code 1970, tit. 8, § 3; P.L. No. 4C-34, § 1.)

Notice of injunction prerequisite for contempt citation. — In case of civil contempt for violation of injunctions, person cannot be guilty of contempt for violating injunction unless it is shown he had actual notice of injunction prior to performance of acts complained of. Ranipu v. Trust Territory, 2 TTR 167 (1961).

§ 4. Other methods of enforcement. — Enforcement of judgment may also be affected, if the trial division of the high court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the court, or by a civil action on the judgment, or in any other manner known to American common law or common in courts in the United States. (Code 1966, § 285; Code 1970, tit. 8, § 4.)
§ 51. Writs of attachment. — (1) Writs of attachment may be issued only by the trial division of the high court for special cause shown, supported by statement of the high court for special cause shown, supported by statement under oath. Such writs when so issued shall authorize and require the chief of police, any policeman, or other person named therein, to attach and safely keep so much of the personal property of the person against whom the writ is issued as will be sufficient to satisfy the demand set forth in the action, including interest and costs. The chief of police, policeman, or other person named in the writ shall not attach any personal property which is exempt from attachment, nor any kinds or types of personal property which the court may specify in the writ.

(2) Debts payable to the defendant may be similarly attached by special order issued by the trial division of the high court, which shall exempt from the attachment so much of any salary or wages as the court deems necessary for the support of the person against whom the order is issued or his dependents.

(Code 1966, § 280; Code 1970, tit. 8, § 51.)

Editor's note. — In the 1970 Code, the last sentence of subsection (1) read: "Such writs when so issued shall authorize and require the Chief of Police, policemen, or other person named therein, to attach and safely keep so much of the personal property of the person against whom the writ is issued, not exempt from attachment, as will be sufficient to satisfy the demand set forth in the action, including interest and costs, excepting any kinds or types of personal property which the court may specify in the writ." This language was changed into its present form for clarification.

§ 52. Release and modification. — The trial division of the high court, upon application of either party or of its own motion, may make and, from time to time, modify such orders as it deems just for the release of property from attachment or for the sale thereof if perishable or if the owner of the property shall so request, and for the safekeeping of the proceeds of the sale. (Code 1966, § 281; Code 1970, tit. 8, § 52.)

§ 53. Writs of execution. — Every court, at the request of the party recovering any civil judgment in that court for the payment of money, shall issue a writ of execution against the personal property of the party against whom the judgment has been rendered, except as provided in section 61 of this chapter. (Code 1966, § 286; Code 1970, tit. 8, § 53; P.L. No. 4C-21, § 1.)

§ 54. Levying execution. — Every chief of police, policeman or other person duly authorized receiving a writ of execution issued by any court, shall levy or cause a chief of police or policeman to levy execution as follows:

(1) Demand of payment — seizure of property. He shall demand of the person against whom the execution is issued, if he may be found within the municipality where the levy is being attempted, that the person pay the execution or exhibit sufficient property subject to execution. If such person has
property of a kind exempt from execution but to an amount exceeding the exemption, he may select the portion of this property provided by law which he desires to retain under the exemption, providing he makes this selection known promptly to the person making the levy. Otherwise, the person making the levy shall make the selection. If the person against whom the execution is issued does not pay the execution in full, including interest and costs and expenses thereof, the person making the levy shall take into his possession property of the person against whom the execution is issued, not exempt from execution, sufficient in his opinion to cover the amount of the execution. He shall take first any property under attachment in the action in which the execution was issued; next, property, if any, indicated by the person against whom the execution was issued. He may, if he thinks best, remove the property to a safe place, or place a caretaker in charge of it. He shall make a list of the property levied upon.

(2) Notice of sale. The person making the levy shall, after levy, give public notice of the sale at least seven days in advance of the time and place of sale, by notifying the magistrate of the municipality or municipalities in which the levy was made, by posting a written notice of the sale in a conspicuous place at or near the municipal office in the municipality in which the sale is to be held, and must notify the person against whom the execution is issued, if he can be found within the municipality or municipalities where the levy was made, or notify any agent who had custody of the property levied upon at the time of levy.

(3) Sale — Procedure — Disposition of proceeds. The person making the levy on the day and at the place set for the sale, unless payment has been made of the amount of the judgment and interest and the costs and expenses in connection with the levy, shall sell the property levied upon at public auction to the highest bidder. He shall deduct from the proceeds of the sale sufficient money for the full payment of his fees and expenses, and shall then pay the person in whose favor the execution was issued, or his counsel, such balance as remains up to the amount due on the execution. If there are any proceeds of the sale left after the deduction and payment directed above, such remaining proceeds shall be paid over to the person against whom the execution was issued. The person making the levy shall then return the writ to the court with a report of his doings thereon, showing the amounts collected and paid out thereon.

(4) Postponement of sale. Whenever a request in writing signed by the debtor and creditor for a postponement of the sale to an agreed date and hour is given to the person conducting the sale under execution, such person shall thereupon by public declaration postpone the sale to the day and hour so fixed in such request and at the place originally fixed by the person for the sale. In the case of postponements, notice of each thereof must be given by public declaration by the person conducting the sale at the time and place last appointed for the sale. No other notice of postponed sale need be given.

(5) Completion of sale by person other than one making levy. If a chief of police, policeman or other person duly authorized starts to levy execution and for any reason is prevented from or fails to complete the matter, any chief of police, policeman or other person duly authorized may complete the levy, sale, and payment of proceeds as provided in this section. (Code 1966, § 287; Code 1970, tit. 8, § 54; P.L. No. 4C-21, § 2.)

§ 55. Orders in aid of judgment; application. — At any time after a finding for the payment of money by one party to another, and before any judgment based thereon has been satisfied in full, either party may apply to the court for an order in aid of judgment. Thereupon the court, after notice to the opposite party, shall hold a hearing on the question of the debtor’s ability to pay and determine the fastest manner in which the debtor can reasonably pay
a judgment based on the finding. In making this determination the court shall allow the debtor to retain such property and such portion of his income as may be necessary to provide the reasonable living requirements of the debtor and his dependents, including fulfillment of any obligations he may have to any clan, lineage, or other similar group, in return for which obligations he, or his dependents, receive any necessary part of the food, goods, shelter or services required for their living. (Code 1966, § 289; Code 1970, tit. 8, § 55.)

Nature of proceeding under section. — A proceeding under this section of this Code is one to determine a judgment debtor's ability to pay after a court has made a finding for the payment of money by one party to another. Rilometo v. Lanlobar, 4 TTR 1972 (1968).

Money damages not available as a means of giving district court jurisdiction of action involving title to land. — In action for specific performance of promise to transfer land, statute providing district court had no jurisdiction where title to or interest in land was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. Taisakan v. Taisakan, 6 TTR 283 (1973).

§ 56. Same; hearings. — (1) At the hearing provided by section 55 of this chapter, the debtor may be examined orally before the court, or the court may refer the examination to a single judge of the court or to a master to take evidence and report his findings. In either case any evidence properly bearing on the question may be introduced by either party or by the court, the single judge or master, in the same manner as at the trial of a civil action. Upon having heard the evidence or having received the report of the single judge or master, the court shall make such order in aid of judgment as is just for the payment of any judgment based on the finding.

(2) This order in aid of judgment may provide for the transfer of particular assets at a price determined by the court, or for the sale of particular assets and payment of the net proceeds to the creditor, or for payments, in specified installments on particular dates or at specified intervals, or for any other method of payment which the court deems just. (Code 1966, § 290; Code 1970, tit. 8, § 56; P.L. No. 4C-21, § 3.)

Payments before appeal; order in aid of judgment. — Order in aid of judgment may call for payments before appeal is finally determined, if order has been entered that appeal shall not stay the judgment. Mottan v. Lanjen, 2 TTR 347 (1962).

Security and guarantees. — Person who desires to delay effect of judgment should be ready to give security or other guarantee that judgment will be paid or otherwise complied with if it is affirmed in whole or in part, as result of the appeal. Mottan v. Lanjen, 2 TTR 347 (1962).

§ 57. Same; modification of orders. — Any order in aid of judgment made under this chapter may be modified by the court as justice may require, at any time, upon application of either party and notice to the other, or on the court’s own motion. (Code 1966, § 291; Code 1970, tit. 8, § 57.)

§ 58. Same; punishment of violations. — If any debtor fails without good cause to comply with any order in aid of judgment made under this chapter, he may be adjudged in contempt as a civil matter, after notice to show cause why he should not be so adjudged and an opportunity to be heard thereon, and upon such adjudication shall be committed to jail until he complies with the order or is released by the court or serves a period fixed by the court of not more than six months in jail, whichever happens first. (Code 1966, § 292; Code 1970, tit. 8, § 58.)
§ 59. Same; stay of execution. — (1) After an application for an order in aid of judgment has been filed in any action, no writ of execution shall be issued therein except under an order in aid of judgment as provided in this chapter, or by special order of the court for cause shown.

(2) If a writ of execution is outstanding, a judgment creditor applying for an order in aid of judgment shall file the writ of execution with his application, and a judgment debtor applying for an order in aid of judgment may request a stay of execution which may be granted by the court on such terms, if any, as it deems just. (Code 1966, § 293; Code 1970, tit. 8, § 59.)

§ 60. Same; application to community or district court. — A judgment creditor who has obtained an execution may, instead of applying to the court in which the action was tried, apply for an order in aid of judgment to the district court or community court within whose jurisdiction the judgment debtor lives or has his usual place of business or employment. The court so applied to shall then proceed with notice to the opposite party, hearing, determination, and the issuance of such order in aid of judgment as it deems just, as provided in this chapter. (Code 1966, § 294; Code 1970, tit. 8, § 60.)

§ 61. Exemptions. — The following described property shall be exempt from attachment and execution:

(1) Personal and household goods. All necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding, and provisions for household use sufficient for four months.

(2) Necessities for trade or occupation. All tools, implements, utensils, two work animals, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his usual occupation.

(3) Land and interests in land. All interests in land, but any interest owned solely by a judgment debtor, in his own right, may be ordered sold or transferred under an order in aid of judgment if the court making the order deems that justice so requires and finds as a fact that after the sale or transfer, the debtor will have sufficient land remaining to support himself and those persons directly dependent on him according to recognized local custom and the law of the Trust Territory. No person not an indigenous inhabitant of the Trust Territory may acquire any interest in such land, by sale, transfer, or otherwise, except with the prior approval of the High Commissioner. (Code 1966, § 288; Code 1970, tit. 8, § 61.)


Money damages not available as a means of giving district court jurisdiction of action involving title to land. — In action for specific performance of promise to transfer land, statute providing district court had no jurisdiction where title to or interest in land was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. Taisakan v. Taisakan, 6 TTR 283 (1973).
Title 9.

Special Proceedings.

Chap. 1. Declaratory Judgments, § 1.
2. Conciliation Proceedings, § 51.
3. Habeas Corpus, §§ 101 to 108.

CHAPTER 1.

DECLARATORY JUDGMENTS.

Sec.

1. Authority of courts to render.

§ 1. Authority of courts to render. — In a case of actual controversy within its jurisdiction, the high court or a district court, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment. (Code 1966, § 118; Code 1970, tit. 9, § 1.)
CHAPTER 2.

CONCILIATION PROCEEDINGS.

Sec.

51. Conciliation jurisdiction.

§ 51. Conciliation jurisdiction. — (1) District and community courts may, at the request of a party to any civil controversy (other than annulment, divorce and adoption), endeavor to effect an amicable settlement of the controversy, and to that end, may invite the other party or parties to the controversy to appear before the judge for an informal hearing.

(2) Such a request shall be made in the district or community court within whose territorial jurisdiction the other party or the largest number of the other parties live or have their usual places of business or employment.

(3) If an agreement in settlement of the controversy is reached, the judge shall reduce it to writing and his report of the settlement agreement, when signed by the parties, shall have the force and effect of a judgment even though the subject matter of the controversy may be beyond the jurisdiction of the court for purposes other than conciliation. (Code 1966, § 164; Code 1970, tit. 9, § 51.)

District and community courts — Agreements in writing. — District and community courts may assist in settlement of controversies and reduce agreements to writing which, when signed by parties, have effect of judgments. Philip v. Carl, 3 TTR 97 (1966).

If agreement of settlement of land controversy is reached, even though subject matter of controversy may be beyond jurisdiction of court, community court or district court judge may reduce it to writing, and his report of settlement agreement, when signed by parties, has force and effect of judgment. Aty v. Sieuo, 2 TTR 303 (1961).
CHAPTER 3.

HABEAS CORPUS.

Sec. 101. Power to grant writs of habeas corpus. - Writs of habeas corpus may be granted by the trial division of the high court or any judge authorized to be assigned by the chief justice in the appellate division of the high court. Every person unlawfully imprisoned or restrained of his liberty under any pretense whatsoever, or any person on behalf of an unlawfully imprisoned individual, may apply for a writ of habeas corpus to inquire into the cause of such imprisonment or restraint. (Code 1966, § 300; Code 1970, tit. 9, § 101.)


Determination as to guilt not the function. — Determination of the guilt or innocence of the prisoner is not the function of habeas corpus. Figir v. Trust Territory, 4 TIR 368 (1969).

Jurisdiction is proper subject of inquiry. — Jurisdiction of court or judge to make order, judgment or sentence by which a person is imprisoned is always the proper subject of inquiry on habeas corpus. Purako v. Efou, 1 TTR 236 (1965).

Consideration of facts by court without issuing the writ. — It is the usual procedure on an application for a writ of habeas corpus under this chapter for the court to issue the writ and on the return to hear and dispose of the case. However, the court may, without issuing the writ, consider and determine whether the facts alleged, if proved, would warrant discharge of the prisoner. Figir v. Trust Territory, 4 TIR 368 (1969).

Application for writ refused where orderly procedures are present. — Application for writ of habeas corpus would be refused where orderly procedures, including the right to appeal, were present, since a challenge to the constitutionality of a statute can best be determined by full orderly appellate consideration, not by a petition for a writ of habeas corpus. In re Application of HSU, 6 TTR 27 (1972).

§ 101. Power to grant writs of habeas corpus. — Writs of habeas corpus may be granted by the trial division of the high court or any judge authorized to be assigned by the chief justice in the appellate division of the high court. Every person unlawfully imprisoned or restrained of his liberty under any pretense whatsoever, or any person on behalf of an unlawfully imprisoned individual, may apply for a writ of habeas corpus to inquire into the cause of such imprisonment or restraint. (Code 1966, § 300; Code 1970, tit. 9, § 101.)

§ 102. Application for writ. — Application for the writ of habeas corpus shall be made to a court or judge authorized to issue the same, or to a judge of a district court or a clerk of courts, by a written statement under oath signed by the party for whose relief it is intended, or by some person in his behalf. It shall set forth the facts concerning the imprisonment or restraint of the person for whose relief it is intended, and, if known, the name of the person who has custody over him, and by virtue of what claim or authority the restraint or imprisonment is being practiced. (Code 1966, § 301; Code 1970, tit. 9, § 102.)

§ 103. Action by clerk of courts upon application for writ. — If the application for a writ of habeas corpus is made to a clerk of courts, the clerk
shall immediately bring the application to the personal attention of a court or judge authorized to issue the writ, or a judge of the district court. (Code 1966, § 302; Code 1970, tit. 9, § 103.)

§ 104. Show cause order. — A court or judge entertaining an application for a writ of habeas corpus shall issue an order directing the person against whom the writ is requested to show cause why the writ should not be granted, unless it appears from the application that the person detained is not entitled thereto. The order to show cause shall be directed to the person having custody of the person detained. The order shall set the time and place for hearing, which shall be as early as the court or judge issuing the order deems practicable, preferably within three days. The person to whom the order is directed shall at or before the time set for hearing make a return certifying the true cause of the detention and unless the application for the writ and the return present only issues of law, the person to whom the order is directed shall produce at the hearing the person detained, unless the person is so sick or so weak that this cannot with safety be done. The applicant, or the person detained may, under oath, deny any of the facts set forth in the return, or declare any other material facts. The application, the return, and any suggestions made against either of them may be amended by leave of the court or judge. If the person to whom the order is directed does not make a return as above required, or does not appear at the time and place set for hearing, the court or judge may proceed without him. (Code 1966, § 303; Code 1970, tit. 9, § 104.)

§ 105. Preliminary examination and recommendation by district court judge. — If the application for a writ of habeas corpus is heard by a judge of a district court, he shall, without delay or formality, make preliminary findings of fact and recommendations as to the issuance or denial of the writ, and the disposition of the person detained, and submit these by dispatch or other speedy method to the chief justice or to the most accessible court or judge authorized to issue the writ. (Code 1966, § 304; Code 1970, tit. 9, § 105.)

§ 106. Issuance or denial of writ. — A court or judge hearing the application for a writ of habeas corpus, and authorized to issue the writ, shall, without delay or formality, determine the facts, grant the writ unconditionally, deny the writ, or grant the writ on terms fixed by the court and discharge the person for whose relief the application has been brought or make any order as to his disposition that law and justice may require. The court or judge authorized to issue the writ and receiving the report and recommendations of a judge of a district court as provided in section 105 of this chapter, may act upon the matter, by dispatch or other speedy method, on the basis of the district court judge's report, or may order such further hearing or the submission of such further evidence as he deems law and justice require, and the clerk of courts of the district in which the matter is pending shall take such action in the matter as the judge or court may direct. (Code 1966, § 305; Code 1970, tit. 9, § 106.)

Court cannot dismiss charges pending in criminal case on appeal. — Although a defendant may be discharged from custody if the court finds, after a hearing, that a writ should issue, the court cannot reach over into the criminal proceedings and dismiss charges pending in the criminal case on appeal. In re Singeru Techur (App. Div., April, 1976); In re Yusim Minor (App. Div., April, 1976).

Correction of defect in due process before discharge on habeas corpus. — Where a party is denied due process of law in the revocation of his parole, his discharge on habeas corpus will be delayed so that the defect may be corrected. Ichiro v. Bismark, 1 TTR 57 (1953).
§ 107. Evidence. — On application for a writ of habeas corpus, evidence may be taken orally or by deposition, or in the discretion of the court or judge, by written statement under oath. If written statements under oath are admitted, any party shall have the right to propound written interrogatories to the person who made such statements or to file answering written statements under oath. On application for a writ of habeas corpus, documentary evidence, transcripts of proceedings upon arraignments, plea, sentence, and a transcript of the oral testimony introduced on any previous similar application by or on behalf of the same person shall be admissible in evidence. The declarations of a return to an order to show cause in a habeas corpus proceeding, if not formally denied, shall be accepted as true, except to the extent that the court or judge finds from the evidence that they are not true. (Code 1966, § 306; Code 1970, tit. 9, § 107.)

§ 108. Appeals. — In a habeas corpus proceeding in which the final order is made by the trial division of the high court or a judge thereof, the final order shall be subject to appeal to the appellate division of the high court, provided notice of appeal is filed within thirty days after entry of the final order. The court or judge issuing the final orders may in its or his discretion stay execution of the order, admit the person imprisoned or restrained to bail pending action by the appellate division of the high court, or direct that the final order take effect pending such action or without waiting for the time for filing such notice of appeal to expire. (Code 1966, § 307; Code 1970, tit. 9, § 108.)

Denial of preliminary examination not a ground for habeas corpus. — There was no right to preliminary examination of arrested person brought before court competent to try him for offense charged, and habeas corpus was properly denied where denial of preliminary examination was alleged as the ground for seeking it; thus court properly denied motion to dismiss based on alleged denial of right of habeas corpus. Borja v. Trust Territory, 6 TTR 584 (1974).
Title 10.

Eminent Domain.


Cross references. — Due process of law, 1 TTC § 4.

CHAPTER 1.

GENERAL PROVISIONS.

Sec.
1. Purpose.
2. Private corporations.
3. Definitions.

§ 1. Purpose. — It is the purpose of this title to set up procedures to be followed by the government of the Trust Territory in the exercise of its inherent power to acquire real property by eminent domain. (Code 1966, § 1301; Code 1970, tit. 10, § 1.)

Eminent domain statute not similar to federal act. — The Trust Territory eminent domain statute is not similar to the federal act, nor need it be as long as it requires that the taking be for a public use and the fair value be paid for the property. Ngiralois v. Trust Territory, 4 TTR 517 (App. Div. 1969).

No need for specific delegation of eminent domain right. — The government of the Trust Territory has been created with full power delegated to it to execute governmental functions through legislative, administrative and judicial branches, and there need not be a specific delegation of the right of eminent domain where there has been a delegation of full power of government. Ngiralois v. Trust Territory, 4 TTR 517 (App. Div. 1969).

§ 2. Private corporations. — No private corporation except as may be authorized by a district legislature shall have the right of eminent domain in the Trust Territory. (Code 1966, § 1303; Code 1970, tit. 10, § 2; Department of Interior Order No. 2969, § 8(a.).)

§ 3. Definitions. — As used in this chapter, the following terms shall have the meanings set forth below:

1) Eminent Domain. "Eminent domain" is the right of the central government or a district legal entity as may be provided for by district law in accordance with the provisions of this order to condemn property for public use
or purposes and to appropriate the ownership and possession of such property for such public use upon paying the owner a just compensation to be ascertained according to the law.

(2) Public Use. Public use shall be construed to cover any use determined by the High Commissioner to be a public use. (Code 1966, § 1302; Code 1970, tit. 10, § 3; Department of Interior Order No. 2969, § 8(b).)

Weight accorded High Commissioner's determination. — While court will give great weight to determination of High Commissioner regarding what is a public use for purposes of eminent domain, if he arbitrarily and unreasonably declares what is actually private use to be public use, court may adjudicate matter and determine whether use is in fact public, since question is ultimately a judicial one. In re Ngiralois, 3 TTR 303 (1967).

Good faith requirement. — High Commissioner of the Trust Territory may only declare to be a public use, for purposes of eminent domain, something which he honestly and reasonably believes to be that. In re Ngiralois, 3 TTR 303 (1967).

Limitations of use of eminent domain powers. — The use of eminent domain powers is only limited to payment of just compensation and that the taking be for a public use. Ngiralois v. Trust Territory, 4 TTR 517 (App. Div. 1969).

Requirement of prima facie showing of public use. — District attorney or Attorney General must make prima facie showing that property desired by government is for public use before court proceeds to hear parties. In re Ngiralois, 3 TTR 303 (1967).

Taking land for coral to be used in airfield construction. — Where government takes land to obtain coral therefrom for construction of government airfield and access road to airfield, taking is for public use. In re Ngiralois, 3 TTR 303 (1967).
CHAPTER 2.

PROCEDURES AND PROCEEDINGS.

Sec. 51. Complaint. - A complaint must be brought in the trial division of the high court in the name of and on behalf of the government of the Trust Territory as plaintiff by the Attorney General or the district attorney and must contain:

(1) The names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be called defendants.

(2) A statement of the right or authority of the plaintiff.

(3) A description of each parcel of land to be acquired and a statement of what interest in the land is desired by the plaintiff.

(4) A general statement of the purpose of the taking. (Code 1966, § 1304; Code 1970, tit. 10, § 51.)

Eminent domain power is inherent incident of sovereignty. - In exercising the power of eminent domain the government exercises an inherent power which is necessarily an incident of sovereignty. The full power to execute governmental functions, delegated to the government, must be circumscribed by the governmental needs of the islands and people of the Trust Territory. Presumably it is to be exercised for their benefit. In re Kabua (App. Div., June, 1978).

Sec. 52. Failure of parties to appear at proceedings. - In the event of the failure of any of the parties specified in section 51 of this chapter to appear in the proceedings, the court shall, nevertheless, proceed to fix the amount of compensation and order that the amount be paid by the government, without interest, to the rightful claimants on demand at any time within seven years from the date of the final judgment. (Code 1966, § 1311; Code 1970, tit. 10, § 52.)

§ 53. Issuance and service of summons. - (1) The clerk of courts shall issue a summons which shall contain the names of the parties, a general description of the whole property, or a reference to the complaint for the description of the land, and a notice to the defendants to appear in the proceedings. When the defendants are known the summons shall be served by delivering to them a copy thereof along with a copy of the complaint. If the defendants, whether known or unknown, cannot be found, then a copy of the summons and complaint shall be posted as follows:

(a) On the property;

(b) On the administration building or such other place where public notices are usually posted in the district center;

(c) At a public place in a village located near the property; and

(d) By delivering one copy of the summons and complaint to the magistrate of the municipality in which the property is situated.

(2) The service of the summons and the complaints or the posting thereof as provided herein shall be sufficient to give the trial division of the high court jurisdiction to proceed with and finally determine the case. (Code 1966, § 1305; Code 1970, tit. 10, § 53.)
§ 54. Establishment of value of land. — Upon a prima facie showing by the Attorney General or the district attorney that the property desired to be purchased by the government is for public use, the court must hear the parties, and establish a fair value for the land. The court may appoint three assessors to assist in the proceedings and perform such functions as the court may direct. In the event assessors are appointed by the court, they shall take and subscribe an oath before the judge that they will faithfully perform their duties as assessors. (Code 1966, § 1306; Code 1970, tit. 10, § 54.)

Where government enters on land in good faith, landowners cannot claim punitive damages. — Landowners cannot claim punitive damages in condemnation proceedings where government entered on land in mistaken but honest belief that land was government land and without any intention to interfere with any rights it knew any private owners had. In re Ngiralois, 3 TTR 303 (1967).

High Commissioner's determination of land value includes attachments. — High Commissioner's determination of value of land taken in condemnation proceedings constitutes admission that such amount is average value of land, including things attached to it and coral in it, so far as government is concerned, and no separate allowance will be made for trees and coral severed from land by government when owners fail to produce contrary evidence. In re Ngiralois, 3 TTR 303 (1967).

Value set as of time of taking. — Court will set fair value of land in condemnation proceedings, including trees and coral rock removed from land, as of time government took possession of land, and allow interest from that date. In re Ngiralois, 3 TTR 303 (1967).

§ 55. Determination of ownership in event of dispute. — In the event there is a dispute over the ownership of the property which is the subject of an eminent domain proceeding, the court shall adjudicate and determine the ownership of the property as part of the proceedings. (Code 1966, § 1307; Code 1970, tit. 10, § 55.)

§ 56. Final judgment. — The record of the final judgment in the proceedings shall state the particular land or interest in land which the government has acquired and the compensation to be paid to the defendants and the clerk of courts shall issue a certificate of title in accordance with said judgment. (Code 1966, § 1308; Code 1970, tit. 10, § 56.)

§ 57. Immediate possession procedure; generally. — In the event the government desires to enter into immediate possession of the property, the government shall file a declaration of taking and pay a sum of money which is considered to be the fair value of the property to the clerk of courts. In addition to the requirements set out in section 53 of this chapter, the summons shall state the following:

(a) That the plaintiff requires immediate possession of the property;
(b) That a sum of money which is considered to be the fair value of the property has been paid to the clerk of courts, which sum shall draw interest at the rate of three percent per annum from the date of the summons until claimed by the defendant or ordered paid to the defendant by the court.
(c) That the defendant may at any time claim and receive the money which has been deposited with the clerk of courts upon the execution of a quitclaim deed in favor of the plaintiff.
(d) Payment to the clerk of courts in accordance with this section shall entitle the government to take immediate possession of the land. (Code 1966, § 1309; Code 1970, tit. 10, § 57.)

Dismissal of action held abuse of discretion. — The court has abused its discretion in granting a dismissal of a condemnation action where the dismissal in effect leaves the parties where they were before the condemnation proceedings began with the exception that the department of the army is still in possession of the islands in question.
§ 58. Same; possession after proceedings commenced. — In the event the government determines that it requires immediate possession of the property after eminent domain proceedings have been commenced, but before the rights of the parties and the amount of compensation are determined, a declaration of taking shall be filed in the court and a sum of money which is considered to be the fair value of the land shall be paid to the clerk of courts. A summons shall be issued and served in the same manner as the summons in section 53 of this chapter, which shall refer to the original summons already served on the defendants, and shall otherwise conform to the requirements set out in section 57 of this chapter. (Code 1966, § 1310; Code 1970, tit. 10, § 58.)

Dismissal of action held abuse of discretion. — The court has abused its discretion in granting a dismissal of a condemnation action where the dismissal in effect leaves the parties where they were before the condemnation proceedings began with the exception that the department of the army is still in possession of the islands in question with the improvements they have constructed thereon with no right, title or interest to remain, and the money posted with the clerk of courts is still on deposit with no right on the part of the owners of the property to the money. In re Kabua (App. Div., June, 1978).

§ 59. Costs of proceedings. — The costs in all cases brought under this title shall be paid by the plaintiff. (Code 1966, § 1312; Code 1970, tit. 10, § 59.)
Title 11.

Crimes and Punishments.

  2. Abortion, § 51.
  4. Arson, § 151.
  5. Assault and Battery, §§ 201 to 204.
  7. Bribery, § 301.
  8. Burglary, § 351.
 12. Disturbances, Riots, and Other Crimes Against the Peace, §§ 551 to 555.
 14. False Arrest, § 651.
 15. Forgery, § 701.
 16. Homicide, §§ 751 to 754.
 17. Kidnapping, § 801.
 18. Larceny, §§ 851 to 857.
 19. Libel, § 901.
 23. Nuisance, § 1101.
 27. Sex Crimes, §§ 1301 to 1303.
 28. Trespass, § 1351.
 29. Miscellaneous Crimes, §§ 1401 to 1406.
 30. Punishments; Judgment and Sentencing, §§ 1451 to 1460.

Cross references. — Alien Property — Penalties, 27 TTC § 4.
  Communications — Penalties, 35 TTC § 6.
  Consumer Protection Act — Penalties, 33 TTC § 363.
  Controlled Substances — Penalties, 63 TTC §§ 291-299.
  Elections — Penalties, 43 TTC § 9.
  Fire Control — Penalties, 63 TTC § 452.
  Fish, Shellfish and Game — Penalties, 45 TTC § 5.
  Foreign Investors Business Permit Act — Penalties, 33 TTC § 19.
  Health Regulations — Penalties, 63 TTC § 103.
  Historic Sites and Antiquities — Penalties, 67 TTC § 252.
  Land Markers — Penalties, 57 TTC § 253.
  Land Surveyors — Penalties, 31 TTC § 8.
  Licensure of Health Personnel — Penalties, 63 TTC § 156.
  Notaries Public — Penalties, 31 TTC § 207.
  Personal Property as Security — Penalties, 57 TTC § 4.
  Quarantine Regulations — Penalties, 25 TTC § 10.
  Resident Workers’ Protection Act — Penalties, 49 TTC § 14.
  Sanitary Regulations — Penalties, 63 TTC § 206.
§ 1. Classification of crimes. — A felony is a crime or offense which may be punishable by imprisonment for a period of more than one year. Every other crime is a misdemeanor. (Code 1966, § 375; Code 1970, tit. 11, § 1.)

§ 2. "Principal" defined. — Every person is punishable as a principal who commits an offense against the Trust Territory or aids, abets, counsels, commands, induces, or procures its commission or who causes an act to be done, which, if directly performed by him, would be an offense against the Trust Territory. No distinction is made between principals in the first and second degrees, and no distinction is made between a principal and what has heretofore been called an accessory before the fact. (Code 1966, § 430; Code 1970, tit. 11, § 2.)

Distinction between principal and accessory of little significance. — Distinction between principal and accessory before the fact is technical one and of little practical significance. Accessory to criminal offense is equally guilty with person who committed crime, and he receives same punishment as principal. Ropon v. Trust Territory, 2 TTR 313 (1962).

No distinction between principal and accessory before the fact needed in prosecution for kidnapping and rape. — In prosecution for kidnapping and rape of girl by four men, defense argument that victim's testimony did not conclusively show she was raped by all four men was precluded by statute removing distinction between principals and accessories before the fact. Trust Territory v. Ngirmang, 6 TTR 117 (1972).

Defendant who never entered place burgled can still be principal as defined by statute. — Where defendant is charged with and convicted of burglary of a snack bar, and there is no evidence that he ever entered the snack bar, if his conviction is to be sustained on appeal, it must be on the theory that he acted as a principal as defined in statute. Trust Territory v. Macaranas (App. Div., April, 1976).

Wrongful conviction of principal as accessory not worthy of complaint. — Where person is convicted as accessory before the fact when he should have been convicted as principal, he has not suffered injustice of which he can complain. Ropon v. Trust Territory, 2 TTR 313 (1962).

Driving of car used in burglary constitutes aid in commission of the crime. — Where defendant is charged with burglary of a snack bar, the driving of an automobile by the defendant in the vicinity of the snack bar and parking it so that it would be inconspicuous constitutes aid in the commission of a burglary. Trust Territory v. Macaranas (App. Div., April, 1976).
§ 3. Accessories. — Every person who, knowing that an offense against the Trust Territory has been committed, receives, relieves, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment, is an accessory after the fact. An accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or fined not more than one-half the maximum fine prescribed for punishment of the principal, or both; or if the principal is punishable by life imprisonment, the accessory shall be imprisoned not more than ten years. (Code 1966, § 430 (d); Code 1970, tit. 11, § 3.)

Accessory after the fact. — Whoever, knowing crime to have been committed, unlawfully receives, comforts, harbors, aids or advises or assists person he knows committed crime is accessory after the fact. Yangilemau v. Mahoburimalei, 1 TTR 429 (1958).


Failure to give information not enough. — One does not become accessory after the fact who, knowing crime has been committed, merely fails to give information thereof. Yangilemau v. Mahoburimalei, 1 TTR 429 (1958).

Distinction between principal and accessory of little significance. — Distinction between principal and accessory before the fact is technical one and of little practical significance. Accessory to criminal offense is equally guilty with person who committed crime, and he receives same punishment as principal. Ropon v. Trust Territory, 2 TTR 313 (1962).

Wrongful conviction of principal as accessory not worthy of complaint. — Where person is convicted as accessory before the fact when he should have been convicted as principal, he has not suffered injustice of which he can complain. Ropon v. Trust Territory, 2 TTR 313 (1962).

Family members aiding incestuous relationship. — Where family members are in position of aiding couple in continuance of incestuous relationship, they are exposed to possibility of prosecution for crime of accessory after the fact. Yangilemau v. Mahoburimalei, 1 TTR 429 (1958).

§ 4. Attempts. — (1) Except as otherwise provided in subsection (2) of this section, every person who shall unlawfully attempt to commit any of the crimes named in this title, or in any other title of this Code, which attempt shall fall short of actual commission of the crime itself, shall be guilty of attempt to commit the said crime, and where no separate provision is made by law for punishment upon conviction of such attempt, a person so convicted shall be punished by imprisonment for a term not exceeding one-half of the maximum term of imprisonment which may lawfully be imposed upon conviction for commission of the offense attempted, or by a fine in an amount not exceeding one-half of the fine which may lawfully be imposed upon conviction for commission of the offense attempted, or by both such fine and imprisonment.

(2) Every person who shall unlawfully attempt to commit murder, which attempt shall fall short of actual commission of the crime itself, shall be guilty of attempted murder, and shall be sentenced as follows:

(a) For attempted murder in the first degree, imprisonment for a term of thirty years; and

(b) For attempted murder in the second degree, imprisonment for a term of not less than thirty months nor more than thirty years. (Code 1966, § 431; Code 1970, tit. 11, § 4; P.L. No. 6-107, § 1.)

Attempted assault not a crime; assault defined. — It is the general rule that a criminal charge may not be made for attempted assault. Assault is an attempted battery, that is, it is an action which falls short of battery but includes an intent to inflict injury. Trust Territory v. Benemang, 5 TTR 32 (1970).

Charge of attempted battery improper. — A charge of attempted battery is improper as an attempted battery is an assault. Trust Territory v. Benemang, 5 TTR 32 (1970).
Misrepresentation of facts to obtain payment under construction contract is a crime. — Where defendant in criminal case submitted false statement of hours worked and amounts earned by his laborers in order to obtain payment under construction contract, he made deliberate misrepresentation as to past facts material to question of whether money should be paid out, and submission therefore constituted unity of intent and overt act required in attempt to commit crime. Elechuus v. Trust Territory, 3 TTR 297 (1967).

Obtaining money by false pretenses is crime under Trust Territory law, and finding of guilty of attempt to commit crime charged, as lesser included offense, is authorized by law. Elechuus v. Trust Territory, 3 TTR 297 (1967).

§ 5. Insanity as defense. — No person judged by competent medical authority to be insane can be convicted of any crime because of the presumption that such person cannot have criminal intent. (Code 1966, § 432; Code 1970, tit. 11, § 5.)

§ 6. Presumption as to responsibility of children. — Children under the age of ten are conclusively presumed to be incapable of committing any crime. Children between the ages of ten and fourteen are also conclusively presumed to be incapable of committing any crime, except the crimes of murder and rape, in which case the presumption is rebuttable. The provisions of this section, however, shall not prevent proceedings against and the disciplining of any person under eighteen years of age as a delinquent child. (Code 1966, § 432; Code 1970, tit. 11, § 6.)

Defendant between ages of 16 and 18. — A defendant between the age 16 and age 18 may be treated as an adult or may be afforded juvenile delinquent proceedings at the discretion of the court. Santos v. Trust Territory, 5 TTR 607 (1972).

Effect of failure to object to jurisdiction. — A minor between the ages of 16 and 18 may waive his right to be tried in a juvenile court by failing to object to the jurisdiction of the court in which he was charged. Santos v. Trust Territory, 5 TTR 607 (1972).

Court has no duty to investigate youth's age. — Where a defendant, being at least 16 years old, gives his age as 18 years old, the court is not charged with the responsibility of causing an independent investigation of the youth's age to be made. Santos v. Trust Territory, 5 TTR 607 (1972).

Competence of 15-year-old to commit petit larceny. — Fifteen-year-old defendant is competent under Trust Territory law so far as age is concerned to commit crime of petit larceny. Celis v. Trust Territory, 3 TTR 237 (1967).

§ 7. Limitation of prosecution. — No person shall be prosecuted, tried or punished for any crime, except murder in the first or second degree, unless the prosecution is commenced within three years next after such crime shall have been committed; provided, however, that nothing in this section shall bar any prosecution against any person who shall flee from justice, or absent himself from the Trust Territory, or so secrete himself that he cannot be found by the officers of the law, so that process cannot be served upon him. (Code 1966, § 433; Code 1970, tit. 11, § 7.)

§ 8. Limitation of punishment for crimes in violation of native customs. — The penalty for any act which is made a crime solely by generally respected native custom shall not exceed a fine of one hundred dollars, or six months imprisonment, or both. (Code 1966, § 434; Code 1970, tit. 11, § 8.)

Cross references. — Due recognition of local customs, 1 TTC 14.
Local customs and customary law, 1 TTC 102.
Recognition of custom in awarding sentences, 11 TTC 1451.
Recognition of local customs in regard to domestic relations, 39 TTC 4.

Custom violations as basis for civil damages. — Some violations of custom may form basis for civil damages without being crimes. Sechelong v. Trust Territory, 2 TTR 92 (1959).
Where violation of custom is charged, failure to specify warrants reversal. — Right to fair trial requires reversal where violation of local custom is stated as charge in criminal prosecution but government fails to state which custom was violated. Fred v. Trust Territory, 1 TTR 600 (App. Div. 1957).

Custom violations as crimes. — Every failure to observe nicest details of polite custom cannot fairly be considered a crime. Only those violations of custom which are so serious as to be clearly regarded by great mass of population concerned as deserving some punishment can properly be considered crimes without any legislation to define them. Sechelong v. Trust Territory, 2 TTR 92 (1959).

Attempt to personally settle dispute not a crime. — If accused in criminal prosecution under local custom fails to observe present-day Palauan practice by trying personally to settle dispute, he has not committed any crime in doing so. Sechelong v. Trust Territory, 2 TTR 92 (1959).

"Throwing away" of spouse not a crime. — Under Truk custom, marriage may be dissolved by either spouse at any time at will without action by any court, magistrate or official, and the "throwing away" of spouse does not constitute a crime. Lornis v. Trust Territory, 2 TTR 114 (1959).

Under Truk custom the "throwing away" of a spouse does not constitute a crime and it cannot be punished under this section regardless of whether it has been recorded or not. Purako v. Efou, 1 TTR 236 (1955).

"Throwing away" spouse and the presumption of adultery. — Presumption under Truk custom, that person who has "thrown away" spouse has committed adultery before the "throwing away," is not strong enough to make evidence of "throwing away" sufficient in itself to prove adultery beyond a reasonable doubt on part of one throwing spouse away. Lornis v. Trust Territory, 2 TTR 114 (1959).

Customary divorce and crime of adultery. — Since parties who are married under Truk custom cannot commit customary crime of adultery with each other, question as to whether intercourse occurred before or after customary divorce from former spouse is of utmost importance in prosecution for adultery. Lornis v. Trust Territory, 2 TTR 114 (1959).

Sufficiency of complaint concerning adultery. — Where complaint sufficiently charges persons accused with having committed adultery with each other, in violation of local custom and at place within jurisdiction of court and on date within statute of limitations, and complaint cites code section violated, accused could not have been misled to their prejudice. Lornis v. Trust Territory, 2 TTR 114 (1959).
§ 51. Defined; punishment. — Every person who shall unlawfully cause the miscarriage or premature delivery of a woman, with the intent to do so, shall be guilty of abortion and upon conviction thereof shall be imprisoned for a period of not more than five years. (Code 1966, § 405; Code 1970, tit. 11, § 51.)

Provisions so vague and indefinite as to deny due process. — The provisions of the abortion statute were so vague and indefinite that enforcement of it in case in question would have constituted a denial of due process of law as to the defendant. Trust Territory v. Tarkong, 5 TTR 549 (1971).

Section 405 of the 1966 Code, relating to abortion, was so vague and indefinite that its attempted enforcement in case in question constituted a denial of due process and it was, therefore, invalid. Trust Territory v. Tarkong, 5 TTR 252 (1970).

Under the abortion section of this Code the persons liable are determinable by inference only and such indefiniteness and vagueness constitutes a denial of due process. Trust Territory v. Tarkong, 5 TTR 252 (1970).

Requirement of intent to cause abortion. — The only certainty contained in the abortion statute is that the intent to cause the abortion must present and this simply precludes abortion by accident. Trust Territory v. Tarkong, 5 TTR 252 (1970).

Abortion statutes not applicable to pregnant woman who is victim of the act. — Abortion statutes by their terms are applicable to the person causing the abortion and do not apply, without specific provision to the pregnant woman who is the victim of the act. Trust Territory v. Tarkong, 5 TTR 252 (1970).

As far as the woman herself is concerned, unless the abortion statute expressly makes her responsible, it is generally held, although the statute reads any "person," that she is not liable to any criminal prosecution, whether she solicits the act or performs it upon herself. Trust Territory v. Tarkong, 5 TTR 252 (1970).
CHAPTER 3.

ABUSE OF PROCESS.

Sec.
101. Interference with service of process.
102. Concealment, removal or alteration of record or process.

§ 101. Interference with service of process. — Every person who, knowingly and wilfully obstructs, resists, or opposes any chief of police, policeman or other person duly authorized, in serving or executing, or attempting to serve or execute any process issued by any court or official authorized to issue the same, or whoever assaults, beats or wounds any chief of police, policeman, or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such process shall be guilty of obstructing justice and, upon conviction thereof, shall be imprisoned for a period of not more than one year, or fined not more than one thousand dollars, or both. (Code 1966, § 253(a); Code 1970, tit. 11, § 101.)

§ 102. Concealment, removal or alteration of record or process. — Every person who wilfully and unlawfully conceals, removes, takes away, mutilates, obliterates, alters, or destroys, or attempts to do so, or wilfully takes and carries away record or process in or from any court or official authorized to issue or serve the same, shall be guilty of tampering with judicial records or process, as the case may be, and upon conviction thereof, shall be imprisoned for not more than five years, or fined not more than one thousand dollars, or both. (Code 1966, § 253(b); Code 1970, tit. 11, § 202.)
§ 151. Defined; punishment. — (1) Every person who shall unlawfully, wilfully and maliciously set fire to or burn any office, warehouse, store, barn, shed, cookhouse, boat, canoe, lumber, copra or any other building or shelter, crop, timber or other property, shall be guilty of arson, and upon conviction thereof shall be fined not more than one thousand dollars, or imprisoned not more than five years, or both.

(2) If the building is a dwelling or if the life of any person be placed in jeopardy, he shall be fined not more than five thousand dollars, or imprisoned not more than twenty years, or both. (Code 1966, § 390; Code 1970, tit. 11, § 151.)

Crime of arson supersedes custom. — As arson is a crime under the written law, it necessarily supersedes and replaces any applicable custom pursuant to section 102 of title 1 of this Code. Figir v. Trust Territory, 4 TTR 368 (1969).

Customary law not applicable in a habeas corpus proceeding concerning criminal arson statute. — While petitioner's argument that he should have been acquitted because the prosecution failed to meet its obligation to show beyond a reasonable doubt that petitioner's act was in violation of customary law may have been considered on an appeal, it was not appropriate in a habeas corpus proceeding to set aside a finding that petitioner violated, beyond a reasonable doubt, the criminal arson statute. Figir v. Trust Territory, 4 TTR 368 (1969).
§ 201. Assault. — Every person who shall unlawfully offer or attempt, with force or violence, to strike, beat, wound, or to do bodily harm to another, shall be guilty of assault, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 378; Code 1970, tit. 11, § 201.)

Assault defined. — Assault is an attempt or offer to beat another, without touching him. Amis v. Trust Territory, 2 TTR 364 (1962).

Elements of assault. — To constitute criminal assault, there must be overt act or attempt, or unequivocal appearance of attempt, with force and violence, to do physical injury to person of another. Nichig v. Trust Territory, 1 TTR 409 (1958).

Prerequisites to successful assault prosecution. — Before there can be successful prosecution for the crime of assault, it must appear there was attempt by force or violence to strike another or cause him bodily harm. Nichig v. Trust Territory, 1 TTR 409 (1958).

When victim of assault is aggressor. — If the victim of alleged criminal assault is the aggressor, a finding that the accused in a criminal case acted in self-defense is justified. Yaoch v. Trust Territory, 1 TTR 192 (1954).

Greater than necessary force in ejecting trespasser. — Use of greater force than is necessary to eject a trespasser will make an individual liable for assault for so much of such force as is excessive. Partridge v. Trust Territory, 1 TTR 265 (1955).

Facts which fail to constitute assault. — Where complainant of alleged assault remains in hiding and is not menaced by defendant's knife, and there is no attempt to frighten or hit him with the knife or other weapon, facts fail to make out case of assault. Nichig v. Trust Territory, 1 TTR 409 (1958).

Intent plus act of throwing a rock. — An intent to cause bodily harm plus the act of throwing a rock was sufficient to sustain a charge of assault even though the rock missed and no harm was done. Trust Territory v. Benemang, 5 TTR 32 (1970).

The fact that persons admitted throwing stones at complainant, one of which hit him, would sustain a charge of assault and battery with a dangerous weapon as well as an assault charge. Trust Territory v. Benemang, 5 TTR 32 (1970).

§ 202. Aggravated assault. — Every person who shall unlawfully assault, strike, beat, or wound another with a dangerous weapon, with intent to kill, rape, rob, inflict grievous bodily harm, or to commit any other felony against the person of another, shall be guilty of aggravated assault, and upon conviction thereof shall be imprisoned for a period of not more than ten years. (Code 1966, § 377; Code 1970, tit. 11, § 202.)

Elements of aggravated assault. — Aggravated assault is crime in which specific intent is element, and acts constituting crime must be done with intent to kill, rape, rob, inflict grievous bodily harm or to commit another felony. Ngeruangel v. Trust Territory, 2 TTR 620 (App. Div. 1960).

Unnecessary force may result in aggravated assault conviction. — Where accused in criminal prosecution used more force than was necessary to subdue disorderly and intoxicated victim, he may be convicted of aggravated assault. Ngirailengelang v. Trust Territory, 2 TTR 646 (App. Div. 1963).

Use of dangerous weapon not justified where there is no reasonable fear for life. — Where victim of assault and battery was intoxicated and persistently pursued appellant without success, appellant was not justified in using dangerous weapon because there was no reasonable basis for his being in fear of his life or grievous bodily harm. Ngeruangel v. Trust Territory, 2 TTR 620 (App. Div. 1960).

Intoxication of defendant may result in conviction of lesser included offense not requiring intent. — Where it appeared from the evidence that defendant charged with aggravated assault in that he drove at and hit
another person was so intoxicated as to be incapable of forming the requisite intent, he would be found guilty of lesser included offense, not requiring intent, of assault and battery with a dangerous weapon. Trust Territory v. Jima, 6 TTR 91 (1972).

§ 203. Assault and battery. — Every person who shall unlawfully strike, beat, wound or otherwise do bodily harm to another, shall be guilty of assault and battery, and upon conviction thereof shall be imprisoned for a period of not more than six months, or shall be fined not more than one hundred dollars, or both. (Code 1966, § 379; Code 1970, tit. 11, § 203.)

Distinction between assault and battery. — One act cannot be both an assault and a battery since assault is only an attempt to inflict harm whereas battery is the actual unlawful infliction or harm. Trust Territory v. Benemang, 5 TTR 32 (1970).

Attempted battery is an assault. — Attempted battery falls short of the crime and becomes an assault. Trust Territory v. Benemang, 5 TTR 32 (1970).

Separate blows do not constitute separate crimes. — In crime of assault and battery, each blow in one continuous beating does not constitute separate crime, nor does temporary lull in infliction of blows necessarily mean that next blow is separate offense. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).


Requirement for battery is that force be unlawful. — Where the amount of force used in battery is unlawful, the degree of force which is used is immaterial. Partridge v. Trust Territory, 1 TTR 265 (1955).

Slight unlawful touching is sufficient. — Slightest unlawful touching of person of another may amount to assault and battery. Ngiralai v. Trust Territory, 2 TTR 445 (1963).

Defendant not prejudiced by meager coverage of details of beating. — Where defendant in criminal prosecution for assault and battery receives light sentence, he has not been prejudiced by meager coverage of exact details of beating or where it took place in regard to boundaries of premises controlled by him. Ngiralai v. Trust Territory, 2 TTR 445 (1963).

Reduction of sentence because of provocation and justification. — Appellate court may reduce sentence on criminal appeal from conviction for assault and battery where there was extreme provocation and accused had some justification for actions. Fattun v. Trust Territory, 3 TTR 571 (App. Div. 1965).

When accused precipitates affray, participation of victim in affray does not excuse assault and battery. — In prosecution for assault and battery, even if evidence shows that complaining witness, in endeavoring to protect himself, participated in an affray, fact that accused's attack precipitated affray would not excuse the assault and battery. Timulch v. Trust Territory, 3 TTR 208 (1966).

Force in excess of that privileged in self-defense. — Where a person accused of assault and battery contends that he was acting in self-defense, and the evidence shows that he threw the victim to the ground and thereafter picked up a rock and struck the victim's head, he is held to have used force in excess of that which he is privileged to use in self-defense, e.g., only such force as one has reasonable grounds to believe is necessary to protect oneself from injury. Yaoch v. Trust Territory, 1 TTR 192 (1954).

Proprietor has no right to punish trespasser. — Proprietor may use only such force as reasonably necessary to expel trespasser, but has no right to punish trespasser, and if he attempts to do so, becomes wrongdoer against whom trespasser may defend himself so far as necessary to prevent bodily harm. Ngiralai v. Trust Territory, 2 TTR 445 (1963).

Proprietor has no right to punish trespasser or use force on him to supposedly protect his property after necessity for such protection is passed. Ngiralai v. Trust Territory, 2 TTR 445 (1963).

Reasonable force permitted to eject trespasser from public place. — Where a person in a public place or semi-public place becomes a trespasser and upon request to leave fails to depart within a reasonable time, the proprietor may use such force as is reasonably necessary to eject him, but if more force is used than is necessary, acts constitute assault and battery. Partridge v. Trust Territory, 1 TTR 265 (1955).

Amount of force allowable. — Force which law allows in ejecting trespasser is only as much force as is necessary, or reasonably appears necessary, for putting trespasser off premises. Ngiralai v. Trust Territory, 2 TTR 445 (1963).

Trespasser entitled to time to leave premises peaceably. — Even if victim of
criminal assault and battery is trespasser, he is entitled to reasonable time in which to leave premises peaceably. Ngiralai v. Trust Territory, 2 TTR 445 (1963).

Right of teacher to physically punish child. — Teacher has right, in absence of statute forbidding it, to inflict physical punishment upon child under his tutelage. Dachuo v. Trust Territory, 2 TTR 286 (1961).

Presumption in favor of teacher. — When relation of school master and pupil is established in defense of prosecution for assault and battery on pupil, presumption is that chastisement was proper and burden of proving unreasonableness or excess of punishment is on prosecution. Dachuo v. Trust Territory, 2 TTR 286 (1961).

Right to punish not unlimited. — Right of teacher to inflict physical punishment on student is not unlimited, and excessive punishment makes teacher liable to both civil and criminal actions. Dachuo v. Trust Territory, 2 TTR 286 (1961).

Clearly excessive punishment. — Under strict rule of teacher liability, teacher may be guilty of assault and battery even if no permanent injury is inflicted, if he inflicts punishment which is clearly excessive. Dachuo v. Trust Territory, 2 TTR 286 (1961).

Temporary pain inflicted in good faith. — In some jurisdictions, parent or teacher exceeds limit of authority when he inflicts permanent injury even without malice, but is not guilty of assault and battery when he inflicts temporary pain in good faith for correction of child. Dachuo v. Trust Territory, 2 TTR 286 (1961).

§ 204. Assault and battery with a dangerous weapon. — Every person who shall unlawfully commit assault and battery upon another by means of a dangerous weapon shall be guilty of assault and battery with a dangerous weapon, and upon conviction thereof shall be imprisoned for a term of not more than five years, or fined not more than one thousand dollars, or both. (Code 1966, § 377-A; Code 1970, tit. 11, § 204.)

Indirect blow may constitute battery. — The application of force constituting a battery need not be a direct striking blow, but may be indirect. Trust Territory v. Lino, 6 TTR 7 (1972).

Test of what constitutes a dangerous weapon. — Test of what constitutes dangerous weapon is not dependent upon how serious or permanent injuries actually inflicted are, but upon likelihood or danger in natural course of things of death or great bodily harm. Ngiraibai v. Trust Territory, 2 TTR 522 (1964).

Dangerous weapon defined. — Dangerous weapon, within meaning of the statute defining assault and battery with a dangerous weapon, is weapon likely, in natural course of things, to produce death or great bodily harm, when used in manner in which it was used in particular case. Ngiraibai v. Trust Territory, 2 TTR 522 (1964).

Dangerous weapon as used in crime of assault and battery with a dangerous weapon means weapon which is likely, in natural course of things, to produce death or great bodily harm when used in manner in which it was used in this particular case in question. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).

Wide variety of articles may be dangerous weapons. — Wide variety of articles may constitute dangerous weapons within definition used in connection with assaults. Ngiraibai v. Trust Territory, 2 TTR 522 (1964).

Leather shoe as dangerous weapon. — A leather shoe on the foot of a person who kicks an eye out of a victim’s head is a dangerous weapon within the meaning of that term. Trust Territory v. Sokau, 4 TTR 434 (1969).

Automobile as dangerous weapon. — An automobile is a dangerous weapon, within meaning of statute making assault and battery with a dangerous weapon a criminal offense, when it is deliberately driven at someone. Trust Territory v. Jima, 6 TTR 91 (1972).

Throwing of stones; assault and battery. — The fact that persons admitted throwing stones at complainant, one of which hit him, would sustain a charge of assault and battery with a dangerous weapon as well as an assault charge. Trust Territory v. Benemang, 5 TTR 32 (1970).

Weapon which creates danger of only slight injury. — Weapon which, in manner used, creates danger of only slight or superficial probable injury, and in fact only causes such injury, does not constitute dangerous weapon as used in connection with crime of assault and battery with a dangerous weapon. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).

Bottle and stick as dangerous weapons. — The district court is justified in considering bottle and stick to be dangerous weapons when bottle struck victim with such force it broke over his head, and stick broke arm of victim with which he was trying to protect himself. Ngiraibai v. Trust Territory, 2 TTR 522 (1964).

Where dangerous weapon not identified, evidence may be insufficient. — Where, in
criminal prosecution for assault and battery with a dangerous weapon, alleged dangerous weapon was not identified and must be inferred from injuries inflicted, which were superficial, court may deem evidence insufficient to find beyond reasonable doubt that dangerous weapon was used. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).

**Aggravated assault charge modified to show assault and battery with a dangerous weapon.** — Where prosecution in criminal proceedings fails to show specific intent necessary to constitute aggravated assault, appellate court may modify conviction to assault and battery with a dangerous weapon. Ngeruangel v. Trust Territory, 2 TTR 620 (App. Div. 1959).

**Prior conviction arising out of same act.** — Prosecution for assault and battery with dangerous weapon may be barred by prior conviction for assault and battery arising out of same act. Paul v. Trust Territory, 2 TTR 603 (App. Div. 1959).

**Double jeopardy when evidence on second complaint would have been admissible in first complaint.** — Where appellant in criminal prosecution has been previously convicted in the district court of assault and battery based on same act as alleged in high court information for assault and battery with a dangerous weapon, and evidence supporting information would clearly have been admissible to support first complaint, appellant is in double jeopardy of punishment for assault alleged in information when he has already been convicted under prior complaint. Paul v. Trust Territory, 2 TTR 603 (App. Civ. 1959).

**Defendant so intoxicated as to be unable to form requisite intent.** — Where it appeared from the evidence that defendant charged with aggravated assault in that he drove at and hit another person was so intoxicated as to be incapable of forming the requisite intent, he would be found guilty of lesser included offense, not requiring intent, of assault and battery with a dangerous weapon. Trust Territory v. Jima, 6 TTR 91 (1972).

One who provokes fight cannot claim self-defense. — One who provokes fight runs risk of suffering normal results of such provocation and cannot claim self-defense as excuse for using dangerous weapon to resist such results. Asako v. Trust Territory, 3 TTR 191 (1966).

**Invalid charge entitles defendant to dismissal.** — A charge of attempted assault and battery with a dangerous weapon was an invalid charge and the defendant was entitled to a dismissal upon that count. Trust Territory v. Benemang, 5 TTR 32 (1970).

**Where victim grabs defendant's machete in attempt to disarm him.** — Where defendant, who had severely wounded a man, asked a group of nearby men who among them was a friend of wounded man and would help him, that a man grabbed defendant's machete in an attempt to disarm him was a normal response to the situation and such response was not a defense to assault and battery with a dangerous weapon, occurring when defendant pulled the machete from second victim's hand, thereby cutting him. Trust Territory v. Lino, 6 TTR 7 (1972).

**Conviction is negligence per se.** — This section provides a criminal penalty for unlawful assault and battery and commission of such an offense is negligence per se. Mechol v. Kyos, 5 TTR 262 (1970).
CHAPTER 6.

BIGAMY.

Sec.
251. Defined; punishment.

§ 251. Defined; punishment. — Every person who, being legally married, shall lawfully and wilfully marry another during the tenure of the marriage contract shall be guilty of bigamy, and upon conviction thereof shall be imprisoned for a period of not more than five years; provided, however, that no person shall be found guilty of bigamy whose wife or husband has been absent for a period of five years, without being known by such person to be alive during that time. (Code 1966, § 406; Code 1970, tit. 11, § 251.)

Community court does not have jurisdiction of bigamy cases. — Community court has no jurisdiction to try any person for bigamy, and conviction of this offense in community court is void. Purako v. Efou, 1 TTR 236 (1955).

Meaning of "marry" in bigamy statute. — Word “marry” in bigamy statutes is used in peculiar sense and, as applied to second or bigamous marriage, does not mean to effect legal marriage, but merely to appear to marry. Umiich v. Trust Territory, 3 TTR 231 (1967).

Defects in alleged marriage immaterial. — To constitute bigamous marriage, it is immaterial whether alleged marriage is illegal or defective for some other reason in addition to prior and still-existing marriage of accused. Umiich v. Trust Territory, 3 TTR 231 (1967).

Invalid marriage is a marriage for purpose of bigamy prosecution. — In criminal prosecution for bigamy, trial court may find accused did "marry" his alleged bigamous wife, as term is used in the Trust Territory law defining bigamy, regardless of whether actions would have constituted legal marriage if accused's prior marriage to another were not in effect. Umiich v. Trust Territory, 3 TTR 231 (1967).

Common law marriage sufficient for bigamy prosecution. — Appearance of common-law marriage not involving any ceremony is sufficient to constitute appearance of marriage for purposes of bigamy statutes, in jurisdictions which still recognize common-law marriages. Umiich v. Trust Territory, 3 TTR 231 (1967).

Marriage under local custom sufficient for bigamy prosecution. — In Trust Territory, where marriages under local custom are expressly recognized, appearance of marriage under local custom is sufficient to constitute "marrying" within meaning of bigamy statute, even though no marriage ceremony is involved. Umiich v. Trust Territory, 3 TTR 231 (1967).

Appearance of marriage sufficient for bigamy statute. — Where accused and alleged bigamous spouses purported to marry and did all things required of them for marriage under Palauan custom, and were generally considered in community to be married, accused was "married" within meaning of statute defining bigamy. Umiich v. Trust Territory, 3 TTR 231 (1967).
§ 301. Defined; punishment. — Every person who shall unlawfully and voluntarily give or receive anything of value in wrongful and corrupt payment for an official act done or not done, to be done or not to be done, shall be guilty of bribery, and upon conviction thereof shall be imprisoned for a period of not more than five years, and shall be fined three times the value of the payment received; or, if the value of the payment cannot be determined in dollars, shall be imprisoned for a period of not more than five years, and fined not more than one thousand dollars. (Code 1966, § 412; Code 1970, tit. 11, § 301.)

Cross reference. — Bribing of officials under the export meat inspection act, 25 TTC 63.
Sec. 351. Defined; punishment. — Every person who shall unlawfully and by force, or by stealth or trickery, enter a dwelling house or other building of another with the intent to commit a felony, petit larceny, an assault or an assault and battery therein, shall be guilty of burglary, and upon conviction thereof shall be imprisoned for a term of not more than ten years. (Code 1966, § 391; Code 1970, tit. 11, § 351.)

Construction of burglary law. — Trust Territory law on burglary should be construed in light of modern decisions and statutory changes in definition of burglary in various American jurisdictions. Trust Territory v. Peter, 3 TTR 251 (1967).

Actual breaking not required. — Trust Territory law on burglary does away with requirement of actual breaking in sense of destroying or damaging anything. Trust Territory v. Peter, 3 TTR 251 (1967).

Any force at all is sufficient to constitute that element of burglary. — In construing crime of burglary, tendency now is to hold that if any force at all is necessary to effect entrance into building, through any place of ingress, such entrance is sufficient to constitute burglary if other elements of offense are present. Trust Territory v. Peter, 3 TTR 251 (1967).

Principal as defined in statute. — Where defendant is charged with and convicted of burglary of a snack bar, and there is no evidence that he ever entered the snack bar, if his conviction is to be sustained on appeal, it must be on the theory that he acted as a principal as defined in statute. Trust Territory v. Macaranas (App. Div., April, 1976).

Intent element must be present. — Where there is substantial doubt as to whether accused had intent to commit felony at time he entered building, he cannot be found guilty of burglary. Trust Territory v. Peter, 3 TTR 251 (1967).

Crime includes entry by stealth. — Statutory crime of burglary in the Trust Territory is broader than common law definition, and includes entry by stealth. Trust Territory v. Peter, 3 TTR 251 (1967).

Proof of felony often part of intent proof. — Proof of larceny or other felony is often necessary part of proof of intent involved in burglary. Olber v. Trust Territory, 1 TTR 559 (App. Div. 1951).

Possession of stolen goods as proof. — Whenever goods are taken as part of criminal act, fact of subsequent possession is indication that possessor was taker and doer of whole crime. Nichig v. Trust Territory, 1 TTR 572 (App. Div. 1953).

When the taking was issue in burglary prosecution, accused cannot claim surprise. — Where taking of woman's underclothing was definitely an issue in prosecution for burglary, accused cannot properly claim any element of undue surprise or lack of opportunity to meet issue fully. Olber v. Trust Territory, 1 TTR 559 (App. Div. 1951).

Ability of victim to claim damages from burglary. — If goods are taken in what amounts to a burglary in a proper case in a civil suit for damages the victim might recover damages for the goods lost and also for the cost of repairing a broken building and other destruction during the burglary and in addition, in a proper case, if the victim has been made sick because of the violence of the burglary he might be entitled to damages for his illness. Yinug v. Googag, 4 TTR 156 (1968).

When act of burglary completed. — Act of accused in taking woman's underclothing from line after he enters house cannot technically constitute part of burglary, which is completed upon his unlawful entry with necessary force and intent. Olber v. Trust Territory, 1 TTR 559 (App. Div. 1951).
§ 401. Defined; punishment. — If two or more persons conspire either to commit any crime against the Trust Territory, or to defraud the Trust Territory or the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be guilty of conspiracy, and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined not more than two thousand dollars, or both. If, however, the offense, the commission of which is the object of conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum penalty provided for such misdemeanor. (Code 1966, § 414; Code 1970, tit. 11, § 401.)
CHAPTER 10.

CONTEMPT.

Sec. 451. Defined; punishment.

§ 451. Defined; punishment. — Every person who shall unlawfully, knowingly, and wilfully interfere directly with the operation and function of a court, by open defiance of an order, in or near the courtroom; or by disturbing the peace in or near the courtroom; or by speaking or writing in such a manner as to intimate that the court is unfair or corrupt; or, when a witness, by refusing to answer lawful questions; or shall resist or refuse, or fail to comply with a lawful order of the court; or shall interfere with an officer of the court in the pursuit of his official duties, shall be guilty of criminal contempt and upon conviction thereof shall be imprisoned for a period of not more than six months, or shall be fined not more than one hundred dollars, or both. (Code 1966, § 415; Code 1970, tit. 11, § 451.)

Essence of offense. — Essence of offense of contempt of court is wilful disregard of authority of court or disobedience to it. Ranipu v. Trust Territory, 2 TTR 167 (1961).

Intent important in cases where there was interference with court operation. — In doubtful situations where there is interference with operation of court, question of intent is important in determining whether interference was knowingly and wilfully accomplished or amounted to wilful disrespect. Ranipu v. Trust Territory, 2 TTR 167 (1961).

Accused must have known his acts would affect court operation. — Where conviction is sought on ground of interference with court by acts not intended to impede court as protest against it, person cannot be found guilty of criminal contempt unless it is shown he knew or should have known that acts were likely to affect operation of court. Ranipu v. Trust Territory, 2 TTR 167 (1961).

Court may punish violation of temporary restraining order. — The district court in the Trust Territory acts within its jurisdiction in issuing temporary restraining order regarding right to immediate possession of land, and may punish contemptuous violation of its order. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Violations of order of court with doubtful jurisdiction. — Where jurisdiction of court is doubtful and temporary order is issued, violations of order are punishable as criminal contempt. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Amount of punishment within discretion of court. — Determination of relative amount of punishment to be given each party convicted of criminal contempt, within limits of law, is matter resting within sound discretion of trial court. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Discretion not to treat contempt as separate case. — Trial court in Trust Territory has discretion not to handle criminal contempt matter as separate case entered in criminal docket. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Appellants not prejudiced by reduction of sentence. — Where trial court reduces sentences of appellants after they are imposed in criminal contempt proceedings, appellants are not prejudiced thereby and cannot fairly complain about it. Aimeliik People v. Remengesau, 2 TTR 320 (1962).

Prosecution for contempt by institution of new proceedings after trial. — A criminal defendant may be prosecuted for conduct in contempt of court, such conduct being in court or otherwise, during the course of the trial by the institution of new proceedings after the trial and verdict in accordance with any other criminal offense. Ennato v. Kintin, 5 TTR 243 (1970).

Contempt trial subject to rules applicable to any proceeding. — Bringing a complaint or information, arrest and trial for criminal contempt is subject to all of the rules applicable to trial of any other offense, commencing with the recitation in the charge of the specific acts, within the language of the statute, which are the subject of the complaint. Ennato v. Kintin, 5 TTR 243 (1970).

Protective provisions. — Upon the arrest on the charge of criminal contempt, the individual is subject to all of the protective provisions of this Code. Ennato v. Kintin, 5 TTR 243 (1971).
§ 501. Defined; punishment. — (1) Every person who, with intent to defraud, falsely makes, forges, photographs, counterfeits or alters any currency of any country, shall be guilty of counterfeiting, and upon conviction thereof shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

(2) Every person who, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent bring into the Trust Territory or keeps in possession or conceals any falsely made, forged, photographed, counterfeited or altered currency of any country shall be guilty of counterfeiting, and upon conviction thereof shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

(3) Every person who knowingly buys, sells, exchanges, transfers, receives, or delivers any false, forged, photographed, counterfeited or altered currency of any country, with the intent that the same shall be passed, published, or used as true and genuine, shall be guilty of counterfeiting, and upon conviction thereof shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both. (Code 1966, § 394-A; Code 1970, tit. 11, § 501.)


Intent to defraud construed. — Where person accused of passing counterfeit bill did not admit or indicate that she knew the bill was counterfeit, and the prosecution did not prove she had such knowledge, there was no proof of the requisite intent to defraud and accused would be found not guilty. Trust Territory v. Remengesau, 6 TTR 94 (1972).
CHAPTER 12.

DISTURBANCES, RIOTS, AND OTHER CRIMES AGAINST THE PEACE.

Sec.
551. Disturbing the peace.
552. Riot.
553. Drunken and disorderly conduct.
Sec.
554. Affray.
555. Security to keep the peace.

§ 551. Disturbing the peace. — Every person who shall unlawfully and wilfully commit any acts which annoy or disturb other persons so that they are deprived of their right to peace and quiet, or which provoke a breach of the peace, shall be guilty of disturbing the peace, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than fifty dollars, or both. (Code 1966, § 426; Code 1970, tit. 11, § 551.)

Disturbing the peace covers large range of activities. — Crime of disturbing the peace covers large range of activities which annoy and disturb people affected to such an extent as to deprive them of right to peace and quiet and to provoke breach of the peace. Oingerang v. Trust Territory, 2 TTR 385 (1963).

Frightening household in middle of night. — A defendant was guilty of disturbing the peace where he came to a house between 1:00 a.m. and 3:00 a.m., called to persons therein in a loud voice, and thereby frightened the entire household. Medewes v. Trust Territory, 1 TTR 214 (1954).

Accosting of woman ship passenger. — Where accused in criminal prosecution accosted woman ship passenger, even for purpose of obtaining liquor, in manner suggesting indecent request, actions were unjustifiable and may be found to have disturbed the peace of passengers concerned. Oingerang v. Trust Territory, 2 TTR 385 (1963).

Public disturbance insufficient to constitute contempt. — Public disturbance which is insufficient to constitute contempt of court may constitute offense of disturbing the peace. Ranipu v. Trust Territory, 2 TTR 167 (1961).

Words likely to bring about an altercation. — Words may constitute offense of disturbing the peace if they are likely to bring about an altercation. Oingerang v. Trust Territory, 2 TTR 385 (1963).

Motive of defendant not a defense. — Fact that defendant was actuated by good motive in uttering words is not a defense to charge of disturbing the peace. Oingerang v. Trust Territory, 2 TTR 385 (1963).

§ 552. Riot. — Whenever three or more persons shall assemble, and by force and violence or by loud noise and shoutings shall unlawfully place others in fear or danger, they shall be guilty of riot, and upon conviction thereof shall be imprisoned for a period of not more than six months or fined not more than fifty dollars, or both. (Code 1966, § 428; Code 1970, tit. 11, § 552.)

§ 553. Drunken and disorderly conduct. — Every person who is drunk and disorderly on any street, road, or other public place from the voluntary use of intoxicating liquor shall be guilty of drunken and disorderly conduct, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than fifty dollars, or both. (Code 1966, § 427; Code 1970, tit. 11, § 553.)

Requirements for prosecution for drunken and disorderly conduct. — All that is required to be shown in criminal prosecution for drunken and disorderly conduct under Trust Territory law is that accused was drunk and disorderly in any street, road or other public place from voluntary use of intoxicating liquor. Yinnied v. Trust Territory, 2 TTR 492 (1963).

To establish crime of drunken and disorderly conduct, prosecution must establish beyond reasonable doubt that accused was drunk and disorderly and that this conduct occurred on street, road or public place. Nokei v. Trust Territory, 2 TTR 329 (1962).

"Public" defined. — Any place may be made "public" by temporary assemblage,
especially when assemblage is gathered to witness exhibition for hire. Raimes v. Trust Territory, 1 TTR 262 (1955).

Public place. — A public place is any place, even though privately owned or controlled, where persons have assembled, through common usage or by general invitation, express or implied. Raimes v. Trust Territory, 1 TTR 262 (1955).

Room in which a movie is shown. — A room in which a movie is shown and in which people are assembled may be a public place within the meaning of this section. Raimes v. Trust Territory, 1 TTR 262 (1955).

Prosecution must prove that conduct occurred in public place. — Where no evidence is introduced to show that building in which offense of drunken and disorderly conduct allegedly occurred was "public place," prosecution failed to prove element of offense charged. Nokei v. Trust Territory, 2 TTC 329 (1962).


Disturbance of particular persons may relate to seriousness of incident. — In criminal prosecution for drunken and disorderly conduct, disturbance of particular persons may be element to consider as to seriousness of particular incident. Yinmed v. Trust Territory, 2 TTR 492 (1963).

§ 554. Affray. — Every person who shall unlawfully and wilfully engage in altercation or fight with one or more persons in a public place, so that others are put in fear or danger, shall be guilty of affray, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than fifty dollars, or both. (Code 1966, § 424; Code 1970, tit. 11, § 554.)

Essential element is placing of others in fear. — Placing of other persons in fear or danger is essential element of crime of affray. Tkoel v. Trust Territory, 2 TTR 513 (1964).

Prosecution must prove offense occurred in public place. — Where no evidence is introduced to show that building in which offense allegedly occurred was "public place," prosecution failed to prove element of offense charged. Nokei v. Trust Territory, 2 TTR 329 (1962).

§ 555. Security to keep the peace. — (1) A complaint may be made to any court that a person has threatened to commit an offense against the person or property of another. When such complaint is made, the court shall examine under oath the complainant and any witnesses he may produce, reduce the complaint to writing and cause it to be signed and sworn to by the complainant. If the court is satisfied that there is danger that such offense will be committed, the court shall issue a warrant to any policeman setting out the substance of the complaint and commanding the officer to apprehend the person complained of and bring him before the court at a certain time.

(2) When the person complained of is brought before the court, the testimony produced on both sides shall be heard if the charge is denied. If it appears that there is no just reason to fear the commission of the offense, the defendant shall be discharged; and if the judge is of the opinion that the prosecution was commenced maliciously without proper cause he may give judgment against the complainant for the costs of the prosecution. If, however, the court finds there is just reason to fear the commission of such offense, the person complained of may be required to enter into an undertaking in a sum fixed by the court, not exceeding one hundred dollars, to keep the peace toward the government of the Trust Territory and particularly toward the complainant. The defendant shall deposit the sum fixed in cash with the clerk of the courts or the court may grant him permission to give bond in the same amount with one or more sufficient sureties. The undertaking to keep the peace shall be valid and binding for six months, and may upon the renewal of the complaint be extended for a longer period.

(3) If the undertaking required in the preceding subsection is given, the defendant shall be discharged. If the defendant does not give such security, the
court shall commit the defendant to jail for a period not to exceed six months, specifying in the order of commitment the requirement to give security, the amount thereof, and the omission to give it. Any person committed to jail as above provided may be discharged upon giving the required undertaking.

(4) If the court finds, after hearing, that the defendant has violated his undertaking to keep the peace, the court may direct a forfeiture of the whole or such part of the deposit or bond as it appears that justice requires, and may enforce such forfeiture in the same manner as a forfeiture of bail in a criminal case.

(5) If the defendant fulfills his undertaking to keep the peace, he may claim his deposit from the clerk of courts upon presentation of receipt. (Code 1966, § 429; Code 1970, tit. 11, § 555.)
§ 601. Escape. — Every person who, being a law enforcement officer, or having lawful custody of a prisoner, shall unlawfully, wilfully or negligently allow said prisoner to depart from such custody, except by due process of law; or whosoever, being a prisoner, shall unlawfully and wilfully depart from such custody, shall be guilty of escape, and upon conviction thereof shall be imprisoned for not more than three years. (Code 1966, § 416; Code 1970, tit. 11, § 601.)

§ 602. Rescue. — Every person who shall unlawfully, knowingly, forcibly and wilfully rescue any prisoner from the custody of any person lawfully having custody thereof shall be guilty of rescue, and upon conviction thereof shall be imprisoned for not more than three years. (Code 1966, § 420; Code 1970, tit. 11, § 602.)
§ 651. Defined; punishment. — Every person who shall unlawfully detain another by force and against his will, then and there not being in possession of authority to do so, shall be guilty of false arrest, and upon conviction thereof shall be imprisoned for a period of not more than six months, or shall be fined not more than one hundred dollars, or both. (Code 1966, § 380; Code 1970, tit. 11, § 651.)
CHAPTER 15.

FORGERY.

Sec. 701. Defined; punishment.

§ 701. Defined; punishment. — Every person who shall unlawfully and falsely make or materially alter a writing or document of apparent legal weight and authenticity, with intent thereby to defraud, shall be guilty of forgery, and upon conviction thereof shall be imprisoned for a period of not more than five years. (Code 1966, § 394; Code 1970, tit. 11, § 701.)


Forger to have substantial knowledge of law; forged document to meet legal requirements. — Technical interpretation of crime of forgery in some jurisdictions requires that forger have substantial knowledge of law and that document in form meets all legal requirements that would ordinarily be known to lawyers or those dealing with documents of that kind. Likauche v. Trust Territory, 2 TTR 375 (1963).

When forgery is obviously defective. — If forged instrument is obviously defective, law will not presume that it can accomplish fraud which is intended since law presumes competent knowledge to guard against such effect. Likauche v. Trust Territory, 2 TTR 375 (1963).

False document which does not meet forgery requirements constitutes cheating. — Use of false or altered document which does not meet requirements of forgery constitutes cheating, on theory that document cannot be considered forgery because it shows on its face that it does not meet legal requirement of form and could not defraud person knowing legal requirement. Likauche v. Trust Territory, 2 TTR 375 (1963).

Where unclear whether crime is cheating or forgery, prosecution should be for cheating. — Where it is unclear in criminal prosecution in the Trust Territory whether crime committed is cheating or forgery, prosecution should be for cheating or attempted cheating rather than for forgery. Likauche v. Trust Territory, 2 TTR 375 (1963).

Altering figures on check. — Under present state of Trust Territory law, unlawfully and falsely altering amount of check in figures, with intent thereby to defraud, constitutes forgery even though amount in words is not altered, since under conditions now existing in the Trust Territory figures on check are likely to have strong influence on those handling it and should be considered to constitute material part of check. Likauche v. Trust Territory, 2 TTR 375 (1963).
CHAPTER 16.

HOMICIDE.

Sec. 751. Murder in the first degree.

Sec. 752. Murder in the second degree.

Sec. 753. Voluntary manslaughter.

Sec. 754. Involuntary manslaughter.

§ 751. Murder in the first degree. — Every person who shall unlawfully take the life of another with malice aforethought by poison, lying in wait, torture, or any other kind of wilful, deliberate, malicious, and premeditated killing, or while in the perpetration of, or in the attempt to perpetrate, any arson, rape, burglary, or robbery, shall be guilty of murder in the first degree, and upon conviction thereof shall be sentenced to life imprisonment. (Code 1966, § 385; Code 1970, tit. 11, § 751.)

Requirements for first degree murder. — To be murder in the first degree the killing must be premeditated, except when done in perpetration of certain felonies; that is, the unlawful killing must be accompanied with a deliberate and clear intent to take life. Trust Territory v. Minor, 4 TTR 324 (1969).

Elements of corpus delicti. — The corpus delicti in a homicide consists of two elements, the first of which, the fact of death, is to be shown as a result of the second, that is, the criminal agency of another, and it must be shown beyond a reasonable doubt. Helgenberger v. Trust Territory, 4 TTR 530 (App. Div. 1969).

Malice element distinguishes murder and manslaughter. — The presence or absence of the required malice or mental condition marks the boundary which separates the two crimes of murder and manslaughter. Trust Territory v. Minor, 4 TTR 324 (1969).

Inference concerning malice. — Malice in connection with the crime of killing is but another name for a certain condition of a man’s heart or mind; and as no one can look into the heart or mind of another, the only way to decide upon its condition at the time of the killing is to infer it from the surrounding facts, and that inference is one of fact. Trust Territory v. Minor, 4 TTR 324 (1969).

Accused acting under emotional stress. — Where accused in criminal prosecution was probably intoxicated and engaged in fight from which he received physical violence, it is reasonable to assume that he was acting under severe emotional stress and that there was no premeditation essential for conviction of first degree murder. Mendiola v. Trust Territory, 2 TTR 651 (App. Div. 1964).

Elements of murder by torture. — The elements of murder by torture are an intent to cause cruel suffering or intent to inflict pain, actual pain suffered, some protraction in time and the death must have been caused by the torture. Trust Territory v. Mad, 5 TTR 195 (1970).

Question of intent in murder by torture. — Under statute providing that “every person who shall unlawfully take the life of another with malice aforethought by poison, lying in wait, torture, or any other kind of wilful, deliberate, malicious and premeditated killing,” shall be guilty of first degree murder, there does not have to be an intent to kill, but only an intent that the victim suffer for purposes of vengeance, extortion or some other evil propensity. Where unlawful killing of allegedly unfaithful wife with malice aforethought by torture was charged, the torture made other evidence of premeditation unnecessary. Mad v. Trust Territory, 6 TTR 550 (1973).

Motive not an element. — The purpose or motive for intending to inflict pain is not an element of the offense of murder by torture. Trust Territory v. Mad, 5 TTR 195 (1970).

Intent to kill not required. — The argument that no inference as to intent and malice may be drawn as a general rule when the killing is with bare hands is not applicable to murder charged by torture because an intent to kill, from which malice aforethought may be inferred, is not required. Trust Territory v. Mad, 5 TTR 195 (1970).

Effect of mandatory life imprisonment statute. — Under a statute making life imprisonment mandatory upon conviction the court is not authorized to diminish a sentence of life imprisonment by allowing bail or granting stay of execution pending appeal nor may the court reduce the penalty by ordering suspension of sentence after a fixed period of imprisonment. Trust Territory v. Mad, 5 TTR 195 (1970).
§ 752. Murder in the second degree. — Every person who shall unlawfully take the life of another with malice aforethought, or while in the perpetration of, or in the attempt to perpetrate, any felony other than those enumerated in section 751 of this chapter, shall be guilty of murder in the second degree, and upon conviction thereof shall be imprisoned for a period of not less than five years or for life. (Code 1966, § 386; Code 1970, tit. 11, § 752.)

Requirements for second degree murder. — In order to support a conviction of murder in the second degree, it is not necessary to find premeditation but it is essential there be a finding, also necessary for sustaining murder in the first degree, that the killing was malicious as well as unlawful and wilful. Trust Territory v. Minor, 4 TTR 324 (1969).

Malice element distinguishes murder and manslaughter. — The presence or absence of the required malice or mental condition marks the boundary which separates the two crimes of murder and manslaughter. Trust Territory v. Minor, 4 TTR 324 (1969).

Showing of malice rather than premeditation. — Where prosecution fails to show premeditation essential to first degree murder but does show malice, appellate court may modify conviction to second degree murder and direct trial court to resentence accused. Mendiola v. Trust Territory, 2 TTR 651 (App. Div. 1964).

Determination of malice. — Malice in connection with the crime of killing is but another name for a certain condition of a man's heart or mind; and as no one can look into the heart or mind of another, the only way to decide upon its condition at the time of the killing is to infer it from the surrounding facts, and that inference is one of fact. Trust Territory v. Minor, 4 TTR 324 (1969).

Suspension of mandatory term of imprisonment. — Trial judge has the authority to suspend a mandatory term of imprisonment provided by statute unless there is legislative intent to the contrary. Here there is no such legislative intent and therefore where trial court made it clear at the time of sentencing that sentence was imposed on defendant because the court considered it to be a mandatory minimum and thus not subject to suspension by the court, the trial court should be given the opportunity to consider whether any of the sentence should be suspended. Trust Territory v. Sechur (App. Div., June, 1976).

§ 753. Voluntary manslaughter. — Every person who shall unlawfully take the life of another without malice aforethought, upon a sudden quarrel or heat of passion, shall be guilty of voluntary manslaughter, and upon conviction thereof shall be imprisoned for a term of not more than ten years. (Code 1966, § 384; Code 1970, tit. 11, § 753.)

Elements of corpus delicti. — The corpus delicti in a homicide consists of two elements, the first of which, the fact of death, is to be shown as a result of the second, that is, the criminal agency of another. Debesol v. Trust Territory, 4 TTR 556 (App. Div. 1969).

Infliction of injury contributing to death. — One who inflicts injury on another is deemed by law to be guilty of homicide if injury contributes mediate or immediately to death of another. Kirispin v. Trust Territory, 2 TTR 628 (App. Div. 1960).

Prerequisite for self-defense claim. — In order that accused in homicide prosecution may claim right of self-defense, he must be free from blame in provoking difficulty. Santiago v. Trust Territory, 3 TTR 575 (App. Div. 1965).

Aggressor who provokes attack upon himself, brings on quarrel with victim, or produces occasion which makes it necessary to take victim's life, cannot assert that he acted in self-defense and thus excuse or justify homicide which he has committed. Santiago v. Trust Territory, 3 TTR 575 (App. Div. 1965).

Requirements for voluntary manslaughter. — A conviction of voluntary manslaughter may not be sustained without evidence that the killing was done upon a sudden quarrel or heat of passion. Debesol v. Trust Territory, 4 TTR 556 (App. Div. 1969).

Confused and contradictory evidence may warrant remand. — Where evidence is confused and contradictory concerning actions of accused and victim as related to alleged voluntary manslaughter, court may remand for new trial to be held after emotions have subsided and more definite evidence may be obtained. Decena v. Trust Territory, 3 TTR 601 (App. Div. 1966).
§ 754. Involuntary manslaughter. — Every person who shall unlawfully take the life of another without malice, in the commission of an unlawful act not amounting to a felony, or in the commission of a lawful act which might produce death in an unlawful manner, or without due caution and circumspection, shall be guilty of involuntary manslaughter, and upon conviction thereof shall be sentenced to imprisonment for a term of not more than three years or fined not exceeding one thousand dollars, or both. (Code 1966, § 383; Code 1970, tit. 11, § 754.)

Requirement of single unlawful act not amounting to a felony. — Under the Trust Territory statute, involuntary manslaughter consists of commission of an unlawful act not amounting to a felony and a single act is all that is required. Trust Territory v. Rasa, 5 TTR 276 (1970).

Negligent act in manslaughter case. — To render a person guilty of manslaughter the negligent act which caused the death must have been the personal act of the party charged and not the act of another. Trust Territory v. Rasa, 5 TTR 276 (1970).

Exceeding speed limit sufficient for involuntary manslaughter finding. — A determination by the court that the defendant was exceeding the speed limit when she lost control of her car with death resulting would be sufficient to find the defendant guilty of involuntary manslaughter. Trust Territory v. Rasa, 5 TTR 276 (1970).

Acts constituting unlawful driving will sustain manslaughter conviction. — While criminal negligence is not an element of the Trust Territory statute on manslaughter, culpable or so-called criminal negligence, when it is defined as either a substantial deviation from the standards of due care or gross, wilful or wanton disregard of the lives and safety of the public, constitutes unlawful driving under 83 TTC 551 and either or both of those unlawful acts will sustain a manslaughter conviction. Trust Territory v. Rasa, 5 TTR 276 (1970).

Violation of code section concerning passing sufficient for involuntary manslaughter finding. — A finding that in attempting to pass another car the defendant violated the provisions of 83 TTC 301 of this Code with death resulting would suffice to sustain a verdict of guilty of involuntary manslaughter. Trust Territory v. Rasa, 5 TTR 276 (1970).

Fine and sentence for involuntary manslaughter within court's discretion. — Two hundred and fifty dollar fine and suspended two-year sentence for involuntary manslaughter, well below the maximum allowable sentence, were within court's discretion, and the fine was not excessive, or the sentence cruel and unusual punishment. Rasa v. Trust Territory, 6 TTR 535 (1973).
CHAPTER 17.

KIDNAPPING.

Sec.

801. Defined; punishment.

§ 801. Defined; punishment. — Every person who forcibly or fraudulently and deceitfully, and without authority by law, imprisons, seizes, detains, or inveigles away any person (other than his minor child), with intent to cause such person to be secreted within the Trust Territory against his will, or sent out of the Trust Territory against his will, or sold or held as a slave or for ransom, shall be guilty of kidnapping, and upon conviction thereof shall be imprisoned for a period of not more than ten years. (Code 1966, § 381; Code 1970, tit. 11, § 801.)
§ 851. Petit larceny. — Every person who shall unlawfully steal, take and carry away personal property of another, of the value of less than fifty dollars, without the owner's knowledge or consent, and with the intent to permanently convert it to his own use, shall be guilty of petit larceny, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 397; Code 1970, tit. 11, § 851.)

Taken in good faith not guilty of larceny. — One who takes property in good faith, under color of claim or title, honestly believing he is owner and has right to possession, is not guilty of larceny even though he is mistaken in such belief. Niforongu v. Trust Territory, 1 TTR 549 (1958).


Mere impression of claim to property does not negate felonious intent. — Mere impression that taker had claim to property in goods taken will not negate felonious intent in criminal prosecution for larceny. Marbou v. Trust Territory, 1 TTR 269 (1955).

Determination of property rights not function of criminal code. — Criminal code should not be used to determine conflicting claims to property. Niforongu v. Trust Territory, 1 TTR 549 (1958).

No custom to convert property is supported in law. — Although custom and usage in community may bear upon intent in criminal prosecution for larceny, no custom or usage to take another's property and convert it to one's own use without consent or giving of an equivalent can find support in law. Marbou v. Trust Territory, 1 TTR 269 (1955).

Prosecution which fails to cover an essential point. — When prosecution in a criminal case rests without having covered an essential point on which it appears probable that evidence is available, e.g., proof of intent to steal and proof of the corpus delicti, the court should re-open the prosecution and take testimony on the point not covered where it appears that the point was overlooked through inadvertence or misunderstanding and it is probable that there is no great dispute about the facts involved. Ngirmidol v. Trust Territory, 1 TTR 273 (1955).

Evidence justifying petit larceny conviction. — Where evidence shows taking of personal property worth less than fifty dollars from home of another with intent to convert it to accused's own use, trial court is justified in finding accused guilty of petit larceny. Fanamthin v. Trust Territory, 1 TTR 412 (1958).

Findings of trial judge concerning values of merchandise will be followed on appeal. — In criminal prosecution for petit larceny, since trial judge is assumed to have sufficient acquaintance with local values of new and used merchandise, his findings in this regard will be followed by appellate court. Fanamthin v. Trust Territory, 1 TTR 412 (1958).

In petit larceny prosecution intent of accused goes only to question of blame. — In criminal prosecution for petit larceny, intent of accused, or his honest belief that no one would complain of his taking damaged radiator, go only to question of blame, that is, amount of sentence, a factor to be considered by trial court. Ebas v. Trust Territory, 2 TTR 95 (1959).

Knowledge presumed on part of accused. — In criminal prosecution for petit larceny, even if accused intended to give detached radiator to purchaser of weapons carrier, he knew or ought to have known that he had no right to do this. Ebas v. Trust Territory, 2 TTR 95 (1959).

Fifteen-year-old competent to commit petit larceny. — Fifteen-year-old defendant is competent under Trust Territory law so far as age is concerned to commit crime of petit larceny. Celis v. Trust Territory, 3 TTR 237 (1967).

Petit larceny sentence found to be high. — In conviction for petit larceny, where one defendant is 15 years old and other defendant has made restitution, and neither has previous
§ 852. Grand larceny. — Every person who shall unlawfully steal, take and carry away personal property of another, of the value of fifty dollars or more, without the owner's knowledge or consent, and with the intent to permanently convert it to his own use, shall be guilty of grand larceny, and upon conviction thereof shall be imprisoned for a period of not more than five years, or fined not more than one thousand dollars, or both. (Code 1966, § 395; Code 1970, tit. 11, § 852.)

Elements of grand larceny. — The crime of grand larceny requires the stealing, taking and carrying away of the personal property of another, of the value of $50 or more, without the owner's knowledge or consent with the intent to permanently convert that property to his own use. Trust Territory v. Mick, 4 TTR 147 (1968).

Necessity of proving all essential elements. — In order for one to be convicted of embezzlement or grand larceny, it is necessary that the government prove beyond a reasonable doubt all of the essential elements of such crimes. Trust Territory v. Mick, 4 TTR 147 (1968).

Factors to be considered in determining whether criminal intent is present. — Evidence that there was no concealment or secrecy on the part of the defendant and no active subterfuge, lack of proof that he received any personal or private gain from his misappropriation and evidence that he offered to make complete restitution of all materials are facts to be taken into consideration in determining whether or not the necessary criminal intent is present to prove embezzlement or grand larceny. Trust Territory v. Mick, 4 TTR 147 (1968).

Evidence concerning larceny of a pig. — Where evidence at grand larceny trial showed defendants knew pig belonged to another, that pig had a value twice that of the minimum required for grand larceny, that defendants, having no right to do so, took it without owner's consent, and that defendants cooked the pig and ate it, making it difficult to conceive of a clearer case of permanent conversion, there was no reasonable doubt as to guilt. Trust Territory v. Elias, 6 TTR 364 (1973).

§ 853. Cheating. — Every person who shall unlawfully obtain the property or money of another by false pretenses, knowing the pretenses to be false, and with the intent thereby to permanently defraud the owner thereof, shall be guilty of cheating, and, if the value of the property thus obtained be fifty dollars or more, shall be imprisoned for a period of not more than five years; or if the value of the property thus obtained be less than fifty dollars, shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 392; Code 1970, tit. 11, § 853.)

Altering figures on check is attempted cheating. — Altering figures on check or money order without altering writing, and then endeavoring to cash it constitutes crime of attempted cheating. Likauche v. Trust Territory, 2 TTR 375 (1963).

Where unclear whether crime is cheating or forgery, prosecution should be for cheating. — Where it is unclear in criminal prosecution in the Trust Territory whether crime committed is cheating or forgery, prosecution should be for cheating or attempted cheating rather than for forgery. Likauche v. Trust Territory, 2 TTR 375 (1963).

False statement of hours worked by laborers in order to obtain payment under construction contract. — Where defendant in criminal case submitted false statement of hours worked and amounts earned by his laborers in order to obtain payment under construction contract, he made deliberate misrepresentation as to past facts material to question of whether money should be paid out, and submission therefore constituted unity of intent and overt act required in attempt to commit crime. Elechuus v. Trust Territory, 3 TTR 297 (1967).

Submission by defendant in criminal case of false statement of hours worked and amounts earned by his laborers under construction contract constitutes false pretense, regardless of what was due him under contract. Elechuus v. Trust Territory, 3 TTR 297 (1967).
§ 854. Embezzlement. — Every person who, after having lawfully obtained possession of the personal property of another, shall take and carry away said property without the owner's knowledge and consent, and with the intent to permanently convert it to his own use shall be guilty of embezzlement, and, if the value of said property be fifty dollars or more, shall be imprisoned for a period of not more than five years, or fined not more than one thousand dollars, or both; or if the value of the property thus obtained be less than fifty dollars, shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 393; Code 1970, tit. 11, § 854.)

Elements of embezzlement. — The elements of embezzlement are: lawfully obtaining personal property of another; taking and carrying away that personal property without the owner's knowledge or consent; and taking and carrying away of that personal property with the intent to permanently convert it to his own use. Trust Territory v. Mick, 4 TTR 147 (1968).

Essential elements of embezzlement. — Essential elements of crime of embezzlement are taking and carrying away without owner's knowledge or consent the personal property of another with intent to permanently convert it to one's own use. Willianter v. Trust Territory, 3 TTR 227 (1966).

Necessity of proving all essential elements. — In order for one to be convicted of embezzlement or grand larceny, it is necessary that the government prove beyond a reasonable doubt all of the essential elements of such crimes. Trust Territory v. Mick, 4 TTR 147 (1968).

Factors in proving criminal intent in embezzlement or grand larceny. — Evidence that there was no concealment or secrecy on the part of the defendant and no active subterfuge, lack of proof that he received any personal or private gain from his misappropriation and evidence that he offered to make complete restitution of all materials are facts to be taken into consideration in determining whether or not the necessary criminal intent is present to prove embezzlement or grand larceny. Trust Territory v. Mick, 4 TTR 147 (1968).

Evidence sufficient to establish intent to defraud government. — Evidence of failure to report cash disbursements, and of unaccountable shortage from special and petty cash funds is sufficient to establish intent to defraud government and to permanently convert money so withheld to accused's own use. Paul v. Trust Territory, 2 TTR 238 (1961).

Intent to replace amounts taken is not a valid defense. — Fact that person accused of embezzlement may have intended to replace amounts taken or may have received no personal profit nor have intended to profit from taking, is not valid defense. Paul v. Trust Territory, 2 TTR 238 (1961).

Unnecessary to prove that exact amount alleged was actually embezzled. — In criminal prosecution for embezzlement, it is not necessary for government to prove exact amount alleged in information has been embezzled. Paul v. Trust Territory, 2 TTR 238 (1961).

Court to consider amount taken in exercising its discretion as to punishment. — Although maximum penalty which is imposed for embezzlement depends on whether amount involved is less than or greater than fifty dollars, actual amount beyond fifty dollars is matter for court to consider in exercising discretion as to punishment to be imposed within limits of law. Paul v. Trust Territory, 2 TTR 238 (1961).

§ 855. Receiving stolen goods. — Every person who shall unlawfully take into his possession, with the consent of the donor, stolen or embezzled property, then and there knowing said property to have been stolen or embezzled, with fraudulent intent thereby or to aid in the theft, shall be guilty of receiving stolen goods, and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than one hundred dollars, or both. (Code 1966, § 399; Code 1970, tit. 11, § 855.)

§ 856. Unlawful issuance of bank checks or drafts. — (1) Every person who, for the procurement of any article or thing of value, with intent to defraud or, for the payment of any past due obligation, or for any other purpose, with intent to deceive, makes, draws, utters, or delivers any check, draft, or order for payment of money upon a bank or other depository, knowing at the time
that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be guilty of cheating and, if the value of the property thus obtained be fifty dollars or more, shall be imprisoned for a period of not more than five years; or if the value of the property thus obtained be less than fifty dollars, shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both.

(2) The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment.

(3) In this section, the word "credit" means an arrangement or an understanding expressed or implied, with the bank or other depository for the payment of that check, draft, or order. (Code 1966, § 403; Code 1970, tit. 11, § 856.)

§ 857. Larceny from a dwelling house. — Every person who shall unlawfully steal, take and carry away the personal property of another, of any value whatsoever, from his or another's dwelling house, without the owner's knowledge or consent, and with the intent to permanently convert it to his own use, but without the force necessary to constitute a burglary, shall be guilty of larceny from a dwelling house, and upon conviction thereof shall be imprisoned for a period of not more than five years. (Code 1966, § 396; Code 1970, tit. 11, § 857.)
§ 901. Defined; punishment. — Every person who shall unlawfully, wilfully, and maliciously, speak, write, print, or in any other manner publish material which exposes another person to hatred, contempt, or ridicule, shall be guilty of criminal libel, and upon conviction thereof shall be imprisoned for a period of not more than six months, or shall be fined not more than fifty dollars, or both. (Code 1966, § 425; Code 1970, tit. 11, § 901.)

Criminal libel defined. — Criminal libel is a crime which affects public peace by publication of defamatory matter concerning another, not because of injury to reputation but because it is calculated to corrupt public morals, incite to violations of criminal law or provoke breach of the peace. Uto v. Trust Territory, 2 TTR 209 (1961).

Intent of criminal libel statute. — Intent of statute on criminal libel is to protect people from irritation and provocation to retaliate, regardless of whether reputation of person defamed is impaired. Uto v. Trust Territory, 2 TTR 209 (1961).

Criminal libel includes oral statements. — Offense of criminal libel under this Code is based on common law principles, except that it has been extended to include oral statements. Uto v. Trust Territory, 2 TTR 209 (1961).

Actual damage not necessary. — In complaint for criminal libel, it is not necessary to allege actual damage to complainant. Uto v. Trust Territory, 2 TTR 209 (1961).

Malice, an essential element, may be implied. — Malice is essential element of criminal libel but it may be implied malice as distinguished from express malice and is inferred from making of libelous statement. Uto v. Trust Territory, 2 TTR 209 (1961).

Actual damages not required. — Trust Territory statute on criminal libel requires only exposure to hatred, contempt or ridicule, as opposed to actual damage by it. Uto v. Trust Territory, 2 TTR 209 (1961).

Natural tendency of words determinative. — Person may be exposed to hatred, contempt or ridicule by words which naturally tend to create hatred, contempt or ridicule, and in prosecuting crime of criminal libel, it is not necessary to prove hatred, contempt or ridicule has actually been aroused. Uto v. Trust Territory, 2 TTR 209 (1961).

Fair criticism is privileged; unfounded charges are not. — Accurate and fair criticism of judicial and other public officers is privileged, but unfounded charges of crime and misconduct in office are not. Uto v. Trust Territory, 2 TTR 209 (1961).
§ 951. Defined; punishment. — Every person who shall unlawfully destroy, damage, or otherwise injure property belonging to another, including the property of the Trust Territory or any district or municipality thereof, or shall unlawfully throw, discard, or scatter upon any public road, street or ground or other land owned, reserved, controlled or maintained, for any purpose other than a public dumping ground, by the government of the Trust Territory or any district, municipality or other subdivision thereof, any waste material, garbage or other debris, in any form or substance, or otherwise carelessly or willfully litter such places, shall be guilty of malicious mischief, and upon conviction thereof shall be imprisoned for not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 398; Code 1970, tit. 11, § 951.)

Inference of wilfulness and malice. — In trial for a crime of malicious mischief, wilfulness and malice may be inferred from circumstances just as intent may be inferred in larceny cases. Bisente v. Trust Territory, 1 TTR 327 (1957).

Where act is done in good faith and under honest claim of right. — In criminal prosecution for malicious mischief, there is no malice where act is done in good faith and under honest claim of right. Aliwis v. Trust Territory, 2 TTR 223 (1961).

Where accused believes he is owner of property which he injures. — Where accused, charged with malicious mischief, acts in honest belief that he is owner of property which he injures, malice has not been shown beyond reasonable doubt. Aliwis v. Trust Territory, 2 TTR 223 (1961).

Unlawfulness substituted for element of malice. — Where statute defining malicious mischief has been amended to eliminate element of malice, substituting that of mere "unlawfulness," no special malice need be shown thereafter, although criminal statute should not be used as substitute for civil remedies for trespass. Aliwis v. Trust Territory, 2 TTR 223 (1961).

Statements of courts regarding malice not applicable to amended section. — Where express reference to "malice" has been eliminated from statute covering malicious mischief, previous remarks of court regarding meaning of statute as it stood before amendment, and similar remarks of text writers and other courts, are not directly applicable to amended section so far as malice is concerned. Firetamag v. Trust Territory, 2 TTR 413 (1963).


Proof of separate offenses in trespass and malicious mischief prosecutions. — In criminal prosecution for trespass and malicious mischief, where evidence of accused having caused any damage in leaving premises after trespass is not at all clear, there is no proof beyond reasonable doubt of separate offense of malicious mischief. Figir v. Trust Territory, 3 TTR 127 (1966).

Defendant granted new trial because of trial court error. — Where trial court erred in finding defendant guilty of both crimes of trespass and malicious mischief, and sentence imposed was no greater than he could have reasonably and in his discretion imposed on one of charges alone, defendant is still entitled to a new trial if he so desires. Bisente v. Trust Territory, 1 TTR 327 (1957).

Same act may not constitute trespass and malicious mischief. — If judge in criminal trial finds all elements of malicious mischief are proved, he cannot properly find all elements of trespass are proved, as it is legally impossible under Trust Territory law for the same act to constitute both trespass and malicious mischief where there is no break in incident or change of intention of accused. Bisente v. Trust Territory, 1 TTR 327 (1957).

Requirement of break in incident or change of intention. — Where there is no indication of any break in incident or change of intention by accused during actions constituting crime of malicious mischief, he cannot also properly be found guilty of trespass. Bisente v. Trust Territory, 1 TTR 327 (1957).
**Malicious mischief may be committed immediately following trespass.** — It is possible under Trust Territory law for person to commit act of malicious mischief immediately after committing crime of trespass. Figir v. Trust Territory, 3 TTR 127 (1966).

**Defendant may show justification or excuse.** — One accused of malicious mischief may show in defense of act, circumstances of justification or excuse. Aliwis v. Trust Territory, 2 TTR 223 (1961).
CHAPTER 21.

MAYHEM.

Sec. 1001. Defined; punishment.

§ 1001. Defined; punishment. — Every person who, with intent to maim or disfigure, shall cut, bite, or slit the nose, ear, or lip, or cut off or disable the tongue, or put out or destroy an eye, or cut off or disable a limb or any member of another person, shall be guilty of mayhem and upon conviction thereof shall be imprisoned for a period of not more than seven years, or fined not more than one thousand dollars, or both. (Code 1966, § 382; Code 1970, tit. 11, § 1001.)

Whether injury constitutes disfigurement is fact best determined by trial judge. — Question of whether injury to victim is noticeable enough to constitute permanent disfigurement within meaning of statute defining mayhem is question of fact which trial judge is in best position to determine. Romber v. Trust Territory, 1 TTR 591 (App. Div. 1954).
CHAPTER 22.

MISCONDUCT IN PUBLIC OFFICE.

Sec. 1051. Defined; punishment.

§ 1051. Defined; punishment. — Every person who, being a public official, shall do any illegal acts under the color of office, or wilfully neglect to perform the duties of his office as provided by law, shall be guilty of misconduct in public office, and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than one thousand dollars, or both. (Code 1966, § 417; Code 1970, tit. 11, § 1051.)

CHAPTER 23.
NUISANCE.

Sec. 1101. Defined; punishment. — Every person who shall unlawfully maintain or allow to be maintained a condition of things which is prejudicial to the health, comfort, safety, property, sense of decency, or morals of the people of the Trust Territory by an illegal act, or by neglect of legal duty, shall be guilty of maintaining a nuisance, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 408; Code 1970, tit. 11, § 1101.)

Application of nuisance law. — Trust Territory law regarding maintenance of a nuisance, in referring to "a condition of things which is prejudicial to the health, safety, property, sense of decency or morals of the people of the Trust Territory," applies only to a public nuisance, sometimes called a common nuisance. Zakios v. Trust Territory, 2 TTR 102 (1959).

Exact limits of nuisance cannot be defined. — Exact limits of legal meaning of nuisance cannot be stated or explained on any comprehensive basis. Zakios v. Trust Territory, 2 TTR 102 (1959).

Unlawful acts do not necessarily constitute a nuisance. — All crimes are not necessarily public nuisances, and every unlawful act in violation of written law does not necessarily constitute a public nuisance. Zakios v. Trust Territory, 2 TTR 102 (1959).

Violations of sanitation law do not necessarily constitute a nuisance. — Every violation of Trust Territory law regarding sanitation does not necessarily create a public nuisance. Public nuisance involved in violation of Trust Territory law regarding sanitation would have to arise from condition created by accused's failure to comply with sanitarian's notice. Zakios v. Trust Territory, 2 TTR 102 (1959).

Necessity of proving nuisance itself. — In order for violations of Trust Territory law regarding sanitation to create public nuisance and to warrant conviction of maintaining a nuisance, nuisance itself must be proved. Zakios v. Trust Territory, 2 TTR 102 (1959).

Failure to comply with sanitarian's notice does not constitute nuisance. — Failure to comply with sanitarian's notice is clearly insufficient, in and of itself, to constitute public nuisance. Zakios v. Trust Territory, 2 TTR 102 (1959).

Sanitary law violations are independent crimes not belonging with this title. — Since violations of the Trust Territory law regarding sanitation constitute independent crimes, there is no need to bring such offenses under any of crimes set forth in this title. Zakios v. Trust Territory, 2 TTR 102 (1959).

Inhaling gasoline vapors by a child not a nuisance. — Inhaling gasoline vapors by a child does not constitute committing a nuisance under this section. In re Ichiro, 3 TTR 406 (1968).
CHAPTER 24.

OBSTRUCTING JUSTICE.

Sec. 1151. Defined; punishment.

§ 1151. Defined; punishment. — Every person who shall unlawfully resist or interfere with any law enforcement officer in the lawful pursuit of his duties, or shall unlawfully tamper with witnesses or payment or attempt to prevent their attendance at trials, shall be guilty of obstructing justice, and upon conviction thereof shall be imprisoned for a period of not more than one year, or shall be fined not more than one thousand dollars, or both. (Code 1966, § 418; Code 1970, tit. 11, § 1151.)

Cross reference. — Obstructing enforcement of the export meat inspection act, 25 TTC 73.

Prevention of arrest not required. — In order to commit crime of obstructing justice it is not necessary to prevent arrest by policeman of third party nor is it material whether policeman could have made arrest if he had been more persistent. Arokoy v. Trust Territory, 1 TTR 426 (1958).

Actual violence or threats not required. — Actual violence or threats are not required in order for acts to constitute crime of obstructing justice. Arokoy v. Trust Territory, 1 TTR 426 (1958).

Resisting policeman while he arrests third party. — Resisting policeman while he is arresting third party is sufficient to constitute offense of obstructing justice. Arokoy v. Trust Territory, 1 TTR 426 (1958).

Advantage of trial court in weighing evidence. — Trial judge in criminal prosecution is in better position than appellate court to weigh conflicting evidence and determine whether actions of accused constituted obstruction of justice. Arokoy v. Trust Territory, 1 TTR 426 (1958).
§ 1201. Defined; punishment. — Every person who takes an oath or any legal substitute therefor before a competent tribunal, officer, or person, in any case in which a law of the Trust Territory authorizes an oath or any legal substitute therefor to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, deposition, or certificate by him subscribed is true, and who wilfully and contrary to such oath or legal substitute therefor states or subscribes any material which he does not believe to be true, shall be guilty of perjury, and upon conviction thereof shall be imprisoned for a period of not more than five years. (Code 1966, § 419; Code 1970, tit. 11, § 1201.)
CHAPTER 26.

ROBBERY.

Sec. 1251. Defined; punishment.

§ 1251. Defined; punishment. — Every person who shall unlawfully steal, take and carry away the personal property of another, of whatever value, from his person or in his presence and against his will, by the use of force or intimidation, with the intent to permanently convert said property to his own use, shall be guilty of robbery, and upon conviction thereof shall be imprisoned for not more than ten years. (Code 1966, § 400; Code 1970, tit. 11, § 1251.)
§ 1301. Incest. — Every person who shall unlawfully engage in sexual intercourse with another of such a close blood relationship or affinity that marriage between the two who so engage is prohibited by law or custom, shall be guilty of incest, and upon conviction thereof shall be imprisoned for a period of not more than five years; provided, however, that the burden of proof of such relationship or affinity shall rest with the prosecution. (Code 1966, § 407; Code 1970, tit. 11, § 1301.)

Relatives who aid incestuous couple in continuance of relationship. — Where family members are in position of aiding couple in continuance of incestuous relationship, they are exposed to possibility of prosecution for crime of accessory after the fact. Yangilemau v. Mahoburimalei, 1 TTR 429 (1958).

§ 1302. Rape. — Every person who shall unlawfully have sexual intercourse with a female, not his wife, by force and against her will, shall be guilty of rape, and upon conviction thereof shall be imprisoned for a period of not more than twenty-five years. (Code 1966, § 387; Code 1970, tit. 11, § 1302.)

Elements; necessity of proving beyond a reasonable doubt. — Elements of the crime of rape in the Trust Territory are that the act of sexual intercourse must be unlawful, by force, and against the will of the female, and all of the elements must be proved beyond a reasonable doubt in order to sustain a conviction. Trust Territory v. Manalo, 5 TTR 208 (1970).

Proof that the act was against the female's will. — In order for the crime of rape to be established it must be shown beyond a reasonable doubt that the act was accomplished against the will of the female and in the usual case this may be shown by some form of resistance on the part of the female or that because of threats or harm the female was so placed in fear for her safety that she felt resistance to be useless. Trust Territory v. Ngiraitpang, 5 TTR 282 (1970).


Utmost resistance doctrine not applied. — The utmost resistance doctrine will not be applied in the Trust Territory and certainly not in a case where the woman is placed in such fear of personal violence that her will is overcome. Trust Territory v. Manalo, 5 TTR 208 (1970).

Force is relative. — In a rape case force is a relative matter because the law implies force when the female does not consent and the act need be accomplished only with sufficient force to be against the woman's consent. Trust Territory v. Ona, 5 TTR 634 (1972).

Attacked woman allowed a choice as to resistance by law. — It is primarily for the woman who is attacked to decide to what extent, if at all, she can safely resist and the law allows a woman a free choice of what she may consider the lesser of two evils. Trust Territory v. Ngiraitpang, 5 TTR 282 (1970).

Corroboration requirement. — Corroboration is necessary even though the Trust Territory statute relating to rape does not require corroboration. Trust Territory v. Ona, 5 TTR 634 (1972).

Element of corroboration is how soon victim reports rape. — One of the elements of corroboration the courts invariably look for in rape cases is how soon the alleged victim reports what happened. Trust Territory v. Ona, 5 TTR 634 (1972).

Acts of victim on same day of rape seen as corroboration. — Where alleged victim of rape made complaint to her mother, reported to the police who took and retained her torn clothing and submitted to medical examination all on the same day the offense occurred, all of that was significant corroboration of her testimony as to the rape. Trust Territory v. Ona, 5 TTR 634 (1972).
§ 1303. Sodomy. — Every person who shall unlawfully and voluntarily have any sexual relations of an unnatural manner with a member of the same or the other sex, or who shall have any carnal connection in any manner with a beast, shall be guilty of sodomy, and upon conviction thereof shall be imprisoned for a period of not more than ten years; provided, that the term "sodomy" shall embrace any and all parts of the sometimes written "abominable and detestable crime against nature." (Code 1966, § 409; Code 1970, tit. 11, § 1303.)
CHAPTER 28.

TRESPASS.

Sec.
1351. Defined; punishment.

§ 1351. Defined; punishment. — Every person who shall unlawfully violate or interfere with the peaceful use and possession of the dwelling house, premises, or property of another, whether by force or by stealth, but without committing or attempting to commit any of the crimes defined in chapters 4 (arson), 8 (burglary), 15 (forgery), 18 (larceny), 20 (malicious mischief), and 26 (robbery) of this title, shall be guilty of trespass, and upon conviction thereof shall be imprisoned for not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 401; Code 1970, tit. 11, § 1351.)

Intention of statute. — Crime of trespass is intended to punish interferences with property that are clearly without right or unlawful, and is not to be used as summary method of trying ownership of land in lower courts. Tasio v. Trust Territory, 3 TTR 262 (1967).

Civil and criminal trespass are distinct offenses. — Civil trespass is distinct and separate from offense of criminal trespass. Tasio v. Trust Territory, 3 TTR 262 (1967).

Good faith claim of right as defense. — Claim of right made in good faith, even though erroneous, is good defense to charge of criminal trespass. Tasio v. Trust Territory, 3 TTR 262 (1967).

Where accused makes claim of right, burden is placed on government. — Where person accused of trespass claims to have acted in lawful exercise of his rights, burden is on government to show beyond reasonable doubt that interference with property was unlawful, and where evidence leaves room for reasonable doubt as to validity of accused's claim of right, he should be acquitted of criminal charge. Tasio v. Trust Territory, 3 TTR 262 (1967).

Issue of whether owner gave accused permission to enter. — In criminal prosecution for trespass, where there is reasonable doubt on question of whether owner gave accused permission to enter house, finding of trespass in entering house is not warranted. Olber v. Trust Territory, 1 TTR 559 (App. Div. 1951).

Prior civil dispute bears on good faith issue. — Where person who is accused of trespass and who claims right to land has previously lost civil dispute over that land, this has important bearing on question of his good faith in claiming right to land. Tasio v. Trust Territory, 3 TTR 262 (1967).

Accused convicted only if he committed or attempted no other crime against property. — There may be conviction for trespass only if court finds acts complained of were done without accused committing or attempting to commit any other crime against property under this Code. Bisente v. Trust Territory, 1 TTR 327 (1957).

Acts are not trespass unless no other crimes are involved. — Acts cannot constitute crime of trespass under Trust Territory law unless they are done without accused committing or attempting to commit certain other crimes, of which malicious mischief is one. Bisente v. Trust Territory, 1 TTR 327 (1957).

Requirement of break in incident or change of intention. — Where there is no indication of any break in incident or change of intention by accused during actions constituting crime of malicious mischief, he cannot also properly be found guilty of trespass. Bisente v. Trust Territory, 1 TTR 327 (1957).

Same act may not constitute trespass and malicious mischief. — If judge in criminal trial finds all elements of malicious mischief are proved, he cannot properly find all elements of trespass are proved, as it is legally impossible under Trust Territory law for the same act to constitute both trespass and malicious mischief where there is no break in incident or change of intention of accused. Bisente v. Trust Territory, 1 TTR 327 (1957).

Where defendant is erroneously found guilty of two crimes, he is entitled to new trial even if sentence is light. — Where trial court erred in finding defendant guilty of both crimes of trespass and malicious mischief, and sentence imposed was no greater than he could have reasonably and in his discretion imposed on one of charges alone, defendant is still entitled to a new trial if he so desires. Bisente v. Trust Territory, 1 TTR 327 (1957).

Possible to follow trespass with malicious mischief. — It is possible under Trust Territory law for person to commit act of malicious mischief immediately after committing crime of trespass. Figir v. Trust Territory, 3 TTR 127 (1966).
Acts constitute trespass only if no other crime is attempted or committed. — In order for acts set forth in this Code to constitute trespass, they must be done without committing or attempting to commit any of certain other crimes mentioned therein. Figir v. Trust Territory, 3 TTR 127 (1966).

Malicious mischief is separate crime. — The crime of malicious mischief is within the phrase "beforementioned crimes" referred to in this section. Figir v. Trust Territory, 3 TTR 127 (1966).

Finding of trespass as to taking of piece of underclothing. — In criminal prosecution for burglary, although element of trespass as to underclothing taken from house is not technically included in burglary charge, finding of guilty of trespass so far as taking of piece of underclothing is concerned does not result in any injustice to accused. Olber v. Trust Territory, 1 TTR 559 (App. Div. 1951).

Taking of underclothing as interfering with peaceful use and possession of another. — Where individual takes woman's underclothing from clothesline without any firm basis for knowing whose it is and knowing he has no actual permission from anyone to take it, he is interfering with peaceful use and possession of another, even though he hopes owner will approve. Olber v. Trust Territory, 1 TTR 559 (App. Div. 1951).
§ 1401. Compounding a crime. — Every person who, having knowledge that a crime has been, is being, or is about to be committed, shall unlawfully, knowingly, and wilfully agree for a reward not to prosecute it, shall be guilty of compounding a crime, and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than one hundred dollars, or both. (Code 1966, § 413; Code 1970, tit. 11, § 1401.)

§ 1402. Tampering with mail. — Every person who, without authority, opens, or destroys any mail not directed to him, shall upon conviction thereof be imprisoned not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 402; Code 1970, tit. 11, § 1402.)

§ 1403. Unauthorized disposition of certain foods. — Every person who, having any responsibility for disposition of any food commodity donated under any program of the United States government or the Trust Territory government, wilfully makes any unauthorized disposition of such food commodity, or every person who, not being an authorized recipient thereof, wilfully converts to his own use or benefit any such food commodity, shall upon conviction thereof, be punished by imprisonment for not more than six months, or fined not more than five hundred dollars, or both. (Code 1966, § 404; Code 1970, tit. 11, § 1403.)

§ 1404. Duty to report wounds or deaths. — (1) Every person who gains knowledge of a death or injury resulting from a knife wound, bullet wound, powder burn, or sustained in a suspicious or unusual manner or under conditions suggesting poisoning or violence, shall make a report thereof immediately, and in any case within five days of obtaining such knowledge, to the nearest law enforcement official or to any police officer or to the chief of police of the district within which the injured or deceased person is situated. Said report shall state:

(a) The name and location of injured or deceased person;

(b) The date of injury or death, or date of gaining knowledge thereof by informant, if date of injury or death is unknown;

(c) The cause and manner of injury or death;

(d) The name of the person causing injury or death, if known.

(2) No person making a report in compliance with this section shall be deemed to have violated the confidential relationship existing between doctor and patient.

(3) Copies of such report shall be furnished without charge to the district public defender at his request.

(4) Any person violating subsection (1) of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or imprisoned for not more than one year, or both. (Code 1970, tit. 11, § 1404.)
§ 1405. Possession or removal of government property. — It shall be unlawful for any person without proper authority to have in his possession or remove from its location any property of any kind, wherever situated, of the government of the United States or of the government of the Trust Territory, its political subdivisions, or municipal governments. Any person convicted of a violation of this section shall be fined not more than one hundred dollars, or imprisoned not more than six months, or both. (Code 1970, tit. 11, § 1405.)

§ 1406. Theft of electricity; injuring or altering meter. — Every person who wilfully and knowingly, with intent to injure or defraud, makes or causes to be made any connection with the electric lines of any agency or corporation authorized to generate, transmit, or sell electric current by means of electric wire or electric appliance of any character whatsoever, without the written authority of such agency or corporation, or who shall, knowingly and with like intent, injure, alter, or procure to be injured or altered any electric meter, or obstruct its working, or procure the same to be tampered with or injured, or use or cause to be used any electric meter or appliance so tampered with or injured, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned for not more than six months, or fined not more than one hundred dollars, or both. (P.L. No. 7-1, § 1.)
§ 1451. Recognition of custom in imposing or suspending sentences and in granting probation. — In imposing or suspending the execution of sentences, or in suspending the imposition of sentence and granting probation, in accordance with this title, due recognition shall be given to the customs of the inhabitants of the Trust Territory in accordance with the last two clauses of article 6, paragraph 1 of the trusteeship agreement. (Code 1966, § 436; Code 1970, tit. 11, § 1451; P.L. No. 7-92, § 2.)

Cross references. — Recognition of local customs, 1 TTC 14, 39 TTC 4. Limitation on punishment for crimes and violation of native customs, 11 TTC 8.

§ 1452. Consideration of previous convictions. — Before imposing or suspending the execution of sentence upon a person found guilty of a criminal offense, or in suspending the imposition of sentence and granting probation, evidence of good or bad character, including any prior criminal record of the defendant, may be received and considered by the court. (Code 1966, § 168; Code 1970, tit. 11, § 1452; P.L. No. 7-92, § 3.)

Court not required to be lenient to one defendant because of another defendant in a previous case. — District court is not required to be indulgent to one criminal defendant because, for reasons not readily apparent, it has yielded to argument of counsel on behalf of other criminal defendant in previous case. Taman v. Trust Territory, 1 TTR 415 (1958).

Repeated offenders treated differently from first offenders. — Defendant in criminal proceedings who is repeated offender can hardly expect same light punishment meted out to first offender. Taman v. Trust Territory, 1 TTR 415 (1958).

Effect of restitution accomplished by police. — Restitution accomplished by police in locating and seizing stolen goods is not such restitution as entitles defendant in criminal prosecution to special treatment even if defendant in criminal proceedings leads authorities to stolen property after agreeing to make restitution, this does not necessarily make a case for lighter punishment. Taman v. Trust Territory, 1 TTR 415 (1958).

Comparison of sentences illogical. — Comparison of sentences in two criminal cases involving same offense is illogical unless there is available for examination facts with respect to prior involvement in similar offenses. Evidence of extenuating circumstances for mitigation of punishment are not sufficiently similar in cases of any two criminal offenses to merit comparison. Taman v. Trust Territory, 1 TTR 415 (1958).
§ 1453. Imposition of fines; Procedure upon nonpayment of fines. Where an offense is made punishable by fine the court imposing the fine may give such directions as appear to be just with respect to the payment of the fine. In default of payment of the fine or any part thereof the court may order the defendant to be imprisoned for such period of time as it may direct. These directions may be given and orders for imprisonment made at any time, and may be modified if the court deems justice so requires, until the fine is paid in full or the imprisonment served which has been ordered in default of payment provided, that the accused shall be given an opportunity to be heard before any such direction or order is given, made, or modified, except when that is done at the time sentence is imposed; and provided further, that no defendant shall be imprisoned for a longer period of time than that fixed by law for such offense. (Code 1966, § 169; Code 1970, tit. 11, § 1453.)

Imprisonment for failure to pay fine. — Court may sentence defendant to imprisonment for failure to pay fine and such direction may be given or modified at any time until fine is paid in full or imprisonment served which has been ordered in default of payment, provided accused is given opportunity to be heard before any such direction or order is given or modified, except when direction or order is given at time sentence is imposed. Raismet v. Trust Territory, 1 TTR 631 (App. Div. 1958).

§ 1454. Orders requiring specified residence. — The high court may, in lieu of or in addition to other lawful punishment, direct that a person found by it to be guilty of a criminal offense shall establish his place of residence within a specified area and maintain it there for a period of time not exceeding the maximum period of imprisonment which may be imposed for the offense. (Code 1966, § 170; Code 1970, tit. 11, § 1454.)

Power to banish limited. — It was not the intention of this Code to permit banishment by the community courts or the district courts either under this section or under section 1459 of this title. Tinteru v. Trust Territory, 4 TTR 361 (1969).

High court has banishment power. — Only the high court has the power of banishment. Tinteru v. Trust Territory, 4 TTR 361 (1969).

Banishment power limited because of its serious consequences. — The power of banishment, even though it may be for only a limited time, can be of very serious consequences and in the United States it is generally held that banishment of a person convicted of a crime is generally beyond the jurisdiction of state or local courts. Tinteru v. Trust Territory, 4 TTR 361 (1969).

Suspension or reduction of sentence on condition of leaving state is void. — The suspension or reduction of a sentence on condition that the convicted person leave the state or county is void. Tinteru v. Trust Territory, 4 TTR 361 (1969).

§ 1455. Restitution, compensation or forfeiture. — If a defendant is convicted of wrongful or unlawful sale, purchase, use or possession of any article, or of a wilful wrong causing damage to another, the court may, in lieu of or in addition to other lawful punishment, order restitution or compensation to the owner or person damaged or the forfeiture of the article to the Trust Territory or a municipality thereof. (Code 1966, § 171; Code 1970, tit. 11, § 1455.)

Res judicata does not bar civil action after criminal judgment. — A criminal judgment, including the provision for restitution under statute, is not a bar to a civil action under the doctrine of res judicata. Moolang v. Figir, 3 TTR 455 (1968).

Restitution contemplated as punishment. — This section, which gives the court discretion to order restitution or compensation, contemplates restitution as punishment. Moolang v. Figir, 3 TTR 455 (1968).
§ 1456. Closing of business. — If a defendant is convicted of an offense involving the sale of a harmful article or the operation of an unlawful business, the court may, in lieu of or in addition to other lawful punishment, order that the place of sale or business be vacated or closed for a specified time. (Code 1966, § 172; Code 1970, tit. 11, § 1456.)

§ 1457. Labor without imprisonment. — In any case in which a court is authorized to impose sentence of imprisonment, the court may, if it deems best, instead of imposing imprisonment, sentence the accused to perform hard labor in accordance with his physical ability on any public project for a period not exceeding that for which imprisonment might be imposed. (Code 1966, § 173; Code 1970, tit. 11, § 1457.)

§ 1458. Designation of place of confinement. — Any court upon sentencing a person to imprisonment may designate in the commitment order a place of confinement within the district where the trial is held. The place of confinement may be changed or otherwise designated as follows at any time while the sentence is still in force:

1. The district administrator, subject to instruction, if any, from higher authority, may transfer the person to or designate any place of confinement within his district; or,
2. The High Commissioner may transfer the person to or designate any place of confinement. (Code 1966, § 496; Code 1970, tit. 11, § 1458.)

§ 1459. Suspension of sentence. — The court which imposes a sentence upon a person convicted of a criminal offense may direct that the execution of the whole or any part of a sentence of imprisonment imposed by it shall be suspended on such terms as to good behavior and on such conditions as the court may think proper to impose. A subsequent conviction by a court for any offense shall have the effect of revoking the suspension of the execution of the previous sentence unless the court otherwise directs. (Code 1966, § 174; Code 1970, tit. 11, § 1459.)

Banishment power limited. — It was not the intention of this Code to permit banishment by the community courts or the district courts either under this section or section 1454 of this title. Tinteru v. Trust Territory, 4 TTR 361 (1969).

Part of mandatory life sentence may be suspended. — Trial court may suspend part of a mandatory life sentence. Mad v. Trust Territory, 6 TTR 550 (1973).

Meaning of provision for revocation of suspension upon subsequent conviction. — Statute providing that subsequent conviction of one on a suspended sentence has effect of revoking suspension unless court otherwise directs means that court has discretion to remand offender to jail to serve all or part of the suspended portion of the sentence, try offender for current offense and impose a sentence for that offense should conviction be had, or hold an evidentiary hearing to determine whether any conditions of suspension have been broken and if so, order revocation of the suspension. Trust Territory v. Singeo, 6 TTR 71 (1972).

Subsequent conviction not mandatory. — Under statute providing that a subsequent conviction has effect of revoking suspension of execution of sentence for a prior offense unless the court otherwise directs, a subsequent conviction is not mandatory. Trust Territory v. Singeo, 6 TTR 71 (1972).

§ 1460. Probation. — (1) Upon entering a judgment of conviction of any offense not punishable by life imprisonment, the court, when satisfied that the ends of justice and the best interests of the public as well as the defendant will be served, may suspend the imposition of sentence and may direct that the suspension continue for a period of time, not exceeding the maximum term of sentence which may be imposed, and upon the terms and conditions which the court determines, and shall place the person on probation, under the charge
and supervision of a probation officer or any other person designated by the court, during the suspension.

(2) Upon violation of any of the terms and conditions of probation at any time during the probationary period, the court may issue a warrant for the rearrest of the person on probation and, after giving the person an opportunity to be heard and to rebut any evidence presented against him, may revoke and terminate the probation.

(3) Upon the revocation of the probation, the court may then impose any sentence which may have initially been imposed had the court not suspended imposition of sentence in the first instance.

(4) The court may at any time during the period of probation modify its order of suspension of imposition of sentence. The court may at any time, when the ends of justice and the best interests of the public as well as the defendant will be served, and when the good conduct and reform of the person held on probation warrants it, terminate the period of probation and discharge the person held. If the court has not revoked the order of probation and pronounced sentence, the defendant shall, at the end of the term of probation, be discharged by the court.

(5) Upon discharge of the defendant without imposition of sentence, the court shall vacate the judgment of conviction and the defendant shall not be deemed to have been convicted of the crime for any purpose. (P.L. No. 7-92, § 1.)
CHAPTER 31.

PARDONS AND PAROLES.

Sec.

1501. Authority of High Commissioner and district administrators.

§ 1501. Authority of High Commissioner and district administrators. — (1) Any person convicted of a crime in the Trust Territory may be pardoned or paroled by the High Commissioner upon such terms and conditions as he shall deem best.

(2) Any person sentenced in any district of the Trust Territory to imprisonment for not more than six months, or to pay a fine of not more than one hundred dollars, or both, may be pardoned or paroled by the district administrator of the district upon such terms and conditions as he deems best. (Code 1966, § 435; Code 1970, tit. 11, § 1501.)

Power of High Commissioner to pardon or parole. — Under this section of this Code any person convicted of a crime in the Trust Territory may be pardoned or paroled by the High Commissioner upon such terms and conditions as he shall deem best. Trust Territory v. Yamashiro, 4 TTR 95 (1968).

Whom to direct petition for pardon or parole to. — Petition for pardon or parole from sentence in criminal case should be directed to High Commissioner of Trust Territory or to the district administrator. Trust Territory v. Helgenberger, 3 TTR 257 (1967).

Parole cannot be revoked without due process. — Where there is no stipulation by the High Commissioner for the revocation of parole without notice and an opportunity to be heard, and the due process clause is in force at the time of the attempted revocation, the power to revoke parole for alleged breach of conditions cannot be exercised without notice and opportunity to be heard. The failure to give such notice and opportunity to be heard renders an order of revocation of parole defective. Ichiro v. Bismark, 1 TTR 57 (1953), deciding issue prior to enactment of existing section.
Title 12.

Criminal Procedure.

2. Process; Warrants and Arrest, §§ 51 to 70.
3. Searches and Seizures, §§ 101 to 114.
4. Rights of Defendants, § 151.
5. Preliminary Matters, §§ 201 to 206.
6. Bail, §§ 251 to 258.
7. Witnesses, §§ 301, 302.
10. Criminal Extradition, §§ 451 to 481.

CHAPTER 1.

GENERAL PROVISIONS.

Sec. 1. Definitions.

§ 1. Definitions. — As used in this title, the following terms shall have the meanings set forth below:

(1) "Complaint" means a statement of the essential facts constituting a criminal offense by one or more persons named or described therein. It shall be made under oath before a court or an official authorized to issue a warrant. It may be either written or oral, but whenever the court or official hearing it deems practicable it shall be reduced to writing, signed by the complainant, and bear a record of the oath signed by the person who administered it. The complaint shall refer to the Code section, ordinance, district order, native custom, or other provision of the law which the accused is alleged to have violated, but any error in this reference or its omission may be corrected by leave of court at any time prior to sentence and shall not be ground for reversal of a conviction if the error or omission did not mislead the accused to his prejudice. If a felony is not charged, the court may accept a complaint in lieu of an information.

(2) "Warrant of Arrest" means a written order commanding that a person or persons be arrested and brought without unnecessary delay before a court named therein, or otherwise dealt with according to law. It shall be signed by the clerk of court or by the official issuing it, and shall contain the name of the accused, or if his name is unknown any name or description by which he can be identified with reasonable certainty. It shall describe the criminal offense charged and may do so by referring to either the original or a copy of the complaint or information attached to or on the same sheet as the warrant. Except where otherwise indicated, the word "Warrant" in this title refers to a "Warrant of Arrest."

(3) "Search Warrant" means a written order directed to a policeman, commanding him to search for and, if found, to seize and bring before a particular court or official certain articles supposed to be in the possession of a person or at a place named or described in the search warrant. It shall be signed by the clerk of court or by the official issuing it, and shall state the grounds or probable cause for its issuance and the name of the person or
persons whose statements, under oath, have been taken in support thereof It shall designate the court or official to whom it shall be returned.

(4) "Penal Summons" means a written order summoning a person or persons to appear before a court at a time and place named therein, instead of commanding an arrest. Otherwise it shall meet all the requirements of a warrant. It shall contain a warning that failure to obey it will render the accused liable to arrest upon a warrant.

(5) "Citation" means a written order to appear before a court at a time and place named therein to answer a criminal charge briefly described in the citation. It shall contain a warning that failure to obey it will render the accused liable to have a complaint filed against him upon which a warrant of arrest may be issued. The statement of the charge or charges in a citation or a copy thereof may be accepted by the court in place of an information in any misdemeanor tried in the first instance in a community court or a district court.

(6) "Judge" means any member of the high court, a district court, or a community court.

(7) "Policeman" means any member of the Micronesia police or any person authorized by the High Commissioner or any district administrator to act as a policeman.

(8) "Attorney General" means the legal officer on the staff of the High Commissioner or any person appointed by the High Commissioner to supervise prosecutions throughout the Trust Territory.

(9) "District Attorney" means any person appointed by the High Commissioner to represent the government in any case, civil or criminal, in any court of the Trust Territory.

(10) "Oath" shall include a solemn affirmation.

(11) "Personal Recognizance" means a promise made before an official authorized to accept bail that in consideration of the release of the person he will appear in accordance with all orders of the court and that if he fails to do so he will pay a stated sum of money.

(12) "Arrest" means placing any person under any form of legal detention legal authority. (Code 1966, § 445; Code 1970, tit. 12, § 1.)

Error in reference to law violated. — In criminal prosecution, where there is error in reference to law allegedly violated, such error is not grounds for reversal of conviction if error did not mislead accused to his prejudice. Temengil v. Trust Territory, 2 TTR 31 (1959).

Requirement that accused be misled to his prejudice. — Where there is error in criminal complaint as a violation charged, error will be disregarded if accused is not misled to his prejudice on account of error. Itelbong v. Trust Territory, 2 TTR 595 (1964).

Correction of error or omission of provision of law in complaint. — Criminal complaint must refer to provision of law which accused is alleged to have violated, but error or omission may be corrected by leave of court any time prior to sentence, and is not ground for reversal if not misleading to accused's prejudice. Lornis v. Trust Territory, 2 TTR 114 (1959).
§ 51. Process obligatory upon police. — (1) All process in any criminal proceedings, in all contempt proceedings, and in juvenile delinquency proceedings, issued in accordance with law and the rules of procedure prescribed in accordance with law, shall be obligatory upon all policemen having knowledge thereof, and any policeman to whom such process is given shall promptly make diligent effort to execute or serve the same either personally or through another policeman.

(2) This section shall cover orders to show cause why a person should not be adjudged in contempt, orders of attachment of a person, summons, and all other orders (including an oral order in place of any of the foregoing), issued in either civil contempt proceedings or juvenile delinquency proceedings, as well as all forms of process in criminal proceedings. (Code 1966, § 489; Code 1970, tit. 12, § 51.)

§ 52. Limitation of arrests without a warrant. — No arrest of any person shall be made without first obtaining a warrant therefor, except in the cases authorized in this chapter or as otherwise provided by law. (Code 1966, § 456; Code 1970, tit. 12, § 52.)

§ 53. Authority to issue a warrant of arrest. — The following officials are authorized to issue a warrant of arrest:

(1) Any court;
(2) Any judge;
(3) The clerk of courts for a district, subject to such limitations as the chief justice of the high court may impose;
(4) Any other person authorized in writing by the High Commissioner, and a certified copy of whose authorization is filed with the clerk of courts for the district in which he acts. (Code 1966, § 446; Code 1970, tit. 12, § 53.)

§ 54. Warrant or penal summons upon complaint. — (1) Any person, other than the Attorney General or a district attorney, desiring the issuance of a warrant of arrest for a criminal offense shall personally appear and make a complaint within the district where the offense or some part thereof is alleged to have been committed, before an official authorized to issue a warrant.

(2) If the complaint states the essential facts constituting a criminal offense by one or more persons named or described therein, and if, in the opinion of the
official, there is probable cause to believe or strongly suspect that the offense complained of has been committed by such person or persons, the official may issue his warrant for the arrest of such person or persons, or may issue a penal summons as provided in this chapter.

(3) Any official, other than a judge of a district court, may refuse to act if he deems that the public interest does not require action before the matter can reasonably be presented to a judge of a district court. (Code 1966, § 448; Code 1970, tit. 12, § 54.)

Procedure for obtaining issuance of arrest warrant. — Anyone who desires issuance of warrant of arrest for criminal offense may personally appear and make complaint before some official authorized to issue warrant. Uaayan v. Trust Territory, 1 TTR 418 (1958).


§ 55. Investigation of complaint in doubtful cases. — (1) If a judge of a district court before whom a complaint is made is doubtful whether sufficient grounds in fact exist for the issuance of a warrant or penal summons, he may, if the complainant consents, refer the complaint to the Micronesia police for investigation and report and withhold action for a reasonable time pending such report.

(2) If the complainant does not consent to such a reference or if the report of investigation is not received within a reasonable time, the judge shall proceed to examine under oath the complainant, any witnesses offered by the complainant and such other witnesses as the judge deems best and may, in his discretion, give the accused an opportunity to be present and to be heard.

(3) If the judge is satisfied from the investigation made by the Micronesia police or that made by him as directed in subsection (2) of this section that there is probable cause to believe or strongly suspect that the offense complained of has been committed and that the accused committed it, he shall issue a warrant or a penal summons as provided in this chapter. (Code 1966, § 449; Code 1970, tit. 12, § 55.)

§ 56. Use of penal summons in lieu of warrant of arrest. — (1) In the case of all criminal offenses for which the lawful punishment does not exceed a fine of one hundred dollars or six months imprisonment, or both, a penal summons to appear before a court at a time and place fixed in the penal summons shall be issued instead of a warrant of arrest, unless it shall appear to the court or official issuing the process that the public interest requires the arrest of the accused.

(2) Upon request of the complainant, a penal summons instead of a warrant may be issued in any case.

(3) If, after a penal summons has been served upon him, the accused fails to appear in response to the penal summons without an excuse known to and deemed adequate by the court named therein, a warrant shall be issued. (Code 1966, § 450; Code 1970, tit. 12, § 56.)

Policy concerning issuance of penal summons in place of warrant of arrest. — Courts and officials authorized to issue warrants have an obligation to give effect to the policy that in the case of offenses punishable by not more than one hundred dollars fine or six months' imprisonment or both, a penal summons shall be issued in place of a warrant of arrest unless there is special reason to believe that the public interest requires arrest. Eram v. Trust Territory, 3 TTR 442 (1968).
§ 57. Execution of warrants and service of penal summons. — A warrant of arrest shall be executed or the penal summons served by a policeman or by a person specifically authorized in the warrant or summons to execute or serve it. The warrant may be executed or the summons served at any place within the jurisdiction of the Trust Territory. A penal summons shall be served upon the accused by delivering a copy to him personally and orally explaining the substance thereof to him in a language generally understood in the locality and, if practicable, in one understood by the accused, or by leaving it at his dwelling house or usual place of abode or of business with some person of suitable age and discretion then residing or employed therein and orally explaining the substance thereof. (Code 1966, § 451; Code 1970, tit. 12, § 57.)

§ 58. Return of service. — (1) The person executing a warrant shall endorse thereon and sign a statement of the arrest showing the date and place of arrest and shall have such warrant delivered to the court or official before whom the accused is brought pursuant to section 67 of this chapter, or to the court named in the warrant if the accused is released on bail or personal recognizance before being brought before a court or official.

(2) At or before the time stated in a penal summons for appearance of the accused, the person to whom a penal summons is delivered for service shall endorse and sign a report of his action thereon and have such summons delivered to the court named therein. If he has served the summons, his report shall show the date, place, and method of service. (Code 1966, § 452; Code 1970, tit. 12, § 58.)

Editor's note. — As enacted, this section contains a reference to "section 217 of this chapter," for which the editor substituted "section 67 of this chapter" as that seemed to be the section intended.

§ 59. Issuance of oral order in lieu of warrant or penal summons by community court. — (1) A community court or any judge thereof may, if the court or judge deems the public interest so requires, issue an oral order in place of either a warrant of arrest or a penal summons, which shall have the same force and effect within the territorial jurisdiction of that court as a warrant or penal summons.

(2) Such an oral order may be served by orally communicating the substance thereof to the accused and the report of execution or service of such an order may be made orally.

(3) Any person making an arrest on an oral order or serving such an order in place of a penal summons shall report all the essential facts to the court or official before whom the accused is brought or ordered to appear.

(4) Any person by going to trial before a community court without requesting a copy of the charges against him thereby waives his right to have a copy in advance of trial in that court, but he does not thereby waive his right to such copy before trial in a district court in the event of an appeal. (Code 1966, § 453; Code 1970, tit. 12, § 59.)

§ 60. Issuance of warrant or penal summons on information. — The Attorney General or a district attorney may file an information signed by him in any court competent to try the accused for a criminal offense or offenses charged therein. If the information states the essential facts constituting a criminal offense or offenses by one or more persons named or described therein and is supported by one or more written statements under oath showing to the satisfaction of the court that there is probable cause to believe or strongly suspect that the offense complained of has been committed by such person or person, the court shall, upon request of the Attorney General or district
§ 64. **Arrested person to be informed of cause and authority of arrest.** — (1) Any person making an arrest shall, at or before the time of arrest, make every reasonable effort to advise the person arrested as to the cause and authority of the arrest.

(2) A policeman making an arrest by virtue of a warrant need not have the warrant in his possession at the time of the arrest, but, after the arrest, the attorney, issue its warrant or penal summons as upon a complaint. (Code 1966, § 454; Code 1970, tit. 12, § 60.)


§ 61. **AUTHORITY TO ARREST WITHOUT WARRANT.** — Arrest without a warrant is authorized in the following situations:

1. Where a breach of the peace or other criminal offense has been committed, and the offender shall endeavor to escape, he may be arrested by virtue of an oral order of any official authorized to issue a warrant, or without such order if no such official be present.
2. Anyone in the act of committing a criminal offense may be arrested by any person present, without a warrant.
3. When a criminal offense has been committed, and a policeman has reasonable ground to believe that the person to be arrested has committed it, such policeman may arrest the person without a warrant.
4. Policemen, even in cases where it is not certain that a criminal offense has been committed, may, without a warrant, arrest and detain for examination persons who may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit a felony. (Code 1966, § 457; Code 1970, tit. 12, § 61.)

Arrest without warrant. — This section authorizes an arrest without a warrant by a policeman who has "reasonable grounds" to believe a criminal offense has been committed. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

When an informant has advised the arresting officer that defendant was involved in a crime, this is sufficient to allow an arrest to be made without a warrant. In re Santos (App. Div., June, 1978).

Written statement from defendant at time of arrest. — Even if defendant is detained beyond the 24-hour period from the time of the arrest in violation of the statute, where defendant at the time of his arrest made a written statement admitting his involvement in the alleged break-in, statements adduced from his arrest were not improperly taken. In re Santos (App. Div., June, 1978).


Admission of exhibits which by themselves warrant guilty verdicts. — Code provisions justified admission of exhibits which by themselves, as distinguished from corroboration of the admission of the accused, were sufficient to warrant guilty verdicts on the information. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

§ 62. **USE OF CITATIONS.** — A policeman in any case in which he may lawfully arrest a person without a warrant, may, subject to such limitations as his superiors may impose, issue and serve a citation upon the person instead of making an arrest, if he deems that the public interest does not require an arrest. (Code 1966, § 455; Code 1970, tit. 12, § 62.)

§ 63. **COMPLAINTS IN CASES OF ARREST WITHOUT WARRANT.** — When a person arrested without a warrant is brought before a court or official authorized to issue a warrant, a complaint shall be made against him forthwith, if that has not already been done. (Code 1966, § 465; Code 1970, tit. 12, § 63.)
person arrested may request to see the warrant, and that shall be shown to him as soon as possible. (Code 1966, § 458; Code 1970, tit. 12, § 64."


§ 65. Use of force in making arrest. — In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel submission. (Code 1966, § 459; Code 1970, tit. 12, § 65.)

§ 66. Disposition of persons arrested by private persons. — Any private person making an arrest shall deliver the arrested person to a policeman or an official authorized to issue a warrant without unnecessary delay and shall explain the cause of the arrest. Except where transportation difficulties are involved, or neither a policeman nor an official authorized to issue a warrant can be located promptly, such delay should not extend beyond a few hours during the daytime or early evening nor beyond ten o'clock on the following morning in the case of persons arrested during the nighttime. (Code 1966, § 462; Code 1970, tit. 12, § 66.)

§ 67. Disposition of arrested persons by policeman. — Persons arrested by a policeman, except under subsection (4), section 61 of this chapter, or delivered to him after arrest by a private person, shall be brought without unnecessary delay before a court competent to try the offender for the criminal offense charged, subject to the following:

(1) If bail has been fixed, it shall be accepted and the arrested person released to appear in accordance with all orders of the court named in the warrant or any court to which the case may be transferred. Reasonable opportunity to raise bail shall be afforded by permitting the person arrested to send a message or messages through a policeman or other persons by telephone, cable, wireless, messenger, or other expeditious means, to any person likely to assist in securing bail; provided, that such message can be sent without expense to the government or that the arrested person prepays any expense there may be to the government.

(2) If it appears that it will not be practicable to bring the arrested person promptly before a court competent to try him for the offense charged, and he has not been released on bail or personal recognizance, he shall be brought before an official authorized to issue a warrant without unnecessary delay. This official shall commit the arrested person, discharge him, or release him on bail or personal recognizance as provided in this title. Whenever a judge of a district court is available, the arrested person shall be brought before such a judge in preference to any other official authorized to issue a warrant. (Code 1966, § 463; Code 1970, tit. 12, § 67.)

Effect of determination of probable cause. — The purpose of section is to determine whether or not possible cause exists and, if it does not, to assure the prompt dismissal of charges against the accused person. Sonoda v. Trust Territory (App. Div., November, 1976).

Right of accused who is detained to a preliminary hearing. — If no justice of the high court is present at the place set for trial and if the person accused is actually detained or otherwise in a position where his liberty is substantially restrained, then he is entitled to a prompt determination as to whether or not there is probable cause that he is guilty of the crime with which he is charged. This is accomplished through a preliminary hearing which then becomes a matter of right. Sonoda v. Trust Territory (App. Div., November, 1976).

If a justice is physically present, preliminary hearing is in discretion of high court. — In recognition that a certain district
may be without the presence of a justice of the high court for extended periods of time, provision is made to protect the substantial rights of the person accused. Preliminary hearings are utilized to safeguard such rights. However, where a justice of the high court is physically present at the place set for trial the reason for utilization of a preliminary hearing ceases, for the presence of the justice of the high court will assure a speedy trial, and any substantial rights of the person accused that might otherwise be in jeopardy can be protected by the high court. Where a justice of the high court is physically present at the place set for trial a preliminary hearing is not a matter of right, it is a matter of discretion that rests with the trial division of the high court. (Sonoda v. Trust Territory (App. Div., November, 1976).

§ 68. Rights of persons arrested. — (1) In any case of arrest, or arrest for examination, as provided in subsection (4), section 61 of this chapter, it shall be unlawful:

(a) To deny to the person so arrested the right to see at reasonable intervals, and for a reasonable time at the place of his detention, counsel, or members of his family, or his employer, or a representative of his employer;

(b) To refuse or fail to make a reasonable effort to send a message by telephone, cable, wireless, messenger or other expeditious means, to any person mentioned in subsection (1) of this section, provided the arrested person so requests and such message can be sent without expense to the government or the arrested person prepays any expense there may be to the government;

(c) To fail either to release or charge such arrested person with a criminal offense within a reasonable time, which under no circumstances shall exceed twenty-four hours;

(d) For those having custody of one arrested, before questioning him about his participation in any crime, to fail to inform him of his rights and their obligations under subsections (a) — (c) of this section.

(2) In addition, any person arrested shall be advised as follows:

(a) That the individual has a right to remain silent;

(b) That the police will, if the individual so requests, endeavor to call counsel to the place of detention and allow the individual to confer with counsel there before he is questioned further, and allow him to have counsel present while he is questioned by the police if he so desires; and

(c) That the services of the public defender, when in the vicinity of his local representative, are available for these purposes without charge. (Code 1966, § 464; Code 1970, tit. 12, § 68.)

Cross reference. — Due process of law, see 1 TTC 4.

Confession inadmissible where induced after prolonged detention. — Under interim regulation no. 2-51, if person is deliberately held in custody for four days and thereby induced to make a confession of crime on the fourth day and is not charged with any criminal offense until the fifth day, confession is clearly involuntary and inadmissible. Haruo v. Trust Territory, 1 TTR 565 (App. Div. 1952).

Requirement that suspect be charged within 48 hours of detention. — Under interim regulation no. 2-51 a person arrested for examination may lawfully be held only 48 hours without being charged with a criminal offense. Any evidence obtained in violation of this regulation is inadmissible. Haruo v. Trust Territory, 1 TTR 566 (App. Div. 1952).

Meaning of "charge". — The meaning of "charge" in this section is interpreted in the sense that the accused is informed of the accusation to be made against him and not that a complaint or formal written information has been filed with the court. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Charge which informs accused that he would be accused in formal proceeding is sufficient. — The charge brought against the accused in question, informing him he would be accused in a formal proceeding with violation of two sections of this Code, was sufficient compliance with section 464 under the circumstances even though it was not a literal compliance with the statute. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Section 464 imposed no obligation to inform arrested person of rights. — Section 464 of this Code relating to rights of persons arrested for examination imposed no express obligation on anyone to inform the arrested person of his rights under the section. Trust Territory v. Poll, 3 TTR 387 (1968).
Right to counsel construed. — The Escobedo decision established that as far as state courts in the United States are concerned the right to counsel extends to those in custody on suspicion and not yet charged with a specific crime and that statements obtained from them after their request to consult counsel had been disregarded or denied by the police cannot be admitted in evidence against them. Trust Territory v. Poll, 3 TTR 387 (1968).

U.S. Supreme Court decision not considered. — In recognizing Trust Territory realities, court will not consider recent United States Supreme Court decision (Escobedo v. Illinois) on exclusion of confessions as evidence in criminal proceedings. Meyer v. Trust Territory, 3 TTR 586 (App. Div. 1965).

Custodial interrogation requirements. — The Miranda decision concerning "custodial interrogation" requires that prior to any questioning the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has right to the presence of an attorney, either retained or appointed, however, the person may waive those rights provided the waiver is made voluntarily, knowingly and intelligently. Trust Territory v. Poll, 3 TTR 387 (1968).

Right to remain silent until consultation with attorney not waived by prior statements or answers to questions. — Under the Miranda decision the mere fact that an accused person may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned. Trust Territory v. Poll, 3 TTR 387 (1968).

Need to inform accused that if he is indigent he can have an attorney appointed. — Under the Miranda decision it is necessary to warn an accused person not only that he has a right to consult with an attorney but also that if he is indigent a lawyer will be appointed to represent him. Trust Territory v. Poll, 3 TTR 387 (1968).

Test for Miranda-type situations is whether constitutionally required warning was given. — Situations to which Miranda applies are governed not by the general test of voluntariness but rather by the more precise test of whether the constitutionally required warning was given and, if given, whether voluntarily waived. Trust Territory v. Sokau, 4 TTR 434 (1969).

No federal equivalent of 48 hours for examination. — There is no equivalent in the federal system of the arrest for examination for 48 hours permitted by this Code. Trust Territory v. Poll, 3 TTR 387 (1968).

Court will apply traditional standards until prosecuting authorities have reasonable notice of opinion changing standard. — Court would apply traditional standards regarding right to counsel in the case of all confessions or admissions obtained by the police from persons in the Trust Territory until prosecuting authorities had reasonable notice of opinion changing standard. Trust Territory v. Poll, 3 TTR 387 (1968).

Confession not inadmissible because accused was in custody or because of illegal detention after confession. — The mere fact that an accused was in custody of the police when he made his confession does not make it inadmissible; or does any illegal detention there may have been after the confession was given make it inadmissible. Eram v. Trust Territory, 3 TTR 442 (1968).

Requirement that accused be informed of nature of formal criminal complaint within reasonable time. — The statutory provision requiring that a person arrested shall be charged or released within 24 hours of his arrest means that he shall be informed of the nature of the formal criminal complaint to be brought against him "within reasonable time," such time being as soon as circumstances permit making a formal written complaint and bringing the accused before a committing judge or official. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Unlawfulness of detention bears on admissibility of statement. — The unlawfulness, or unlawfulness, of the detention of an accused person beyond a 24-hour period without a formal complaint before a court may be one of the circumstances bearing on the admissibility of any incriminating statement the accused may have made during his detention. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Statement within 24 hours of arrest. — A statement made within 24 hours of the time of arrest may be considered voluntarily made, assuming the accused is fully apprised of his rights. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Statement made after 24 hours detention. — A statement made after more than 24 hours' detention without charge is suspect, is prima facie obtained by coercion, subject, always, however, to the entitlement of the prosecutor to negative coercion by an appropriate showing. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Detention after statement made within 24 hours does not render statement inadmissible. — Where accused's incriminating statement was made within 24 hours of his arrest the detention beyond that period did not constitute coercion sufficient to create an involuntary, and therefore

**Police detention, even after inquiry, is an arrest.** — Police detention is an arrest, even though inquiry is only being made to determine whether a charge should be filed. Trust Territory v. Remengesau, 6 TTR 94 (1972).

**Police not obligated to persuade accused to have counsel.** — Neither the cases nor the statute obligate the police to persuade an accused that he needs counsel. Trust Territory v. Sokau, 4 TTR 434 (1969).

**Confession made before police persuaded accused to have counsel.** — Where the confession was made before the police persuaded the accused he needed counsel, it was admissible. Trust Territory v. Sokau, 4 TTR 434 (1969).

**Where attorney is requested prior to questioning, waiver is impossible.** — Where there is a request for an attorney prior to any questioning, a finding of knowing and intelligent waiver of the right to an attorney is impossible. Trust Territory v. Sokau, 44 TTR 434 (1969).

**Indigents’ right to counsel on appeal.** — Statutes allowing indigents free counsel at trial should not be read to impliedly bar free counsel for an appeal, and under the bill of rights of this Code an indigent has the right to free counsel for an appeal. In re Application of Matagolai, 6 TTR 577 (1974).

**Statements made after request for counsel not admissible despite previous waiver.** — Statements made after a knowing and intelligent waiver of counsel are admissible. However, when the accused changes his mind and requests counsel, any statement he makes thereafter is not admissible until consultation with counsel. Trust Territory v. Sokau, 4 TTR 434 (1969).

**Admissions made after accused has been advised of rights.** — The admissions of the accused could have been received in evidence if there had been a showing they were voluntarily made after the warnings to the accused had been given as required by this section. Ridep v. Trust Territory, 5 TTR 61 (1970).

**Police questions as to source of counterfeit bill before Miranda warning is given.** — It was improper for police to ask arrested person who gave her counterfeit bill before they gave her a Miranda warning. Trust Territory v. Remengesau, 6 TTR 94 (1972).

**§ 69. Effect of irregularities in issuance of warrant of arrest.** — The proceedings before a court or an official authorized to issue a warrant of arrest shall not be invalidated, nor any finding, order, or sentence set aside, for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise it shall appear that the error or omission has prejudiced the accused. (Code 1966, § 497; Code 1970, tit. 12, § 69.)

**Purpose of statute.** — Trust Territory statute providing that criminal conviction will be reversed only where injustice to accused results from error committed during proceedings, is designed to afford full protection to accused and prevent guilty from escaping punishments. Willianter v. Trust Territory, 3 TTR 227 (1966).

**Trial court error will not be set aside unless it results in injustice to accused.** — Finding of trial court will not be set aside for error or omission occurring during proceedings unless appellate court determines error has resulted in injustice to accused. Willianter v. Trust Territory, 3 TTR 227 (1966).

**Criminal proceedings before trial court will not be invalidated by appellate court for error or omission occurring in such proceedings unless error or omission results in injustice to accused.** Ropon v. Trust Territory, 2 TTR 313 (1962).

**Only those errors or omissions resulting in injustice to accused in criminal proceedings are grounds for reversal or invalidation of any court order, finding or sentence.** Yimmed v. Trust Territory, 2 TTR 492 (1963).

**Illegal arrest must prejudice arrested person to constitute reversible error.** — Under this section there was no reversible error where illegal arrest without a warrant did not prejudice arrested persons. Henry v. Trust Territory, 6 TTR 78 (1972).

**Order resulting in technical irregularity does not injure accused.** — District courts’ ordering item forfeited to Trust Territory was a "technical irregularity" that resulted in a fine in the amount of the sale proceeds of the seized item rather than the specified sum allowed by law and as such irregularity did not result in injury to accused, order would be affirmed. Trust Territory v. Hartman, 5 TTR 226 (1970).

**Where information improperly obtained cannot contribute to conviction it is not fruit of poisonous tree.** — The name of a person who may be a witness or even who becomes a defendant is not evidence subject to suppression as fruit from a poisonous tree, for such information, though improperly obtained in absence of a Miranda warning, is at most harmless error because there is no possibility.
§ 70. Effect of violation of title. — No violation of the provisions of this title shall in and of itself entitle an accused to an acquittal, but no evidence obtained as a result of such violation shall be admissible against the accused; provided, that any person detained in custody in violation of any provision of this title may, upon motion by any person in his behalf, and after such notice as the court may order, be released from custody by the court named in the warrant, or before which he has been held to answer. The release shall be upon such terms as the court may deem law and justice require. The relief authorized by this section shall be in addition to, and shall not bar, all forms of relief to which the arrested person may be entitled by law. (Code 1966, §§ 498 and 499; Code 1970, tit. 12, § 70.)


Violation of title does not by itself entitle accused to acquittal. — No violation of the provisions in this title, including provisions for a motion to suppress, will and of itself entitle an accused to an acquittal. Trust Territory v. Techur, 5 TTR 212 (1970).

No violation of provisions in this title, including failure to give notice to accused, will and of itself entitle accused to acquittal in criminal proceedings in the Trust Territory. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Violation of certain sections of this Code by constabulary does not mean accused must be acquitted or that any evidence obtained thereafter during detention must be excluded. Fontana v. Trust Territory, 2 TTR 616 (App. Div. 1959).

Failure to give accused copy of complaint only entitles him to continuance. — Where accused is not given copy of complaint or is given copy while drunk, he is only entitled to continuance until he receives copy and has time to prepare for trial. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Failure to give bail receipt does not bear on defendant's guilt. — Since purpose of giving bail receipt is to protect against possible loss or misappropriation of bail, failure to do so has no bearing whatever on defendant's guilt. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Confession obtained while under illegal detention. A confession obtained while a defendant was under illegal detention because, after his arrest on a warrant, he was not brought without unnecessary delay before a court or official authorized to issue a warrant as required by section 67 of this title would be inadmissible under the doctrine of McNabb v. United States. Eram v. Trust Territory, 3 TTR 442 (1968).
§ 101. Searches and seizures in connection with arrests. — (1) Every person making an arrest may take from the person arrested all offensive weapons which he may have about his person and may also search the person arrested and the premises where the arrest is made, so far as the premises are controlled by the person arrested, for the instruments, fruits, and evidences of the criminal offense for which the arrest is made, and, if found, seize them.

(2) Any property taken or seized shall be promptly delivered to a policeman or an official authorized to issue a warrant, to be disposed of according to law.

(3) No search warrant shall be required for the actions authorized by this section. (Code 1966, § 460; Code 1970, tit. 12, § 101.)


Admission of exhibits sufficient to warrant guilty verdicts by themselves. — Code provisions justified admission of exhibits which by themselves, as distinguished from corroboration of the admission of the accused, were sufficient to warrant guilty verdicts on the information. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

§ 102. Forcing entrance to make arrest. — Whenever it is necessary to enter a building or ship to make an arrest and entrance is refused, any person making an arrest for a felony committed in his presence or a policeman making an arrest may force an entrance. Before breaking any door or other barrier, he shall first demand entrance in a loud voice and state that he desires to execute a warrant of arrest or an oral order in place of a warrant, or, if it is a case in which arrest is lawful without a warrant, he must substantially state that information in a loud voice. Whenever practicable, this demand and statement shall be made in a language generally understood in the locality. (Code 1966, § 461; Code 1970, tit. 12, § 102.)

§ 103. Authority to issue a search warrant. — The following officials are authorized to issue a search warrant:
(1) Any court;  
(2) Any judge;  
(3) The clerk of courts for a district subject to such limitations as the chief justice of the high court may impose;  
(4) Any other person authorized in writing by the High Commissioner provided a certified copy of such authorization is filed with the clerk of courts for the district in which he acts. (Code 1966, § 446; Code 1970, tit. 12, § 103.)

§ 104. Property for which search warrant may be issued. — (1) Except where otherwise expressly authorized by law, search warrants shall be issued only to search for and seize the following:  
(a) Property the possession of which is prohibited by law; or  
(b) Property stolen or taken under false pretenses or embezzled or found and fraudulently appropriated; or  
(c) Forged instruments in writing, or counterfeit coin intended to be passed or instruments or materials prepared for making them; or  
(d) Arms or munitions prepared for the purpose of insurrection or riot; or  
(e) Property necessary to be produced as evidence or otherwise on the trial of anyone accused of a criminal offense; or  
(f) Property designed or intended for use as, or which is, or has been used as, the means of committing a criminal offense.  
(2) The term “property” as used herein includes documents, books, papers and any other tangible objects. (Code 1966, § 477; Code 1970, tit. 12, § 104.)

§ 105. Procedure for issuance of search warrants. — Anyone desiring the issuance of a search warrant shall personally appear and make application therefor under oath, within the district where the property sought is alleged to be, before an official authorized to issue a warrant. The application shall set forth the grounds for issuing the warrant and may be supported by statements of others made under oath before the official. The application and statements may be either written or oral, but, whenever the official hearing the application deems practicable, they shall be reduced to writing, signed by the person or persons making them, and bear a record of the oath signed by the person who administered it. If the official hearing the application is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a search warrant identifying the property and naming or describing the person or place to be searched, except that any official other than a judge of a district court may refuse to act if he deems that the public interest does not require action before the matter can reasonably be presented to a judge of a district court. (Code 1966, § 478; Code 1970, tit. 12, § 105.)

§ 106. Contents of search warrant. — A search warrant shall command a policeman to search forthwith the person or place named, for the property specified. The warrant shall direct that it be served in the daytime, except that, if the statements under oath in support of the application are positive that the property is on the person or in the place to be searched, the warrant may, at the discretion of the official issuing it, direct that it be served at any time. It shall designate some official authorized to issue a warrant, to whom it shall be returned, and, whenever consistent with the reasonable expeditious handling of the matter, the official so designated shall be a judge of a district court. It shall designate the time within which it may be executed and returned. This time shall not exceed ten days, plus whatever time the official issuing the warrant determines will be reasonably required for the policeman to travel to the point where the search is to be made and to return such warrant to the appropriate official. (Code 1966, § 479; Code 1970, tit. 12, § 106.)
§ 107. Execution of search warrant and return with inventory. — The policeman taking property under a search warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken, or shall leave the copy and receipt at the place from which the property was taken. The policeman executing a search warrant shall promptly, upon completion of his search, endorse upon the warrant and sign a brief statement of the action he has taken pursuant to the warrant, showing the date on which the search was made, the person or place searched, the person to whom he gave a copy of the warrant and a receipt for the property taken, or the place where he left the copy and receipt. He shall then deliver the warrant, accompanied by a written inventory of any property taken, and the property seized, to the official before whom the warrant is returnable. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken, and shall be verified by a statement signed and sworn to by the policeman to the effect that the inventory is a true account of all property taken by him under the warrant. The official before whom a search warrant is returned shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant. (Code 1966, § 480; Code 1970, tit. 12, § 107.)

§ 108. Hearing upon return of search warrant. — If the grounds on which the warrant was issued are controverted, the official to whom a search warrant is returned shall proceed to take testimony in relation thereto, and the testimony of each witness shall be reduced to writing and subscribed by the witness. If it appears that the property taken is not the same as that described in the warrant or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the official must cause the property to be restored to the person from whom it was taken; but if it appears that the property taken is the same as that described in the warrant and that there is probable cause for believing the existence of the grounds on which the warrant was issued, then the official shall order the same retained in the custody of the person seizing it or otherwise disposed of according to law. (Code 1966, § 481; Code 1970, tit. 12, § 108.)

§ 109. Filing of search warrant and accompanying papers. — The official to whom a search warrant is returned shall attach to the warrant the inventory and all other papers in connection therewith, including any order made as to the disposition of the property seized, and shall file such documents with the clerk of courts for the district in which the property was seized. (Code 1966, § 482; Code 1970, tit. 12, § 109.)

§ 110. Oral order in lieu of search warrant. — (1) A community court or any judge thereof may, if the public interest so requires, issue an oral order in place of a search warrant. Such oral order shall have the same force and effect within the territorial jurisdiction of that court as a search warrant and shall be returnable before the issuing court or judge.

(2) An oral order in place of a search warrant may be orally communicated to the person from whom or from whose premises the property is taken, and no inventory shall be required in such case, but the property seized shall be brought promptly before the court or judge issuing the order, and the policeman executing it may orally report his actions thereon.

(3) The court or judge shall, upon request, allow the applicant for the order and the person from whom or from whose premises the property was taken to view the property taken, and shall report all actions in the matter to the clerk of courts for the district as soon as possible.
§ 111. Entering building or ship to execute search warrant. — If a building or ship or any part thereof is designated as the place to be searched, the policeman executing the warrant or oral order in place of a warrant may enter without demanding permission if he finds the building or ship open. If the building or ship be closed, he shall first demand entrance in a loud voice and state that he desires to execute a search warrant or an oral order in place thereof as the case may be. If the doors, gates, or other bars to the entrance be not immediately opened, he may force an entrance, by breaking them if necessary. Having entered, he may demand that any other part of the building or ship, or any closet, or other closed space within the place designated in the search warrant in which he has reason to believe the property is concealed, be opened for his inspection, and, if refused, he may break them. Whenever practicable these demands and statements shall be made in a language generally understood in the locality. (Code 1966, § 484; Code 1970, tit. 12, § 111.)

§ 112. Motion for return of property and to suppress evidence. — A person aggrieved by an unlawful search and seizure may move the trial division of the high court or a district court in the district in which the property was seized for the return of the property and to suppress for use as evidence anything so obtained. The motion to suppress evidence may also be made in the court where the trial is to be held and in which the evidence is sought to be used. The motion shall be made before trial or hearing unless opportunity therefor did not exist before trial or hearing or the accused was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the trial or hearing. Upon such motion the court shall review any order previously made by the official before whom any search warrant, or oral order in place thereof, was returned, and shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention and it shall not be admissible in evidence at any hearing or trial. (Code 1966, § 485; Code 1970, tit. 12, § 112.)

Discretion of trial court to suppress evidence obtained by illegal search and seizure. — Trial court in criminal prosecution has discretion to refuse to entertain motion to suppress evidence obtained by illegal search and seizure when motion is presented at trial. Nichig v. Trust Territory, 1 TTR 572 (App. Div. 1953).

Motion for return of property and suppression of its use as evidence. — Person aggrieved by illegal search and seizure may move for return of property and to suppress its use as evidence, but such motion must be made before trial unless opportunity therefor did not exist or accused was not aware of grounds for motion, except that court, in its discretion, may entertain motion at trial or hearing. Nichig v. Trust Territory, 1 TTR 572 (App. Div. 1953).

"Pause" to consider motion to suppress. — Court could properly "pause" to consider motion to suppress raised during trial. Trust Territory v. Techur, 5 TTR 212 (1970).

Rule requiring that motion to suppress be brought prior to trial is only procedural. — The rule that a motion to suppress must be brought prior to the trial is only a rule of procedure and therefore it is not to be applied as hard and fast formula to every case. Trust Territory v. Techur, 5 TTR 212 (1970).

Violation of title does not by itself entitle accused to acquittal. — No violation of the provisions in this title including provisions for a motion to suppress, will in and of itself entitle an accused to an acquittal. Trust Territory v. Techur, 5 TTR 212 (1970).

§ 113. Sale of perishable property. — Seized property which is perishable may be ordered sold and the proceeds brought into court. (Code 1966, § 490; Code 1970, tit. 12, § 113.)
§ 114. Effect of irregularities in proceedings to issue search warrant. — The proceedings before a court or an official authorized to issue a search warrant shall not be invalidated, nor any finding, order, or sentence set aside for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise it shall appear that the error or omission has prejudiced the accused. (Code 1966, § 497; Code 1970, tit. 12, § 114.)

Error resulting in injustice to accused. — It is duty of court on appeal not to set aside any finding, order or sentence for any error or omission unless error or omission has resulted in injustice to accused. Flores v. Trust Territory, 1 TTR 377 (1958).

Court order which constitutes a technical irregularity will be affirmed. — District court ordering item forfeited to Trust Territory was a "technical irregularity" that resulted in a fine in the amount of the sale proceeds of the seized item rather than the specified sum allowed by law and, as such irregularity did not result in injury to accused, order would be affirmed. Trust Territory v. Hartman, 5 TTR 226 (1970).

Violation of title does not by itself entitle accused to acquittal. — No violation of the provisions in this title including provisions for a motion to suppress, will in and of itself entitle an accused to an acquittal. Trust Territory v. Techur, 5 TTR 212 (1970).
CHAPTER 4.

RIGHTS OF DEFENDANTS.

Sec.
151. Enumerated.

§ 151. Enumerated. — Every defendant in a criminal case before a court of the Trust Territory shall be entitled:

(1) To have in advance of trial a copy of the charge upon which he is to be tried;

(2) To consult counsel before the trial and to have an attorney at law or other representative of his own choosing defend him at the trial;

(3) To apply to the court for further time to prepare his defense, which the court shall grant if it is satisfied that the defendant will otherwise be substantially prejudiced in his defense;

(4) To bring with him to the trial such material witnesses as he may desire or to have them summoned by the court at his request;

(5) To give evidence on his own behalf at his own request at the trial, although he may not be compelled to do so;

(6) To have proceedings interpreted for his benefit when he is unable to understand them otherwise; and

(7) To request the appointment of an assessor in trials before the trial division of the high court in the event that one has not been appointed by the trial judge under the provisions of section 353, chapter 5, title 5 of this Code.

(Code 1966, § 187; Code 1970, tit. 12, § 151.)

Cross references. — Due process of law, 1 TTC 4.
Rights of persons arrested, 12 TTC 68.
When defendant may testify. — Defendant in criminal proceedings may testify at any time when testimony for defense is being received. Rungun v. Trust Territory, 1 TTR 601 (App. Div. 1957).

Indigent's right to counsel on appeal. — Statutes allowing indigents free counsel at trial should not be read to impliedly bar free counsel for an appeal, and under the Bill of Rights of this Code an indigent has the right to free counsel for an appeal. In re Application of Matagolai, 6 TTR 577 (1974).
§ 201. Name in which prosecution conducted. — All criminal prosecutions shall be conducted in the name of the "Trust Territory of the Pacific Islands." (Code 1966, § 486; Code 1970, tit. 12, § 201.)

§ 202. Duties of official at preliminary hearing. — When an arrested person is brought before an official authorized to issue a warrant but such official is not competent to try the arrested person for the offense charged, the official shall:

1. Inform the arrested person of the charge or charges;
2. Inform the arrested person of his right to retain counsel and of his right to be released on bail as provided by law, and allow him reasonable time and opportunity to consult counsel, if desired;
3. Inform the arrested person of his right to have a preliminary examination, and of his right to waive the examination and the consequences of such waiver;
4. Inform the arrested person that he is not required to make a statement and that any statement that he does make may be used against him; and
5. Fix the amount of bail as provided by law if the arrested person so requests or alter the bail previously set if the official deems best. (Code 1966, § 466(a); Code 1970, tit. 12, § 202.)

Denial of preliminary examination not proper basis for habeas corpus. — There was no right to preliminary examination of arrested person brought before court competent to try him for offense charged, and habeas corpus was properly denied where denial of preliminary examination was alleged as the ground for seeking it. Court thus properly denied motion to dismiss based on alleged denial of right of habeas corpus. Borja v. Trust Territory, 6 TTR 584 (1974).

§ 203. Plea not to be taken. — The arrested person shall not be called upon to plead at the preliminary hearing. (Code 1966, § 466(b); Code 1970, tit. 12, § 203.)

§ 204. Pre-trial procedure. — (1) If the arrested person does not waive preliminary examination, the official shall hear the evidence within a reasonable time.

(2) A reasonable continuance shall be granted at the request of the arrested person or the prosecution to permit preparation of evidence. The arrested person has the right to be released on bail as provided by law during the period of a continuance.
(3) The arrested person may cross-examine witnesses against him and may introduce evidence in his own behalf.

(4) If the arrested person waives preliminary examination, or if from the evidence it appears to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall forthwith:
   (a) Hold the arrested person to answer in a court competent to try him for the offense charged;
   (b) Fix, continue, or alter the bail as provided by law; and
   (c) If bail is not provided, or a personal recognizance accepted, commit him to jail to await trial.

(5) If during the preliminary examination it appears to the official that the warrant of arrest, complaint or other statement of the charge or charges does not properly name or describe the person arrested or that although not guilty of the offense specified there is probable cause to believe he has committed some other offense, the official shall not discharge such person but shall forthwith hold him to answer for the offense shown by the evidence.

(6) If the arrested person does not waive preliminary examination and from the evidence it does not appear to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall discharge him. (Code 1966, § 466(c) Code 1970, tit. 12, § 204.)

Denial of preliminary examination not proper basis for habeas corpus. — There was no right to preliminary examination of arrested person brought before court competent to try him for offense charged, and habeas corpus was properly denied where denial of preliminary examination was alleged as the ground for seeking it. Court thus properly denied motion to dismiss based on alleged denial of right of habeas corpus. Borja v. Trust Territory, 6 TTR 584 (1974).

§ 205. Disposition of the record. — After concluding the proceedings, the official shall transmit forthwith to the clerk of courts for the district all papers in the proceedings and any bail taken by him; provided, that when a person has been held to answer in a community court, the papers and any bail taken shall be transmitted to the clerk of the community court. (Code 1966, § 466(d); Code 1970, tit. 12, § 205.)

§ 206. Preliminary examination upon request of person released on bail or personal recognizance. — If it appears it will not be practicable to bring an arrested person promptly before a court as indicated in subsection (2) of section 67 of this title, and he has been released on bail or personal recognizance, he may apply to a judge of a district court, if one is available, otherwise to any official authorized to issue a warrant, and request a preliminary examination. Thereupon the judge or official shall set a time and place for preliminary examination, give the complainant and accused reasonable notice thereof, and proceed as outlined in sections 351-354 of this subchapter. (Code 1966, § 467; Code 1970, tit. 12, § 206.)

Editor's note. — The reference to sections 351-354 is published as enacted.
CHAPTER 6.

Bail.

Sec. 251. Right to bail. - (1) Any person arrested for a criminal offense, other than murder in the first degree, shall be entitled as a matter of right to be released on bail before conviction; provided, however, that no person shall be so released while he is so under the influence of intoxicating liquor or drugs that there is a reasonable ground to believe he will be offensive to the general public.

(2) A person arrested for murder in the first degree may be released on bail by any judge who is authorized to be assigned by the chief justice to sit in the appellate division of the high court; provided, that the district attorney shall be given reasonable opportunity to be heard before any application for bail is granted. (Code 1966, § 468; Code 1970, tit. 12, § 251.)

Effect of bail construed in accordance with American principles. - As matter of bail is well understood in United States and entirely foreign to Micronesian customs, incidents and effect of release on bail must be construed in accordance with American principles. Meyer v. Epsom, 3 TTR 54 (1965).

Mandatory showing of considerations upon which bail decisions are based. - With respect to the factual considerations surrounding any determination of bail, a positive showing, of record, of the factual information and considerations upon which bail decisions are based is mandatory. Marbou v. Termeteet, 5 TTR 655 (1971).

§ 252. Who may fix bail; allowing bail after conviction. - In the case of any person arrested for a criminal offense, other than murder in the first degree, any court or any official authorized to issue a warrant may fix the bail prior to conviction. This may be done at the time of issuing the warrant and endorsed on the warrant or may be done at any time prior to conviction. After conviction bail may be allowed only if a stay of execution of the sentence has been granted and only in the exercise of discretion by a court authorized to order a stay or by a judge thereof. (Code 1966, § 469; Code 1970, tit. 12, § 252.)

Substantial question test for bail pending appeal. - Whether bail should be granted pending appeal depends upon whether there is a substantial question which should be determined by the appellate court. Lino v. Trust Territory, 6 TTR 206 (1972).

§ 253. Notice by police of requests to have bail fixed. - When any arrested person for whom bail has not been fixed, or to whom bail has been once
denied in the case of murder in the first degree, notifies any policeman or jail attendant that he desires to give bail, an official authorized to fix bail shall be promptly notified by the police authorities. The arrested person shall be brought before the official for this purpose if the official so requests. (Code 1966, § 470; Code 1970, tit. 12, § 253.)

§ 254. Amount of bail. — The amount of bail shall be such as, in the judgment of the court or official fixing it, will insure the presence of the accused in the future. The determination of the court or official should take into account the nature and circumstances of the offense charged, the weight of the evidence against him, the financial ability of the accused to give bail and the character of the accused. (Code 1966, § 471; Code 1970, tit. 12, § 254.)

Editor's note. — In the 1970 Code, this section read: "The amount of bail shall be such as, in the judgment of the court or official fixing it, will insure the presence of the accused, having regard to the nature and circumstances of the offense charged, the weight of the evidence against him, the financial ability of the accused to give bail and the character of the accused." The present language was substituted for clarification.

Mandatory showing of considerations upon which bail decisions are based. — With respect to the factual considerations surrounding any determination of bail, a positive showing, of record, of the factual information and considerations upon which bail decisions are based is mandatory. Marbou v. Termuteet, 5 TTR 655 (1971).

§ 255. Form and disposition of bail; sufficiency of sureties. — Cash or bonds or notes of the United States may be accepted as bail. If a bail bond is given, one or more sureties may be required. A person of good standing in the community who is in a position of moral or customary authority over the accused, such as his father, the head of his extended family group, or the chief of his lineage or clan, may be accepted as surety without the disclosure of property by way of justification, if the official taking bail or determining the sufficiency of the surety considers that such surety will reasonably guarantee the appearance of the accused. Otherwise, no surety or sureties are to be accepted unless their combined net worth over and above all just debts and obligations is not less than the amount of the bond. Any surety may be required to furnish proof of his sufficiency, either by his own oath or otherwise. If the official to whom the bail is tendered refuses to accept the surety or sureties offered, the question of their sufficiency shall, at the request of the accused, be referred promptly to a judge for determination. The determination of the judge shall be final. Any bail accepted shall be promptly transmitted to the clerk of courts for the district; provided, that when a person has been released to appear in accordance with the orders of a community court, the bail shall be transmitted to the clerk of the community court. (Code 1966, § 472; Code 1970, tit. 12, § 255.)

Editor's note. — In the 1970 Code, the first sentence read: "One or more sureties may be required on a bail bond, or cash or bonds or notes of the United States may be accepted as bail." This sentence was modified and the present second sentence added for purposes of clarification.

§ 256. Modification of bail. — The court before which a criminal case is pending may, for cause shown, either increase or decrease the bail or require an additional surety or sureties or allow substitution of sureties. If increased bail or an additional surety or sureties is required, the accused may be committed to custody unless he gives bail in the increased amount or furnishes additional surety or sureties as required. (Code 1966, § 473; Code 1970, tit. 12, § 256.)
Motion for modification of bail. — A motion for modification of bail, not habeas corpus, is the proper procedure through which to seek review of a bail determination. Marbou v. Termeteet, 5 TTR 655 (1971).

Trial division of high court must consider request to modify bail. — As the trial division of the high court has discretion to modify a determination of the district court regarding bail, it was an abuse of discretion for the trial division to refuse to consider such matter. Marbou v. Termeteet, 5 TTR 655 (1971).

§ 257. Exoneration and release of bail. — When the condition for which the bail was given has been satisfied, the court shall exonerate the obligors and release any bail. A surety may be exonerated by a deposit of cash in the amount of the bail bond or by a timely surrender of the accused into custody. (Code 1966, § 473; Code 1970, tit. 12, § 257.)

§ 258. Personal recognizance. — In the case of an arrest for any criminal offense, the lawful punishment for which does not exceed a fine of one hundred dollars or six months imprisonment or both, any court or official authorized to fix bail may, in the exercise of discretion, order that the arrested person be released on his personal recognizance in such sum as the court or official may fix, without security, into the custody of a responsible member of the community, provided the arrested person has a usual place of abode or of business or employment in the Trust Territory. (Code 1966, § 475; Code 1970, tit. 12, § 258.)
§ 301. Witness summons. — A witness summons in a proceeding before an official authorized to issue a warrant, who is not a court, may be issued by such an official. Failure by any person without adequate excuse to obey such a witness summons may be deemed a contempt of the district court within whose territorial jurisdiction it was issued. (Code 1966, § 487; Code 1970, tit. 12, § 301.)

§ 302. Detention and release of witness. — (1) Whenever the court has reason to believe that a witness may be intimidated or become unavailable at the trial, he may be detained as a material witness; provided, that no such person shall be detained for a period of more than twenty-one days without a further order being made. A report of such detention shall be made forthwith in the manner provided for the transmission of the record.

(2) A person detained as a material witness shall be entitled to be released as a matter of right upon giving bail for his appearance as witness in an amount fixed by the court ordering the detention or any higher court. The court ordering the detention, or any higher court, may order the witness' release without bail if he has been detained for an unreasonable length of time and may modify at any time the requirement as to bail. (Code 1966, § 488; Code 1970, tit. 12, § 302.)
§ 351. Dismissal by Attorney General or district attorney. — The Attorney General or the district attorney may by leave of court file a dismissal of an information, or complaint, or citation and the prosecution shall thereupon terminate. Such a dismissal may not, however, be filed during the trial without the consent of the accused. (Code 1966, § 491; Code 1970, tit. 12, § 351.)

Federal court decisions applicable in interpreting federal rules of criminal procedure. — This section, relating to dismissal by Attorney General or district attorney, was adopted from Rule 48(a), federal rules of criminal procedure, and thus court may be guided in its interpretation by the decisions of the federal courts. Kap v. Trust Territory, 4 TTR 336 (1969).

Purpose of rule allowing dismissal of an indictment. — The purpose of the rule allowing the Attorney General or district attorney, by leave of court, to file a dismissal of an indictment, is to prevent harassment of a defendant by charging, dismissing and recharging without placing a defendant in jeopardy. Kap v. Trust Territory, 4 TTR 336 (1969).

Where government has valid reason for not proceeding with prosecution. — Where the government has valid reason for electing not to proceed with the prosecution of an action, the government’s motion to dismiss should be granted. Kap v. Trust Territory, 4 TTR 336 (1969).

Dismissal equivalent to nolle prosequi at common law. — A dismissal under this section is the equivalent of the nolle prosequi under common law, since the defendant has not been placed in jeopardy, and does not prohibit the prosecution from filing another information at a later date. Kap v. Trust Territory, 4 TTR 336 (1969).

Court’s function to assess prosecutor’s decision not to proceed. — It should be the function of the court, in determining whether leave to dismiss would be granted, to assure itself that the prosecutor has a valid reason for choosing not to proceed and that his motion to dismiss is not a part of a course of conduct designed to harass the defendant. Kap v. Trust Territory, 4 TTR 336 (1969).

Discretion of court in assessing motion to dismiss by Attorney General. — A motion to dismiss an indictment made by the Attorney General is addressed to the sound judicial discretion of the court, bearing in mind the purpose and intent of the statute, and in exercising that discretion the court should take care that it does not infringe upon the proper exercise of executive discretion. Kap v. Trust Territory, 4 TTR 336 (1969).

Effect of dismissal by court. — A dismissal under section 352 of this title would be a dismissal with prejudice, would prohibit any refiling of the same charge, and would thus fulfill the intent of this section. Kap v. Trust Territory, 4 TTR 336 (1969).

§ 352. Dismissal by court. — If there is unnecessary delay in bringing an accused to trial, the court may dismiss an information, or complaint, or citation. (Code 1966, § 492; Code 1970, tit. 12, § 352.)

Court’s discretion to dismiss. — Court has discretion to dismiss information, complaint or citation if there is unnecessary delay in bringing accused to trial. Trust Territory v. Ogo, 3 TTR 287 (1967).

Effect of dismissal under this section. — A dismissal under this section would be dismissal with prejudice, would prohibit any refiling of the same charge, and would thus fulfill the intent of section 351 of this title. Kap v. Trust Territory, 4 TTR 336 (1969).
§ 401. Insanity at time of offense. — If it is ascertained by the court upon competent medical or other evidence that the accused at the time of committing the offense with which he is charged was so insane as not to know the nature and quality of his act, the court shall record a finding of such fact and may make an order pursuant to section 402 of title 63 of this Code. (Code 1966, § 493; Code 1970, tit. 12, § 401.)

§ 402. Insanity at time of trial. — If the court ascertains that the accused is insane at the time of trial, the court shall adjourn the trial and order the accused to be detained as in section 401 of this chapter. (Code 1966, § 494; Code 1970, tit. 12, § 402.)
CHAPTER 10.

CRIMINAL EXTRADITION.


452. Fugitives from justice; duty of the High Commissioner.

453. Form of demand.

454. Official investigation of demand for extradition.

455. Extradition of person imprisoned or awaiting trial in a state.

456. Extradition of persons who have left demanding state involuntarily.

457. Extradition of persons not present in demanding state at time of commission of crime.

458. High Commissioner's warrant of arrest; issuance; recitals.

459. Same; manner and place of execution.

460. Same; assistance to arresting officer.

461. Same; rights of accused persons; application for writ of habeas corpus.

462. Same; penalty for noncompliance.

463. Same; confinement in jail authorized when necessary.

464. Arrest prior to requisition; by warrant.

465. Same; without a warrant.

466. Same; commitment to await requisition.

467. Bail; when allowed; conditions of bond.

468. Same; discharge, recommitment or renewal.

469. Same; forfeiture.

470. Persons under criminal prosecution in the Trust Territory at time of requisition.

471. Inquiry into guilt or innocence of accused.

472. High Commissioner may recall warrant or issue additional warrant.

473. Fugitives from the Trust Territory; issuance of warrant to receive and convey.

474. Same; applications for requisition; return of person charged with crime.

475. Same; same; escaped convict.

476. Same; same; form of applications; copies, etc.

477. Same; costs and expenses.

478. Immunity from service of process in certain civil actions.

479. Waiver of extradition proceedings.

480. Procedures of chapter not deemed waiver of Trust Territory's rights.

481. Immunity from other criminal prosecutions while in the Trust Territory.

§ 451. Definitions. — Where appearing in this chapter:

(1) **High Commissioner.** The term "High Commissioner" includes any person performing the functions of the High Commissioner by authority of the law of the Trust Territory;

(2) **Executive authority.** The term "executive authority" includes the governor, and any person performing the functions of governor in any state, territory or possession of the United States of America;

(3) **State.** The term "state" refers to any state of the United States of America, its territories and possessions, organized or unorganized, including the District of Columbia, Virgin Islands, Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa and Guam. (Code 1970, tit. 12, § 451; P.L. No. 7-4, § 1.)

§ 452. Fugitives from justice; duty of the High Commissioner. — Subject to the provisions of this chapter the High Commissioner shall have arrested and delivered up to the executive authority of any state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in the Trust Territory. (Code 1970, tit. 12, § 452.)

§ 453. Form of demand. — (1) No demand for the extradition of a person charged with or convicted of crime in a state shall be recognized by the High Commissioner unless in writing alleging, except in cases arising under section 457 of this chapter, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from such state. Such demand shall be accompanied by:

(a) A copy of an indictment found;
(b) A copy of an information supported by an affidavit filed in the state having jurisdiction of the crime;

(c) A copy of an affidavit made before a magistrate in such state together with a copy of any warrant which was issued thereon; or

(d) A copy of a judgment of conviction or of a sentence imposed in execution thereof together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole.

(2) The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth. (Code 1970, tit. 12, § 453.)

§ 454. Official investigation of demand for extradition. — When a demand shall be made upon the High Commissioner by the executive authority of a state for the surrender of a person charged with or convicted of a crime the High Commissioner may call upon the Attorney General or any prosecuting officer in the Trust Territory to investigate or assist in investigating the demand and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered. (Code 1970, tit. 12, § 454.)

§ 455. Extradition of person imprisoned or awaiting trial in a state. — When it is desired to have returned to the Trust Territory a person charged in the Trust Territory with a crime and such person is imprisoned or is held under criminal proceedings then pending against him in a state, the High Commissioner may agree with the executive authority of such state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such state, upon condition that such person be returned to such state at the expense of the Trust Territory as soon as the prosecution in the Trust Territory is terminated. (Code 1970, tit. 12, § 455.)

§ 456. Extradition of persons who have left demanding state involuntarily. — The High Commissioner may also surrender on demand of the executive authority of any state any person in the Trust Territory who is charged, in the manner provided in section 474, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily. (Code 1970, tit. 12, § 456.)

§ 457. Extradition of persons not present in demanding state at time of commission of crime. — The High Commissioner may also surrender, on demand of the executive authority of any state, any person in the Trust Territory charged in such state, in the manner provided in section 453 of this chapter, with committing an act in the Trust Territory, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of this chapter not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom. (Code 1970, tit. 12, § 457.)

§ 458. High Commissioner's warrant of arrest; issuance; recitals. — If the High Commissioner decides that a demand for extradition of a person charged with, or convicted of, a crime in a state should be complied with, he shall sign a warrant of arrest, which shall be sealed with the Trust Territory seal, and be directed to the Attorney General, superintendent of public safety, chief of police, or other person whom he may think fit to be entrusted with the
§ 459. Same; manner and place of execution. — Such warrant shall authorize the officer or other person to whom it is directed to arrest the accused at any time and at any place where he may be found within the Trust Territory, and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the demanding state. (Code 1970, tit. 12, § 459.)

§ 460. Same; assistance to arresting officer. — Every officer or other person empowered to make the arrest, as provided in section 459 of this chapter, shall have the same authority in arresting the accused to command assistance therein as the Attorney General, superintendent of public safety, the chief of police and other officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance. (Code 1970, tit. 12, § 460.)

§ 461. Same; rights of accused persons; application for writ of habeas corpus. — No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of the High Court of the Trust Territory, who shall inform him of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the court shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the Attorney General of the Trust Territory and to the agent of the demanding state. (Code 1970, tit. 12, § 461.)

§ 462. Same; penalty for noncompliance. — Any officer who shall deliver a person in his custody under the High Commissioner's warrant to the agent for extradition of the demanding state in disobedience of section 461 of this chapter shall be guilty of a misdemeanor, and on conviction thereof shall be fined not more than one thousand dollars, or be imprisoned not more than six months, or both. (Code 1970, tit. 12, § 462.)

§ 463. Same; confinement in jail authorized when necessary. — The officer or person executing the High Commissioner's warrant of arrest, or the agent of the demanding state to whom the prisoner is to be delivered may, when necessary, confine the prisoner in any jail of the government of the Trust Territory and the warden of such jail shall receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping the prisoner. (Code 1970, tit. 12, § 463.)

§ 464. Arrest prior to requisition; by warrant. — A justice or magistrate shall issue a warrant directed to the Attorney General, superintendent of public safety or chief of police commanding him to apprehend the person named therein wherever he may be found in the Trust Territory and to bring him before the high court to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant whenever:

1. Any person within the Trust Territory shall be charged on the oath of any credible person before any judge or magistrate of the Trust Territory with the
commission of a crime in any state, and, except in cases arising under section 457 of this chapter, with having fled from justice, with having been convicted of a crime in that state and with having escaped from confinement, or with having broken the terms of his bail, probation, or parole; or

(2) Complaint shall have been made before the high court setting forth on the affidavit of any credible person in a state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 457 of this chapter, has fled from justice, or that the accused has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole, and that the accused is believed to be in the Trust Territory. (Code 1970, tit. 12, § 464.)

§ 465. Same; without a warrant. — The arrest of a person may also be lawfully made by any policeman or private citizen without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term of exceeding one year. When so arrested the accused must be taken before the high court with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section and thereafter his answer shall be heard as if he had been arrested on a warrant. (Code 1970, tit. 12, § 465.)

§ 466. Same; commitment to await requisition. — If from the examination before the high court it appears that the person held pursuant to either of the two preceding sections is the person charged with having committed the crime alleged and, except in cases arising under section 457 of this chapter, that he has fled from justice, the high court shall, by a warrant reciting the accusation, commit him to jail for such a time not exceeding forty-five days specified in the warrant as will enable the arrest of the accused to be made under a warrant of the High Commissioner on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused shall give bail as provided in section 467 of this chapter, or until he shall be legally discharged. (Code 1970, tit. 12, § 466.)

§ 467. Bail; when allowed; conditions of bond. — Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the high court may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as the court deems proper, conditioned upon his appearance before it at a time specified in such bond or undertaking, and upon his surrender for arrest upon the warrant of the High Commissioner. (Code 1970, tit. 12, § 467.)

§ 468. Same; discharge, recommitment or renewal. — If the accused is not arrested under warrant of the High Commissioner by the expiration time specified in the warrant, bond, or undertaking, the high court may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in section 467 of this chapter. At the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the court may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day. (Code 1970, tit. 12, § 468.)

§ 469. Same; forfeiture. — If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the high
§ 470. Persons under criminal prosecution in the Trust Territory at time of requisition. — If a criminal prosecution has been instituted under the laws of the Trust Territory against a person subject to extradition and is still pending, the High Commissioner, in his discretion, either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in the Trust Territory. (Code 1970, tit. 12, § 470.)

§ 471. Inquiry into guilt or innocence of accused. — Except as that may be involved in identifying the person held as the person charged with the crime, the High Commissioner shall make no inquiry into the guilt or innocence of the accused as to the crime of which he is charged, nor may any such inquiry be made in any proceeding after presentation to the High Commissioner of the demand for extradition accompanied by a charge of crime in legal form as provided in this chapter. (Code 1970, tit. 12, § 471.)

§ 472. High Commissioner may recall warrant or issue additional warrant. — The High Commissioner may recall his warrant of arrest or may issue another warrant whenever he deems it proper. (Code 1970, tit. 12, § 472.)

§ 473. Fugitives from the Trust Territory; issuance of warrant to receive and convey. — Whenever the High Commissioner shall demand from the executive authority of any state a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in the Trust Territory, he shall issue a warrant under the seal of the Trust Territory to some agent commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the government of the Trust Territory. (Code 1970, tit. 12, § 473.)

§ 474. Same; applications for requisition; return of person charged with crime. — When the return to the Trust Territory of a person charged with a crime in the Trust Territory is required, the Attorney General or his assistant shall present to the High Commissioner his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that, in the opinion of the Attorney General or his assistant, the ends of justice require the arrest and return of the accused to the Trust Territory for trial, and that the proceeding is not instituted to enforce a private claim. (Code 1970, tit. 12, § 474.)

§ 475. Same; same; escaped convict. — When the return to the Trust Territory is required of a person who has been convicted of a crime in the Trust Territory and who has escaped from confinement or broken the terms of his bail, probation or parole, the Attorney General shall present to the High Commissioner a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of the person therein at the time application is made. (Code 1970, tit. 12, § 475.)
§ 476. Same; same; form of applications; copies, etc. — The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the information and affidavit filed, or of the complaint made to the judge or magistrate charged, or of the judgment of conviction, or of the sentence. The Attorney General or his assistant may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application with the action of the High Commissioner indicated by endorsement thereon and one of the certified copies of the indictment, or complaint, or information and affidavits, or of the judgment of conviction, or of the sentence shall be filed in the office of the deputy high commissioner of the Trust Territory to remain of record in that office. The other copies of all papers shall be forwarded with the High Commissioner's requisition. (Code 1970, tit. 12, § 476.)

§ 477. Same; costs and expenses. — The expenses incident to the extradition of any person under sections 473 to 476 of this chapter shall be paid out of the Trust Territory treasury. (Code 1970, tit. 12, § 477.)

§ 478. Immunity from service of process in certain civil actions. — A person brought into the Trust Territory by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited. (Code 1970, tit. 12, § 478.)

§ 479. Waiver of extradition proceedings. — (1) Any person arrested in the Trust Territory and charged with having committed any crime in any state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 458 and 459 of this chapter and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of a trial justice of the high court within the Trust Territory a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed it shall forthwith be forwarded to the office of the deputy high commissioner and filed therein.

(2) The justice shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to such agent a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an executive procedure or to limit the powers, rights or duties of the officers of the demanding state or of the Trust Territory. (Code 1970, tit. 12, § 479.)

§ 480. Procedures of chapter not deemed waiver of Trust Territory's rights. — Nothing in this chapter shall be deemed to constitute a waiver by the Trust Territory of its right, power or privilege to try such demanded person for crime committed within the Trust Territory, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within the Trust Territory; nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by the Trust Territory of any of its rights, privileges, or jurisdiction in any way whatsoever. (Code 1966, § 30; Code 1970, tit. 12, § 480.)
§ 481. **Immunity from other criminal prosecutions while in the Trust Territory.** — After a person has been brought back to the Trust Territory by or after waiver of extradition proceedings, he may be tried in the Trust Territory for other crimes which he may be charged with having committed therein as well as that crime specified in the requisition for his extradition. (Code 1970, tit. 12, § 481.)
Title 13.

Probate Law and Procedure.

Chap. 1. Wills, §§ 1 to 9.
2. Settlement of Estates of Limited Value, §§ 51 to 55.

CHAPTER 1.

WILLS.

Sec. 1. Capacity to make will; limitation on disposition of property. — Any person of sound mind eighteen years of age or older may make a will in accordance with the provisions of this chapter, but such will may only dispose of property which at the time of his death the testator has a right to dispose of without the consent of any other person or any official. (Code 1966, § 344; Code 1970, tit. 13, § 1.)

§ 2. Wills made under customary or prior written law. — Nothing in this chapter shall prevent the making of a will in accordance with the customary or written law of the part of the Trust Territory in which it is made or in which property covered by it is located, nor shall anything in this chapter affect the validity of a will made in accordance with such customary or written law. (Code 1966, § 344; Code 1970, tit. 13, § 2.)

§ 3. Definitions. — As used in this chapter the following definitions apply:
1. "Person" includes either man or woman, single or married; and each masculine pronoun includes the corresponding feminine pronoun.

§ 4. Witnesses. — (1) Any person competent to be a witness generally in the Trust Territory may act as attesting witness to a will.
(2) No will is invalidated because attested by an interested witness, but any interested witness shall, unless the will is also attested by two disinterested witnesses, forfeit so much of the provisions made for him therein as in the aggregate exceeds in value, as of the date of the testator's death, what he would have received had the testator died intestate.
(3) No attesting witness is interested unless the will gives to him some personal and beneficial interest. (Code 1966, § 346; Code 1970, tit. 13, § 4.)

§ 5. Execution. — The execution of a will under this chapter, other than a holographic or nuncupative will, must be by the signature of the testator and of at least two witnesses as follows:
1. Testator. The testator shall signify to the attesting witness that the instrument is his will and either himself sign, or acknowledge his signature already made, or, at his direction and in his presence, have someone else sign...
his name for him. In any of the above cases the act must be done in the presence of two or more attesting witnesses.

(2) Witnesses. The attesting witnesses must sign in the presence of the testator, and in the presence of each other. (Code 1966, § 347; Code 1970, tit. 13, § 5.)

§ 6. Holographic will. — A holographic will is a will in the handwriting of the testator. A holographic will may be made under this chapter without any witness, but the signature and all its material provisions must be in the handwriting of the testator and his handwriting must be proved by two witnesses. (Code 1966, § 348; Code 1970, tit. 13, § 6.)

Nuncupative will may supersede holograph. — Where holographic will makes no mention of disputed lands and is filed seven years before death of testator, nuncupative will may supersede it. Ngiruhelbad v. Merii, 2 TTR 631 (App. Div. 1961).

§ 7. Nuncupative will. — (1) A nuncupative will is an oral will. A nuncupative will may be made under this chapter only by a person in imminent peril of death, whether from illness or otherwise, and shall be valid only if the testator dies as a result of the impending peril. A nuncupative will must be:
(a) Declared to be his will by the testator before two disinterested witnesses; and
(b) Submitted for probate within six months after the death of the testator unless the court, for good cause, permits it to be submitted later.
(2) A nuncupative will made under this chapter may dispose of personal property only and to an aggregate value not exceeding one thousand dollars.
(3) A nuncupative will made under this chapter neither revokes nor changes an existing written will. (Code 1966, § 349; Code 1970, tit. 13, § 7.)

Liability to revoke prior written instrument. — An attempted oral testamentary disposition, in the form of a nuncupative or oral will, cannot revoke a prior written instrument. Souwelian v. Kadarina, 5 TTR 14 (1970).

Impending death required. — Under this Code, an oral testamentary gift is only effective when made in the presence of impending death. Souwelian v. Kadarina, 5 TTR 14 (1970)


§ 8. Wills executed outside the Trust Territory or under foreign law. — A will executed outside the Trust Territory in a manner prescribed by this chapter or a written will executed in a manner prescribed by the law of the place of its execution, or by the law of the testator’s domicile at the time of its execution, shall have the same force and effect in the Trust Territory as if executed in the Trust Territory in compliance with the provisions of this chapter. (Code 1966, § 350; Code 1970, tit. 13, § 8.)

§ 9. Application. — This chapter shall not apply to wills executed in the Trust Territory before the date this chapter takes effect. (Code 1966, § 351; Code 1970, tit. 13, § 9.)
CHAPTER 2.

SETTLEMENT OF ESTATES OF LIMITED VALUE.

Sec. 51. Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized. — When a decedent leaves personal property, including but not limited to cash, bank or other accounts, wages or salary due, shares of stock or other interest in any business enterprise, and goods and chattels of any nature, of a total value not exceeding one thousand dollars, and known debts, if any, of less than that amount, and the person or persons entitled to the personal property left by the decedent cannot readily obtain possession thereof, the surviving spouse, any adult child, including an adopted child, either parent, any brother or sister, the eldest brother of decedent's mother, or the head of the lineage of the decedent may file a sworn complaint in the trial division of the high court or the district court or, if the total value of the personal property does not exceed one hundred dollars, in the community court, within whose jurisdiction the decedent resided at the time of his death if he was a resident of the Trust Territory, or within whose jurisdiction all or part of the personal property is located if decedent was not a resident of the Trust Territory, asking the issuance of an order that such personal property be transferred to the complainant. If none of the persons named in this section file such complaint within ninety days of the death of the decedent, then any creditor of the decedent may file a sworn complaint as set forth herein. (Code 1966, § 343(a); Code 1970, tit. 13, § 51.)

Distribution of small estate upon agreement by possible heirs. — In a proper case a small estate can be distributed under this section or the general powers of the high court if it is clearly shown that all debts have been paid and it has been agreed between the possible heirs as to how the estate should be distributed. Nenjir v. Rilan, 4 TTR 277 (1969).

Sec. 52. Same; contents. — Such sworn complaint shall set forth the name, residence and date of death of the decedent, and the names and addresses of the surviving spouse, children, brothers and sisters of the decedent, and the eldest living brother of decedent's mother or, if none of the above persons survived the decedent, the name, address, and relationship of the nearest surviving relative. The complaint shall also state the total value of the personal property, and the property, if any, that passed or is to pass under such will, and to whom it went or is to go, and shall contain the promise of the complainant to pay, as far as the assets of the estate permit, the debts of the decedent, or to see that they are paid, and then distribute the balance, if any, to the person or persons entitled thereto. (Code 1966, § 343(b); Code 1970, tit. 13, § 52.)

Sec. 53. Order of transfer; procedure if transfer withheld. — Upon the filing of such complaint, if it appears to the court that the ends of justice will be served, the court may issue an order, either without notice or after such notice as it deems proper, directing the transfer of the personal property to the complainant, or to such other person as the court deems proper, directing that the transferee pay, as far as the assets of the estate permit, the debts of the decedent, or see that they are paid, and then distribute the balance, if any, to
the person or persons entitled thereto. Whoever transfers money or other property to the complainant, or to any other person appointed by the court as set forth above, shall incur no liability thereby, nor shall such person thereafter be held to account for the same to any person. Any person upon whom demand is made to transfer money or other property under the terms of such order who denies the right of the complainant or other transferee to receive the same shall, within ten days of the demand being made upon him to transfer such money or other property, file his answer in the same court that issued the order, setting forth the grounds that entitle him to retain possession thereof. Upon the filing of such answer, the court shall, after notice to the complainant or other transferee, set the matter down for hearing and make such finding and enter such further order as the ends of justice require. (Code 1966, § 343(c); Code 1970, tit. 13, § 53.)

§ 54. Procedure if debts exceed value of assets. — If the transferee finds, after the receipt of the personal property under such order of transfer that the debts of decedent do in fact exceed the value of the property received he shall make no further distribution of the same, but shall at once report the facts to the court that issued the order, setting forth the money and other personal property received, the disbursements he has already made, the names and addresses of the recipients of the property already disbursed and the reason therefor, and shall list all known debts of decedent, including those that have recently come to the transferee's attention. The transferee shall take no further action save by order of the court. (Code 1966, § 343(d); Code 1970, tit. 13, § 54.)

§ 55. Responsibility of transferee. — The transferee shall be personally responsible for any property received by him under any order issued pursuant to this chapter, and any party claiming an interest in such property may, after demand, maintain an action against the transferee; provided, that no such action shall be brought against the transferee after two years from the date of the order under which the property was transferred to him. (Code 1966, § 343(e); Code 1970, tit. 13, § 55.)
Title 14.

Trusts.

[Reserved.]
Title 15.

Juveniles.


CHAPTER 1.

GENERAL PROVISIONS.

Sec. 1. Adoption of flexible procedures by courts.
2. "Delinquent child" defined.
3. Proceedings; conduct generally; delinquency not a crime.

§ 1. Adoption of flexible procedures by courts. — In cases involving offenders under the age of eighteen years, courts shall adopt a flexible procedure based on the accepted practices of juvenile courts of the United States, including insofar as possible the following measures:

1. Report by a welfare or probation officer in advance of trial;
2. Detention, where necessary, apart from adult offenders;
3. Hearing informally in closed session;
4. Interrogation of parents or guardians and release in their custody if appropriate.

An offender sixteen years of age or over may, however, be treated in all respects as an adult if in the opinion of the court his physical and mental maturity so justifies. (Code 1966, § 495; Code 1970, tit. 15, § 1.)

Intent and goal of juvenile offender laws. — Trust Territory juvenile offender laws are not intended to be criminal in nature, rather they are intended to be civil in both nature and effect and their goal is to guide and rehabilitate rather than punish. Marbou v. Termeteet, 5 TTR 655 (1971).

Importance of cooperation of parents or guardians. — Trust Territory law provisions as to juvenile offenders contemplates importance of trying to secure cooperation of parents or guardians in helping rehabilitate minors. Celis v. Trust Territory, 3 TTR 237 (1967).

Scope of juvenile delinquency proceedings. — The scope of operation of the juvenile delinquency proceedings must, through necessity, be inclusive of all juveniles. Marbou v. Termeteet, 5 TTR 655 (1971).

Right of 15-year-old defendant. — Fifteen-year-old defendant in criminal case has absolute right to be tried with protections accorded juvenile offender. Celis v. Trust Territory, 3 TTR 237 (1967).

Initial prosecution as delinquent for all persons under 18. — Under this Code all cases involving a person who has not yet attained his eighteenth birthday must be initially prosecuted under an information of delinquency. Marbou v. Termeteet, 5 TTR 655 (1971).

Court's discretion as to treatment of 16-year-old offender. — Court in criminal proceedings has discretion to treat offender 16 years of age or over in all respects as adult if in opinion of court his physical and mental maturity so justifies, but court has no such discretion as to 15-year-old offender. Celis v. Trust Territory, 3 TTR 237 (1967).

Court's discretion as to treatment of defendants between 16 and 18. — A defendant between the age of 16 and age 18 may be treated as an adult or may be afforded juvenile delinquent proceedings at the discretion of the court. Santos v. Trust Territory, 5 TTR 607 (1972).

Effect of failure to advise juvenile of right to counsel in delinquency proceeding. — That juvenile charged in delinquency proceeding with assault and battery was not represented by counsel or advised he had a right to counsel, and made no understanding
waiver of counsel, at hearing held with juvenile, his mother and assistant district prosecutor present, was alone sufficient to vacate order placing him in his uncle's custody. In re Alleged Delinquent Minor, 6 TTR 3 (1972).

Order set aside where there was no finding of delinquency or finding concerning best interests of child. — Order in juvenile delinquency proceeding, placing juvenile in his uncle's custody, would be set aside where there was no finding of delinquency on any ground and neither the record nor the judgment showed that the lower court took evidence on, considered, and made finding regarding, disposition of the child in his best interests. In re Alleged Delinquent Minor, 6 TTR 3 (1972).

§ 2. "Delinquent child" defined. — As used in this title, "delinquent child" includes any child:
(1) Who violates any Trust Territory or district law, except that a child who violates any traffic law or regulation shall be designated as a "juvenile traffic offender" and shall not be designated as a delinquent unless it be so ordered by the court after hearing the evidence; or
(2) Who does not subject himself to the reasonable control of his parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient; or
(3) Who is a habitual truant from home or school; or
(4) Who deports himself so as to injure or endanger the morals or health of himself or others. (Code 1966, § 437; Code 1970, tit. 15, § 2.)

Basis for adjudication of delinquency. — In a juvenile delinquency proceeding, the court must adjudicate the juvenile delinquent or non-delinquent, and an adjudication of delinquency must be made upon findings of fact proved by at least the fair weight of the evidence as clearly as is required in ordinary civil actions. In re Alleged Delinquent Minor, 6 TTR 3 (1972).

Detention for too long not a defense in action to determine delinquency. — Assuming that the child in question was held for too long a period before being released by the sheriff, that would not constitute a defense in an action to determine whether the child was a delinquent child under this section. In re Ichiro, 3 TTR 406 (1968).

Finding of delinquency on basis of gasoline sniffing. — No medical testimony was necessary to support finding that because of gasoline sniffing child in question was a delinquent child under this section, where sheriff observed child inhaling gasoline fumes for one-half hour and the child thereupon stiffened and vomited. In re Ichiro, 3 TTR 406 (1968).

§ 3. Proceedings; conduct generally; delinquency not a crime. — Proceedings against a person under eighteen years of age as a delinquent child shall be conducted in accordance with the provisions of this chapter, and an adjudication that a person is a delinquent child shall not constitute a criminal conviction. (Code 1966, § 432; Code 1970, tit. 15, § 3.)

Aim of delinquency proceedings. — The ultimate aim of juvenile delinquency proceedings is to effectuate the policy against classifying juvenile offenders as "criminal." Marbou v. Termeteeet, 5 TTR 655 (1971).

Delinquency proceedings are not criminal. — Juvenile delinquency proceedings are not criminal proceedings. In re Alleged Delinquent Minor, 6 TTR 3 (1972).

§ 4. Same; where brought. — Proceedings against a person as a delinquent child may be brought in the trial division of the high court, or in the district or community court having jurisdiction over the place where the delinquency or any part of it occurred, except that if the acts charged may legally constitute murder or rape of which the person is not conclusively presumed to be incapable by law, the proceedings shall be brought only in the trial division of the high court. (Code 1966, § 432; Code 1970, tit. 15, § 4.)
§ 5. Orders for persons encouraging, causing or contributing to delinquency; appeals. — (1) In any juvenile delinquency proceeding, if it is found by the court that any person is encouraging, causing, or contributing to acts or conditions which result in an adjudication of the delinquency of a child, the court may require such person to be brought before the court and, after hearing, may order such person to do any specific thing which falls within the duty owed by such person to the child, or refrain from doing any specific act inconsistent with that duty, and, upon the failure of such person to comply with the order of the court, he may be proceeded against for criminal or civil contempt of court.

(2) An adjudication in juvenile delinquency proceedings and all orders in connection with such adjudication shall be subject to appeal as in civil actions, except that no filing fees shall be required. (Code 1966, § 438; Code 1970, tit. 15, § 5.)

§ 6. Confinement. — A person adjudged to be a delinquent child may be confined in such place, under such conditions, and for such period as the court deems the best interests of the child require, not exceeding the period for which he might have been confined if he were not treated as a "juvenile offender" under this title. (Code 1966, § 432; Code 1970, tit. 15, § 6.)

Placing juvenile in custody for a longer period of time than that allowed for confinement is not a basis for habeas corpus. — Where Code limited confinement of juvenile to the maximum allowable for the criminal offense which is the basis of the delinquency proceeding, that juvenile was ordered placed in custody of his uncle for a longer period was not a basis for issuing a writ of habeas corpus. In re Alleged Delinquent Minor, 6 TTR 3 (1972).
CHAPTER 2.

LIABILITY OF PARENTS FOR ACTS OF DELINQUENT CHILD.

Sec. 51. Enumerated.

§ 51. Enumerated. — A parent or guardian having custody of a child is charged with the control of such child and shall have the power to exercise parental control and authority over such child. In any case where a child is found delinquent and placed on probation, if the court finds at the hearing that the parent or guardian having custody of such child has failed or neglected to subject him to reasonable parental control and authority, and that such failure or neglect is the proximate cause of the act or acts of the child upon which the finding of delinquency is based, the court may require such parent to enter into a recognizance with sufficient surety, in an amount of not more than one hundred dollars, conditioned upon the faithful discharge of the conditions of probation of such child. If the child thereafter commits a second act and is by reason thereof found delinquent, or violates the conditions of probation, and the court finds at the hearing that the failure or neglect of such parent to subject him to reasonable parental control and authority or to faithfully discharge the conditions of probation of such child on the part of such parent is the proximate cause of the act or acts of the child upon which such second finding of delinquency is based, or upon which such child is found to have violated the conditions of his probation, the court may declare that all or a part of the recognizance shall be applied in payment of any damages; otherwise, the proceeds therefrom, or any part remaining after the payment of damages as aforesaid, shall be paid into the district treasury. (Code 1966, § 439; Code 1970, tit. 15, § 51.)
Title 16.

[Reserved.]
Title 17.

Administrative Law.

Chap. 1. Administrative Procedure Act, §§ 1 to 15.

CHAPTER 1.

ADMINISTRATIVE PROCEDURE ACT.

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<th>Definitions.</th>
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<td>1</td>
<td>As used in this chapter: (1) &quot;Agency&quot; means each authority of the government of the Trust Territory whether or not it is within or subject to review by another agency, but does not include (a) the Congress of Micronesia, or (b) the courts of the Trust Territory.</td>
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<tr>
<td>2</td>
<td>(2) &quot;Adjudication&quot; means agency process for the formulation of an order.</td>
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<tr>
<td>3</td>
<td>(3) &quot;Order&quot; means the whole or part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule-making but including licensing.</td>
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<tr>
<td>4</td>
<td>(4) &quot;License&quot; includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes.</td>
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<tr>
<td>5</td>
<td>(5) &quot;Licensing&quot; includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.</td>
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<tr>
<td>6</td>
<td>(6) &quot;Party&quot; means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding.</td>
</tr>
<tr>
<td>7</td>
<td>(7) &quot;Person&quot; means an individual, partnership, corporation, association, clan, lineage, governmental subdivision, or public or private organization of any character other than an agency.</td>
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<td></td>
<td>(8) &quot;Rule&quot; means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:</td>
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<td></td>
<td>(a) Statements concerning only the internal management of an agency, including, but not limited to, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers and property and not affecting private rights to procedures available to the public; provided, that this exclusion does not authorize withholding information from the public or limiting the availability of such manuals or records to the public; or</td>
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</table>

8. Adjudications.
10. Issuance of orders and decisions upon hearing.
11. Special provisions with regard to licensing.
13. Appeals.
14. Other authorized authority subject to this act.
15. Implementation.
(b) Declaratory rulings issued pursuant to section 7 of this chapter; or
(c) Intra-agency memoranda; or
(d) Opinions of the Attorney General; or
(e) Rules issued by the High Commissioner where directly necessary for the
implementation of the powers of the United States under the trusteeship
agreement, or directly necessary for the implementation of the powers reserved
to the High Commissioner by orders of the Secretary of the Interior.
(9) "Rule-making" means agency process for formulating, amending or
repealing a rule.
(10) "Sanction" includes the whole or a part of an agency:
(a) Prohibition, requirement, limitation, or other condition affecting the
freedom of a person;
(b) Withholding of relief where adjudication is required by law;
(c) Imposition of penalty or fine;
(d) Destruction, taking, seizure, or withholding of property;
(e) Assessment of damages, reimbursement, restitution, compensation,
costs, charges, or fees;
(f) Requirements, revocation, or suspension of a license; or
(g) Taking other compulsory or restrictive action.
(11) "Relief" includes the whole or a part of an agency:
(a) Grant of money, assistance, license, authority, exemption, exception,
privilege, or remedy;
(b) Recognition of a claim, right, immunity, privilege, exemption, or
exception; or
(c) Taking of other action on the application or petition of, and beneficial to,
a person.
(12) "Agency proceeding" means an agency process as defined by subsections
(2), (5), and (9) of this section.
(13) "Agency action" includes the whole or a part of an agency rule, order,
license, sanction, relief, or the equivalent or denial thereof, or failure to act.
(14) "Regulation" means a rule which prescribes or has the force of law.
(15) "Decision" means the whole or part of a final disposition of an agency
in a hearing on a proposed regulation. (P.L. No. 5-86, § 1.)

§ 2. Publication of rules and orders. — (1) The registrar of corporations
shall publish monthly a territorial register which shall separately state and
currently publish for the guidance of the public all:
(a) Proposed and newly adopted regulations;
(b) Newly adopted rules other than regulations;
(c) Newly adopted orders;
(d) Other notices;
(e) Orders issued by the President of the United States or the Secretary of
the Interior pertaining to the Trust Territory;
(f) Rules issued by the High Commissioner in implementation of the powers
of the United States under the trusteeship agreement or reserved to the High
Commissioner by orders of the Secretary of the Interior; and
(g) Emergency orders issued by a district administrator.
(2) Not more than one hundred eighty copies of each issue of the territorial
register shall be made available to agencies and officials of the Trust Territory
free of charge. Upon request, copies shall be made available to other persons
at reasonable prices fixed by the registrar of corporations to cover mailing and
publication costs. All proceeds from the sale of the territorial register shall be
deposited by the treasurer of the Trust Territory to the credit of the general
fund of the Congress of Micronesia.
(3) No agency rule, order, or decision is valid or effective against any person
or party nor may it be invoked by the agency until such rule, order, or decision
has been published in accordance with subsection (1) of this section, and has

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been filed with the registrar of corporations and the district administrator of each district in the Trust Territory. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

(4) No regulation or other rule adopted by any agency before the date this chapter comes into effect shall remain in effect unless such regulation or other rule is filed with the registrar of corporations and with the district administrator of each district in the Trust Territory within ten days of the date this chapter comes into effect as to regulations, and within ninety days thereafter as to other rules, and is published in the territorial register in accordance with the provisions of this section. Regulations and other rules not filed within such period shall become void and subject to reinstatement only in accordance with the provisions of sections 4 and 5 of this chapter. (P.L. No. 5-86, § 2.)

§ 3. Compilation of rules; public inspection and reproduction of rules and orders. — (1) The Attorney General shall compile, index, and publish all effective rules adopted by each agency. Compilations shall be supplemented or revised as often as necessary, and at least once every two years. Compilation shall be made available upon request to agencies and officials of the Trust Territory government free of charge and to other persons at reasonable prices fixed by the Attorney General to cover mailing and printing costs.

(2) Each agency shall make available for public inspection and copying:
(a) All rules adopted or used by the agency in the discharge of its functions; and
(b) All orders made by the agency. (P.L. No. 5-86, § 3.)

§ 4. Procedure for adoption of regulations. — (1) Prior to adoption, amendment or repeal of any regulation, the agency shall:
(a) Give at least thirty days' notice of its intended action by publication in the territorial register and by posting in convenient places in the district centers and in local government offices in each district, both in English and in the principal vernacular. The notice shall include:
(i) A statement of either the terms or substance of the proposed regulation or a description of the subjects and issues involved,
(ii) Reference to the authorities under which that action is proposed, and
(iii) The time when, the place where, and the manner in which interested persons may present their views thereon.

(b) Afford all interested persons reasonable opportunity to submit data, views, or arguments, in writing. In all proceedings under this section, opportunity for oral hearing must be granted if requested by the Congress of Micronesia or a committee thereof, or a government subdivision or agency. Hearings afforded pursuant to this provision shall be conducted in accordance with section 9 of this chapter. The agency shall consider fully all written and oral submissions respecting the proposed regulation. Upon adoption of a regulation, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(2) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than thirty days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the High Commissioner, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than one hundred twenty days, but the adoption of an identical regulation under subsections (1)(a) and (1)(b) of this section is not precluded.
(3) No regulation adopted is valid unless adopted in substantial compliance with this section. A judicial proceeding for a declaratory judgment to contest any regulation on the ground of noncompliance with the procedural requirements of this section must be commenced within one year from the effective date of the regulation. (P.L. No. 5-86, § 4.)

§ 5. Filing and effective date of rules and regulations. — (1) Each agency shall file in the office of the registrar of corporations and of each district administrator in the Trust Territory a certified copy of each rule adopted by it, including all rules existing on the effective date of this chapter. The registrar of corporations and the district administrator in each district in the Trust Territory shall keep a permanent register of the rules open to public inspection.

(2) Each regulation hereafter adopted is effective ten days after compliance with sections 2 and 4(1) or 4(2) of this chapter, and each rule other than a regulation hereafter adopted is effective ten days after compliance with section 2 of this chapter, except that:
   (a) If a later date is required by a statute or specified in the rule, the later date is the effective date;
   (b) Subject to applicable statutory provisions an emergency regulation becomes effective immediately upon filing with the registrar of corporations and the mailing under registered cover copies thereof each of the district administrators in the Trust Territory, or at a stated date less than twenty days thereafter, if the agency finds that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of the reasons therefor shall be filed with the regulation. The agency shall take appropriate measures to make emergency regulations known to the persons who may be affected by them. (P.L. No. 5-86, § 5.)

§ 6. Petition for adoption, amendment, or repeal of rules. — An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Within thirty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or shall initiate rule-making proceedings in accordance with this chapter. (P.L. No. 5-86, § 6.)

§ 7. Declaratory rulings by agencies. — Any person may petition an agency for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the agency. Rulings disposing of petitions shall be issued promptly and shall have the same status as final agency decisions or orders in contested cases. (P.L. No. 5-86, § 7.)

§ 8. Adjudications. — (1) This section applies, in accordance with the provisions hereof, in every adjudication in which a sanction may be imposed, except in an agency proceeding respecting the grant or renewal of a license, unless an agency proceeding therefor is required by law to be preceded by notice and opportunity to be heard. In an adjudication hereunder, all parties shall be afforded an opportunity for a hearing after reasonable notice.

(2) Hearings shall be conducted and orders shall be made in accordance with sections 9 and 10 of this chapter; provided, however, that in the event and to the extent that any other law provides for adjudication, then the provisions of such other law shall be controlling. (P.L. No. 5-86, § 8.)

§ 9. Conduct of hearings. — (1) Persons entitled to notice of an agency hearing shall be timely informed of:
   (a) The time, place, and nature of the hearing;
(b) The legal authority and jurisdiction under which the hearing is to be held;
(c) The particular sections of the statutes and regulations involved;
(d) The matters asserted.

If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(2) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent, order, or default.

(3) A party or any other person is entitled to be present and represented by counsel of his own choosing in an agency hearing.

(4) Upon request of any party and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the subject sought, an agency authorized by law to issue subpoenas shall issue subpoenas to compel the attendance of persons at a hearing or in taking depositions. On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of failure to comply.

(5) There shall preside at the taking of evidence:
(a) The agency; or
(b) A hearing officer appointed by the agency.

The function of persons presiding at hearings and of persons participating in orders or decisions in accordance with this chapter shall be conducted in an impartial manner. A presiding or participating person may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias and prejudice or other disqualification of a presiding or participating person, the agency shall determine the matter as a part of the record and order or decision in the case.

(6) Subject to published rules of the agency and within its powers, persons presiding at hearings may:
(a) Administer oaths and affirmations;
(b) Issue subpoenas authorized by law;
(c) Rule on offers of proof and receive relevant evidence;
(d) Take depositions or have depositions taken when the ends of justice would be served;
(e) Regulate the course of the hearing;
(f) Hold conferences for the settlement or simplification of the issues by consent of the parties;
(g) Dispose of procedural requests or similar matters;
(h) Make or recommend orders or decisions in accordance with this chapter; and
(i) Take such other action authorized by agency rule consistent with this chapter.

(7) Except to the extent required for the disposition of ex parte matters as authorized by law, persons presiding at hearings or persons participating in orders or decisions may not:
(a) Consult a person or party or representative of a person or party on a fact in issue or on applicable law, unless on notice and opportunity for all parties to participate; or
(b) Be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecutory functions for an agency.

(8) Persons presiding at hearings or participating in orders or decisions may:
(a) Communicate with other members of the agency, except as limited by subsection (7) of this section; and
(b) Have the aid and advice of one or more personal assistants, and of the Attorney General and his staff if such assistance would not be in violation of subsection (7) of this section.

(9) Except as otherwise provided by statute, the proponent of an order or decision has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Except as otherwise provided by law, privileges relating to evidence in the courts of the Trust Territory shall apply in the conduct of hearings. A sanction may not be imposed or an order or decision issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative, and substantial evidence. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(10) The record in a hearing under this chapter shall include:
(a) The notice and any pleadings, motions, and intermediate rulings;
(b) Evidence received or considered;
(c) A statement of matters officially noticed;
(d) Questions and offers of proof, objections, and rulings thereon;
(f) Any order or decision, recommended order or decision, opinion, or report by the person presiding at the hearing;
(g) All staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case;
(h) Transcript or summary of testimony and exhibits; and
(i) All papers and requests filed in the proceeding which are not specifically mentioned above.

(11) On payment of lawfully prescribed costs, the record shall be made available to the parties within a reasonable time.

(12) Findings of fact shall be based exclusively on the evidence and on matters officially noticed. (P.L. No. 5-86, § 9.)

§ 10. Issuance of orders and decisions upon hearing. — (1) When the agency does not preside at the reception of the evidence, the person presiding shall initially decide the case unless applicable law or agency rule requires, either in specific cases or by general rule, the entire record to be certified to it for the making of an order or a decision concerning a regulation. When the person presiding makes an initial order or decision, that order or decision then becomes the order or decision of the agency without future proceedings unless there is an appeal to, or review on motion of, the agency within the time provided by rule. On appeal from or review of the initial order or decision, the agency has all the powers which it would have in making the initial order or decision, except as it may limit the issues on notice or by rule. When the agency makes the order or decision without having presided at the reception of the evidence, the person presiding shall first recommend an order or decision to the agency.

(2) Before a recommended or initial order or decision, or an order or decision on agency review of an order or decision, the parties are entitled to a reasonable opportunity to submit for the consideration of the persons participating in the decision:
(a) Proposed findings and conclusions;
(b) Exceptions to the order or decision or recommended order or decision; and
(c) Supporting reasons for the exceptions or proposed findings and conclusions.
(3) The record shall show the ruling or decision on each finding, conclusion, or exception presented. All orders or decisions, including initial or recommended orders or decisions, or those on agency review, are a part of the record and shall include a statement of:

(a) Findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(b) The appropriate decision, order, sanction, relief, or denial thereof. (P.L. No. 5-86, § 10.)

§ 11. Special provisions with regard to licensing. — (1) When a licensee has made timely and sufficient application to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(2) Except in cases of wilfulness, or except as otherwise provided by law, no revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave written notice to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires, emergency summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. (P.L. No. 5-86, § 11.)

§ 12. Judicial review of contested cases. — (1) This section applies, according to the provisions hereof, except to the extent that statutes enacted by the Congress of Micronesia explicitly preclude judicial review.

(2) A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action, is entitled to judicial review thereof in the trial division of the high court.

(3) The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.

(4) Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

(5) When an agency finds that justice so requires, it may postpone the effective date of action taken by it pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.
(6) To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall:
   (a) Compel agency action unlawfully withheld or unreasonably delayed; and
   (b) Hold unlawful and set aside agency action, findings, and conclusions found to be:
      (i) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
      (ii) Contrary to constitutional right, power, privilege, or immunity;
      (iii) In excess of statutory jurisdiction, authority, or limitations, or short of statutory rights;
      (iv) Without observance of procedure required by law;
      (v) Unsupported by substantial evidence in a case subject to sections 8 and 9 of this chapter or otherwise reviewed on the record of an agency hearing provided by statute; or
      (vi) Unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determination, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (P.L. No. 5-86, § 12.)

§ 13. Appeals. — An aggrieved party may obtain a review of any final judgment of the trial division of the high court under this act by appeal to the appellate division of the high court. The appeal shall be taken as in other civil cases. (P.L. No. 5-86, § 13.)

§ 14. Other authorized authority subject to this act. — All administrative procedures, including the issuance of rules, authorized by other sections of the Trust Territory Code, shall be made in accordance with the provisions of this act, unless congress shall by law hereafter provide otherwise. (P.L. No. 5-86, § 14.)

§ 15. Implementation. — Each agency is granted the authority to comply with the requirements of this chapter through the issuance of rules. (P.L. No. 5-86, § 15.)
Title 18.

[Reserved.]
Title 19.
Admiralty and Maritime.

Chap. 1. Vessels, §§ 1 to 55.
2. Regulation and Control of Shipping, §§ 101 to 107.
4. Seamen's Protection Act, §§ 201 to 232.

CHAPTER 1.

VESSELS.

Sec. Subchapter I. Registration.

1. Registration required; vessels permitted; eligibility.
2. Application.
3. Registration number.
4. Re-registration.
5. Fees.
6. Flag to be flown by registered vessels.

Subchapter II. Inspection.

Sec.
51. Board of marine inspectors; created; duties generally.
52. Same; inspection of vessels.
53. Same; licensing of vessels.
54. Licensing of master and engineer; complement of officers and crew.
55. Delegation of authority of board.

§ 1. Registration required; vessels permitted; eligibility. — (1) No vessel, measuring twenty-five feet or more at the water line when empty of cargo and passengers, propelled in whole or in part by mechanical or electrical power or sail, shall be granted a license, grant, or other express permit for the purpose of operation in any territorial waters of the Trust Territory, unless the same shall be under the registry of a sovereign state or of the Trust Territory in accordance with the requirements of this chapter.

(2) Express permission is hereby granted to persons residing in the Trust Territory to operate within the territorial waters of the Trust Territory:

(a) Outrigger vessels of all kinds;
(b) Vessels propelled by outboard motors; and
(c) Vessels measuring less than twenty-five feet at the water line when empty of cargo and passengers, which are not used either to carry cargo or passengers for hire or for interdistrict travel.

(3) Only those vessels belonging wholly to Trust Territory citizens, not including corporations organized and chartered under law, unless wholly owned and controlled by Trust Territory citizens, or residents of the Trust Territory prior to December 7, 1941 who have continuously remained residents since that date in respect of which both conditions shall concur, shall be eligible for registration or re-registration under this chapter. No vessel registered hereunder shall engage in international trade unless specifically authorized by license issued pursuant to section 53 of this chapter after consultation with and direction by the High Commissioner; provided, however, that should occasion arise wherein the interests of the Trust Territory cannot be adequately served by the use of vessels registered elsewhere, the High Commissioner may
authorize the registration of vessels owned by persons or corporations other than those set forth in this section. (Code 1966, § 830; Code 1970, tit. 19, § 1.)

Licensing requires submission to the jurisdiction of Trust Territory courts. — Pursuant to this Code a vessel of a sovereign state, in order to be licensed to operate within Trust Territory waters, must submit herself to the jurisdiction of the Trust Territory courts in the same manner as a vessel of Trust Territory registry. Kodang v. Trust Territory, 5 TTR 581 (1971).

§ 2. Application. — (1) The owner or person in control of any vessel not registered elsewhere desiring to operate it within the territorial waters of the Trust Territory shall make written application for the registration or re-registration thereof to the district administrator of the district and at the port in which the vessel is located at the time of registry. Said districts and ports at which applications may be filed are as follows:
   (a) Palau District: Malakal Harbor, Koror.
   (b) Yap District: Tomil Harbor, Yap.
   (c) Truk District: Moen Anchorage, Moen.
   (d) Ponape District: Ponape Harbor, Ponape.
   (e) Kosrae District: Lelu Harbor, Kosrae.
   (f) Marshall Islands District: Darrit Anchorage, Majuro, Ebeye Anchorage, Ebeye.

   (2) The application to be made by the owner or person in control of such vessel shall state the following:
      (a) Name and address of the owner of such vessel;
      (b) Home port of vessel;
      (c) Purpose for which vessel is operating;
      (d) Tonnage and general dimensions of vessel;
      (e) Type and power of the engine and the kind of fuel used; if steam, the type of boiler;
      (f) Capacity of vessel as to cargo and passengers; and
      (g) Cruising radius of vessel. (Code 1966, § 831; Code 1970, tit. 19, § 2; P.L. No. 7-112, § 1.)

§ 3. Registration number. — Upon being satisfied that the statements set forth in the application are true, the district administrator shall cause to be registered in a book to be kept for that purpose the vessel described in the application and shall give to the applicant a registration number and certificate bearing the signature of said district administrator setting forth the registration number assigned to the vessel together with a statement of pertinent facts as set forth in said application. Such registration number shall be displayed in a conspicuous place on both sides of the vessel. A copy of the certificate of registration shall be recorded and indexed by the chief of police in accordance with regulations issued by the High Commissioner. (Code 1966, § 832; Code 1970, tit. 19, § 3.)

§ 4. Re-registration. — A vessel registered under this chapter shall be re-registered at the end of each year, computed from the date of original registration. Re-registration is required whenever there is a change of ownership or a change in the method of propelling such vessel, so as to indicate the change of the name of the owner or a change in the method of propelling the vessel. The re-registration may be under the original number. (Code 1966, § 833; Code 1970, tit. 19, § 4.)

§ 5. Fees. — There shall be paid to the district administrator for the original registration of a vessel the sum of ten dollars and for each
re-registration the sum of five dollars. All such fees collected by the district administrator shall be remitted to the treasurer of the Trust Territory. (Code 1966, § 834; Code 1970, tit. 19, § 5.)

§ 6. Flag to be flown by registered vessels. — All vessels registered and licensed in accordance with the provisions of this chapter shall fly the flag of the Trust Territory. (Code 1966, § 835; Code 1970, tit. 19, § 6.)

Subchapter II.

Inspection.

§ 51. Board of marine inspectors; created; duties generally. — A board of marine inspectors composed of one or more, but not to exceed three, qualified persons, appointed by the High Commissioner, shall have general supervision over all vessels operating in the territorial waters of the Trust Territory pursuant to the provisions of this title. It shall prescribe and publish all needful rules and regulations for the enforcement of the provisions of this title. The board shall fix and collect reasonable fees for all inspections, examinations and licenses made, given or issued pursuant hereto. All fees so collected shall be remitted to the treasurer of the Trust Territory. (Code 1966, § 850; Code 1970, tit. 15, § 51.)

§ 52. Same; inspection of vessels. — The board shall, once in every year and oftener as may be deemed necessary, carefully inspect the hull of each vessel licensed or to be licensed to operate in the territorial waters of the Trust Territory pursuant to the provisions of this title and shall satisfy itself that every such vessel has the structure and suitable engine power and accommodations for passengers commensurate with the service in which she is employed, and in general is in condition to warrant belief that she may be used in navigation as a vessel with safety to life and cargo. If, in the opinion of the said board, the vessel is found unsatisfactory in any particular the board may in its discretion forbid her further operation until the fault is corrected and, if not corrected, within a reasonable time may revoke the license of such vessel. The foregoing provisions applicable to the examination of a vessel already licensed shall also be applicable to the examination of a vessel applying for its first license. The board shall not issue a license to such vessel if her condition or equipment is such as would warrant the board to forbid her further operation or revoke her license were she already licensed. The license when issued shall specify the number of passengers and the quantity of freight, if any, to be carried. (Code 1966, § 852; Code 1970, tit. 19, § 52.)

§ 53. Same; licensing of vessels. — The board shall determine and publish the types and classes of vessels properly subject to examinations and licensing and shall issue licenses for the operation of such vessels, make examinations of vessels applying for such license and keep a record of its doings. The board shall file a copy of its determination of the types and classes of vessels subject to examination and licensing, with each clerk of courts. Copies of licenses issued by the board shall be forwarded to the chief of police of the district in which the vessel is licensed, who shall file and index the same. (Code 1966, § 851; Code 1970, tit. 19, § 53.)

§ 54. Licensing of master and engineer; complement of officers and crew. — The board shall make such rules and regulations as it may deem necessary concerning the examination and licensing of masters and engineers
and the complement of licensed officers and crew of vessels licensed to operate within the waters of the Trust Territory pursuant to this title. No person shall operate as the master or engineer of any vessel engaged in coast-wide or inter-island traffic in the Trust Territory until or unless he has been duly licensed under such rules and regulations as the board may provide. No vessel operated under this title shall depart from any port, harbor or island in the Trust Territory unless she has in her service and on board such complement of licensed officers and crew as is specified by the board. (Code 1966, § 853; Code 1970, tit. 19, § 54.)

§ 55. Delegation of authority of board. — The board may delegate any of its authorities or duties set forth in this subchapter. (Code 1966, § 854; Code 1970, tit. 19, § 55.)
§ 101. Definitions. — As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Unlicensed vessel" means any vessel not operating under license, grant or express permission of the High Commissioner of the Trust Territory, except public vessels of the United States traveling under proper orders and not engaged in commercial activities, outrigger vessels of all kinds and vessels propelled by outboard motors.

2. "Innocent passage" means navigation through territorial waters for the purpose either of traveling it bona fide en route from one point to another on the usual course for such travel, wind and weather permitting, without entering inland waters, or of proceeding to inland waters at a point of entry, or of making for the high sea from inland waters, and includes stopping or anchoring only if incidental to ordinary navigation or in an emergency.

3. "Territorial waters" means the waters of the territorial sea as defined and described in section 52 of title 52 of the Trust Territory code.

4. "Hovering vessel" means any unlicensed vessel which is found or kept off any island, islet, atoll, or reef of the Trust Territory, within the territorial waters of the Trust Territory, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to violate any of the provisions of this chapter or any law or regulation of the Trust Territory. (Code 1966, § 874; Code 1970, tit. 19, § 101; P.L. No. 7-71, § 2.)

§ 102. Permission to enter territorial waters. — Except for innocent passage, stress of weather or force majeure, it shall be unlawful for any unlicensed vessel to enter or remain within the territorial waters of the Trust Territory without first receiving permission therefor from the High Commissioner or a district administrator in accordance with provisions of title 53 of this Code, and regulations issued pursuant thereto. (Code 1966, § 875; Code 1970, tit. 19, § 102.)

Title to marine resources unlawfully removed from Trust Territory waters remains in government. — Defendant, convicted of unlawfully entering Trust Territory waters and removing marine resources obtained his cargo in violation of law and therefore acquired no title to it. Rather the title remained in the government of the Trust Territory, held by it in trust for the people of Micronesia. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

§ 103. Innocent passage. — Nothing in this chapter shall be construed as limiting the right of innocent passage through the territorial waters of the Trust Territory. Passage is not innocent when any vessel makes use of the territorial waters of the Trust Territory for the purpose of doing any act prejudicial to the security, public policy or economic interests of the Trust Territory. (Code 1966, § 876; Code 1970, tit. 19, § 103.)
§ 104. Examination of unlicensed vessels. — The district administrators or their duly authorized representatives may at any time go on board any unlicensed vessel found within the territorial waters of the Trust Territory and, if there is reason to suspect that such vessel is violating any laws or regulations of the Trust Territory, may examine the manifest and other documents and papers, and inspect and search the vessel and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel, and use all necessary force to compel compliance. (Code 1966, § 877; Code 1970, tit. 19, § 104.)

§ 105. Examination of hovering vessels. — (1) Any hovering vessel found within the territorial waters of the Trust Territory may at any time be boarded and examined by any district administrator or his duly authorized representative who may examine, upon oath, the master or other person having the command or charge of such vessel respecting the cargo and voyage of the vessel and may also bring the vessel into the most convenient port of the Trust Territory to examine the cargo. If the master or other person having the command or charge of such vessel refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage he shall be liable as provided in section 107 of this chapter.

(2) If upon examination of any such vessel, its master, officers, crew members, passengers or cargo by any proper officer, sufficient evidence is found to satisfy the inspecting officer that any such person has been engaged in any unlawful act within the territorial waters of the Trust Territory or is actively planning to engage in such unlawful act, the vessel and the persons so engaged shall be subject to the penalties provided by section 107 of this chapter or other applicable laws of the Trust Territory. (Code 1966, § 878; Code 1970, tit. 19, § 105.)

§ 106. Unlawful acts. — It shall be unlawful for any vessel to engage within the territorial waters of the Trust Territory in fishing, the harvesting of trochus, the removal of scrap iron, or animal, vegetable, marine, or mineral resources without authorization by an officer or agent of the government of the Trust Territory. (Code 1966, § 881; Code 1970, tit. 19, § 106.)

Title to marine resources unlawfully removed from Trust Territory waters remains in government. — Defendant, convicted of unlawfully entering Trust Territory waters and removing marine resources obtained his cargo in violation of law and therefore acquired no title to it. Rather the title remained in the government of the Trust Territory, held by it in trust for the people of Micronesia. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

§ 107. Penalty for violations; seizure and forfeiture of vessel. — (1) If any owner, master, person, company, corporation, charterer, any party to a charter agreement or other person having command or charge of a vessel fails to comply with the provisions of this chapter or obstructs or interferes with the exercise of any powers conferred by this chapter, or engages in any unlawful act under this chapter, he shall be fined not more than fifty thousand dollars, or imprisoned not more than two years, or both.

(2) Any vessel involved in the commission of unlawful acts, together with her tackle, apparel, furniture, and equipment shall be subject to seizure and forfeiture to the Trust Territory as provided in chapter 3 of this title. (Code 1966, § 882; Code 1970, tit. 19, § 107; P.L. No. 7-27, § 1.)
Statutory authority for confiscation not necessary. — There is nothing in this Code authorizing either forfeiture or confiscation as a penalty of the cargo of a fishing vessel unlawfully operating in Trust Territory waters. However, because of the special nature of marine life, such statutory authority for confiscation is not necessary. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

"Penalty" defined; exaction for unlawful operation of a fishing vessel. — A "penalty," as distinguished from forfeiture, is defined as a punishment by way of a pecuniary exaction from the offender imposed and enforced by the state for a crime against its laws. The only pecuniary exaction permitted by this Code for unlawfully operating a fishing vessel in Trust Territory waters are fines not exceeding $10,000 (now $50,000) for each offense. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Licensing requires submission to jurisdiction of Trust Territory courts. — Pursuant to this Code a vessel of a sovereign state in order to be licensed to operate within Trust Territory waters, must submit herself to the jurisdiction of the Trust Territory courts in the same manner as a vessel of Trust Territory registry. Kodang v. Trust Territory, 5 TTR 581 (1971).
CHAPTER 3.

SEIZURE AND FORFEITURE PROCEDURES.

Sec. 151. Seizure authorized.
Any district administrator or any person authorized by him to make seizures under this chapter, who has reasonable cause to believe that a vessel is subject to seizure for any violation hereof, may seize such vessel, together with her apparel, tackle, furniture and equipment. The authority granted in this section shall not bar an application to the trial division of the high court for a warrant of arrest of a vessel which has not been seized under this section. (Code 1966, § 883(a); Code 1970, tit. 19, § 151.)

"Forfeiture" defined; does not include confiscation of cargo as an incident to criminal conviction. — Forfeiture is defined as "divestiture of property without compensation" by means of an action against the property itself. Confiscation of cargo as an incident to criminal conviction is not within either the definition of or statutory provision for forfeiture. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Sec. 152. Report of seizure.
If the person making a seizure under this chapter is not a district administrator, he shall immediately report the seizure to the district administrator who authorized him so to act. It shall be the duty of the district administrator, whenever a seizure has been made by his authority under this chapter, to report it promptly to the district attorney and to the Attorney General of the Trust Territory, including in such report a statement of the names of any witnesses thereto. (Code 1966, § 883(b); Code 1970, tit. 19, § 152.)

Sec. 153. Investigation and prosecution by district attorney.
The district attorney of the district in which a seizure has been made for a violation of chapter 2 of this title or in which such a violation occurs shall immediately inquire into the facts of the case reported to him by the district administrator or other proper officer. If it appears probable that any forfeiture has been incurred by reasons of such violation, the district attorney shall forthwith cause a libel to be filed and prosecuted in the trial division of the high court for the condemnation and forfeiture of the vessel involved, together with her tackle, apparel, furniture and equipment; provided, however, that if, upon inquiry and examination, the district attorney decides that such libel cannot probably be sustained or that the ends of justice do not require that it should be instituted or prosecuted, he shall report the facts to the High Commissioner.
§ 154. Custody of vessel and equipment. — Any foreign vessel, together with her tackle, apparel, furniture and equipment, seized under this chapter shall be placed and remain in the custody of the district administrator for the district in which the seizure was made to await disposition according to this chapter. (Code 1966, § 883(d); Code 1970, tit. 19, § 153.)

§ 155. Notice of libel. — After the filing of a libel under this chapter, the reputed owner of the vessel involved and any reputed holders of liens upon her shall be given due notice of the seizure and of the forfeiture proceedings in such manner as the court shall direct; provided, that no failure of such notice to reach the owner shall invalidate the proceedings provided the vessel has been seized in accordance with this chapter or has been arrested under a warrant of arrest issued by the court. (Code 1966, § 883(e); Code 1970, tit. 19, § 155.)

§ 156. Filing of claims to vessel, equipment, and cargo. — (1) Any person claiming a vessel seized under this chapter may, at any time within forty-five days after seizure or arrest of the vessel, or such longer time, if any, as the court may allow, file in the trial division of the high court in the district in which the seizure or arrest was made, a claim stating his interest therein. Upon filing of such claim the court shall, after such notice, if any, as it deems justice requires, proceed to adjudicate the interests in the vessel, together with her tackle, apparel, furniture and equipment, and determine whether they shall be condemned and forfeited.

(2) If the claimant is the owner or the person otherwise entitled to immediate possession of the vessel, he shall have the burden of proof to show that the violation occurred without his knowledge or without any negligence on his part. Upon satisfactory proof that the violation occurred without his knowledge or any negligence on his part, he shall be entitled to a return of said vessel, together with her tackle, apparel, furniture and equipment. If said claimant is a lien holder, he shall, upon satisfactory proof that the violation occurred without his knowledge or any negligence on his part, be entitled to have the amount of his lien determined and protected in the manner and to the extent the court determines justice requires, in any judgment entered under this chapter. (Code 1966, § 883(f); Code 1970, tit. 19, § 156; P.L. No. 7-17, § 1.)

Effect of failure of owner of vessel to appear at proceeding for condemnation. — Where owner of vessel involved in proceeding for condemnation and forfeiture failed to appear and meet his statutory burden of proving that violation made grounds of proceeding was without his knowledge or wilful negligence, court would order vessel condemned and forfeited. Trust Territory v. Len Che Seng No. 3, 6 TTR 50 (1972); Trust Territory v. Hong Sen Ien, 6 TTR 52 (1972).

§ 157. Forfeiture and sale; retention of vessel. — If, after due process of law, the court finds in favor of the libelant, the court shall condemn and declare the vessel forfeited, together with her tackle, apparel, furniture and equipment, and shall order the sale thereof at public auction or shall order the vessel forfeited to the High Commissioner for the use of the Trust Territory, subject in either case to such provisions as the court deems justice requires for the protection of liens which have been determined in accordance with section 156 of this chapter. (Code 1966, § 883(g); Code 1970, tit. 19, § 157.)

Burden of proof is on claimant of property seized. — Forfeiture is the rule and release therefrom the exception, so that the burden of proof is upon the claimant of the
property seized to establish his right to it under statutory conditions. Trust Territory v. Kyoshin Maru No. 23, 4 TTR 452 (1969).

When owner is relieved from responsibility for unlawful use of vessel. — Under the Trust Territory seizure and condemnation statute, the owner or person entitled to possession is relieved of responsibility for the unlawful use of a vessel if he did not know of the intended use or was not wilfully negligent in failing to prevent the intended use. Trust Territory v. Kyoshin Maru No. 23, 4 TTR 452 (1969).

Where claimant has knowledge of unlawful destination of vessel, he is wilfully negligent in not stopping the voyage. — Where evidence demonstrated that claimant knew or should have known the unlawful destination of his vessel, it followed he was wilfully negligent in failing to stop the voyage and that negligence offset the claimant’s right to recover the seized vessel. Trust Territory v. Kyoshin Maru No. 23, 4 TTR 452 (1969).

§ 158. Disposition of proceeds of sale. — The proceeds of the sale shall be disposed of as follows:

(1) The payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the vessel, advertising and court costs;

(2) The payment of liens to the extent that the court has determined they shall be protected in accordance with sections 156 and 157 of this chapter; and,

(3) The residue, if any, shall be deposited with the treasurer of the Trust Territory as a navigation fine. (Code 1966, § 883(h); Code 1970, tit. 19, § 158.)

§ 159. Judgment for return. — Upon the entry of judgment in favor of a claimant who is the owner or the person otherwise entitled to immediate possession, all the property seized or arrested shall be returned forthwith to the claimant or his agent; provided, that, if it appears there was reasonable cause for the seizure or arrest, the court shall cause a proper certificate thereof to be entered and the claimant shall not be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such seizure or prosecution. (Code 1966, § 883(i); Code 1970, tit. 19, § 159.)

§ 160. Compromise of claims. — Any claim for forfeiture under this chapter may be compromised by the High Commissioner at any time on such terms and conditions as he deems reasonable and just. The High Commissioner may in connection therewith remit or mitigate the forfeiture or any part thereof, or order discontinuance of any prosecution relating thereto; provided, that nothing in this section shall be construed to deprive any person without his consent of an award made before such compromise. (Code 1966, § 883(j); Code 1970, tit. 19, § 160.)
CHAPTER 4.

SEAMEN'S PROTECTION ACT.

Sec. 201. Short title. - This chapter shall be known as the "Seamen's Protection Act." (Code 1970, tit. 19, § 201.)

Sec. 202. Definitions. - In this chapter, unless the context otherwise requires, the following definitions shall be applicable:

1. "Master" means any person having command of a vessel;
2. "Seamen" means any or all members of a crew and officers other than the master and pilots, employed or engaged in any capacity on board any vessel;
3. "Crew" means collectively the persons, other than officers and the master, serving in any capacity on board a vessel;
4. "Shipowner" includes the charterer of any vessel where he mans, victuals, and navigates such vessel at his own expense or by his own procurement;
5. "Trust Territory vessel" means any vessel registered with the Trust Territory government;
6. "Fishing vessel" means any vessel used for catching any living creatures at sea;
7. "Foreign trade" means trade between foreign countries or between the Trust Territory and foreign countries;
8. "Director" means the director of transportation and communications or a person or board established by law to make rules and regulations not contrary to the provisions of this chapter relating to conditions and terms of employment, benefits, and other necessary matters concerning the rights of seamen. (Code 1970, tit. 19, § 202.)

Sec. 203. Certificate of service. - (1) The master shall sign and give to a seaman discharged from his vessel, either on his discharge or on payment of his wages, a certificate of service in a form approved by the director, specifying the period of his service and the time and place of his discharge.

2. If any person forges or fraudulently alters any certificate of service, he shall, in respect of each offense, be guilty of a misdemeanor. (Code 1970, tit. 19, § 203.)
§ 204. Minimum age for employment. — (1) Children under the age of sixteen years shall not be employed on Trust Territory vessels engaged to foreign trade, except on vessels on which only members of the same family are employed, school-ships, or training ships.

(2) The master shall keep a register of all persons under the age of sixteen years employed on board his vessel, as required by regulations. (Code 1970, tit. 19, § 204.)

§ 205. Wages; generally. — (1) Wages shall commence on the day specified and agreed to in the shipping articles or at the time of presence on board the vessel for the purpose of commencing work, whichever first occurs, and shall terminate on the day of discharge or termination of the articles.

(2) In the absence of any agreement to the contrary the shipowner or the master of the vessel shall pay to every seaman his wages within two days after the termination of the articles, or at the time when the seaman is discharged, whichever is first.

(3) A seaman is entitled to receive in local currency, on demand, from the master one-half of his wages actually earned and payable at every intermediate port where the vessel shall load or deliver cargo before the voyage is ended, but not more than once in any ten-day period. In case of wrongful failure to pay a seaman his wages on demand, the seaman becomes entitled to a payment of full wages earned.

(4) Every master shall deliver to the seaman, before paying off, a full and true account of his wages and all deductions to be made therefrom on any account whatsoever, and in default shall, for each offense, be liable to a penalty of not more than twenty-five dollars. (Code 1970, tit. 19, § 205.)

§ 206. Same; unjustifiable discharge. — Any seaman who has signed shipping articles and is afterward discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without consent, shall be entitled to receive in addition to his earned wages a sum equal in amount to one month's wages as compensation. (Code 1970, tit. 19, § 206.)

§ 207. Stowaways. — A stowaway signing the vessel's articles is entitled to wages, but not to maintenance and cure as provided in this chapter. The master shall discharge him at the first convenient port of call. Nothing in this section shall require a stowaway to be signed on shipping articles. (Code 1970, tit. 19, § 207.)

§ 208. Grounds for discharge. — The master may discharge a seaman for justifiable cause, including any of the following grounds:

(1) Unjustified failure to report on board at such times and dates as may be specified by the master;

(2) Incompetence to perform duties for which the seaman has represented himself as qualified;

(3) Theft, embezzlement, or wilful destruction of any part of the vessel, its cargo or stores;

(4) Serious insubordination or wilful disobedience or wilful refusal to perform assigned duties;

(5) Mutiny or desertion;

(6) Habitual intoxication, quarreling or fighting;

(7) Possession of dangerous weapons, narcotics or contraband articles;

(8) Intentional concealment from the shipowner or master, at or prior to engagement under the shipping articles, of a condition which resulted in sickness or injury;
§ 209. Advance and allotment of wages. — (1) It shall be unlawful to pay any seaman wages in advance of the time when they are actually earned, or to pay such advance wages or make any order or note or other evidence of the indebtedness therefor to any other person, or to pay any person for the shipment of any seaman when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the provisions of this section shall be punished with a fine of not more than fifty dollars.

(2) It shall be lawful for the master and any seaman to agree that an allotment of a portion of the seaman’s earnings may be payable to a spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seaman. (Code 1970, tit. 19, § 209.)

§ 210. Wages and clothing exempt from attachment; assignment of wages. — The wages and clothing of a seaman shall not be subject to attachment or arrestment from any court; and assignment or sale of wages or of salvage made prior to the accruing thereof shall not bind the seaman, except that allotments shall bind the seaman. (Code 1970, tit. 19, § 210.)

§ 211. Vacation allowances and holidays. — (1) Every master and seaman shall be entitled after twelve months of continuous service on a vessel or for the same employer to receive and shall take an annual paid vacation equivalent to:

(a) In the case of masters and officers, not less than twelve days base wages; and

(b) In the case of other members of the crew, not less than eight days base wages.

(2) Every seaman shall be entitled to a minimum of five paid holidays per year.

(3) In the event a seaman is unable to take the benefits of subsections (1) and (2) hereof for paid vacation or holiday, then that person shall be entitled to double time pay for each vacation day or holiday, as measured by eight hours that person was unable to take, as certified by the master. (Code 1970, tit. 19, § 211.)

§ 212. Agreements as to loss of lien or right to wages. — No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled, and every stipulation by which any seaman consents to abandon his right to his wages in the case of the loss of the ship or to abandon any right which he may have obtained in the nature of salvage shall be wholly void and inoperative. (Code 1970, tit. 19, § 212.)

§ 213. Wages not dependent on freight earned. — No right to wages on the part of any seaman shall be dependent on the earning of freight by the vessel; provided, that nothing in this section shall be construed to prevent any profit-sharing plan by which officers and crew are to be compensated with profits in addition to their established wages. (Code 1970, tit. 19, § 213.)

§ 214. Wages, maintenance, and benefits for sick and injured seamen. — (1) In the event of disabling sickness or injury while a seaman is on board a vessel under signed shipping articles, or off the vessel pursuant to an actual mission assigned to him by, or by the authority of the master, the seaman shall be entitled to:
(a) Full wages, as long as he is sick or injured and remains on board the vessel;
(b) Medical and surgical treatment and supply of proper and sufficient medicines and therapeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than thirty weeks from the day of the injury or commencement of the sickness;
(c) An amount equal to board and lodging up to a maximum period of thirty weeks, and one third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of sixteen weeks commencing from the day of injury or commencement of the sickness;
(d) Repatriation as provided in section 220 of this chapter including, in addition, all charges for his transportation, accommodation and food during the journey and his maintenance up to the time fixed for his departure.
(2) The shipowner or his representative shall take adequate measures for safeguarding property left on board by a sick, injured, or deceased seaman.
(3) The seaman shall not be entitled to any of the following benefits:
(a) If such sickness or injury resulted from his wilful act, default or misconduct;
(b) If such sickness or injury developed from a condition which was intentionally concealed from the employer at or prior to his engagement under the articles;
(c) If he refuses medical treatment for such sickness or injury or is denied such treatment because of misconduct or default;
(d) If at the time of his engagement he refused to be medically examined.
(4) The seaman shall have a maritime lien against the vessel for any wages due him under this section. (Code 1970, tit. 19, § 214.)

§ 215. Wrongful death. — Notwithstanding anything contained in title 6, chapter 5 of this Code, whenever the death of a seaman, resulting from an injury, shall be caused by wrongful act, omission, neglect or default occurring on board a vessel, the personal representative of the deceased seaman may maintain a suit for damages, for the exclusive benefit of the deceased's wife, husband, parent, child, or dependent relative, against the vessel, person or corporation which would have been liable if death had not ensued. (Code 1970, tit. 19, § 215.)

§ 216. Death on board; procedure generally. — In the event of a death on board a vessel, an entry shall be made into the vessel's logbook by the master and one of his officers. He shall also report the death to the authorities at the first port of arrival and shall submit a statement signed by him to the director. The logbook entry and statement shall contain the first and last name, sex, nationality, year and place of birth of the deceased person, the cause of death, place of death (latitude, longitude), date and time of death, the names of next-of-kin, if known, and the name of the vessel. If the deceased person is a seaman, the entry and statement shall contain, in addition, his rank or rating, place and address of his residence or domicile, and the number of his license with date of issuance. The statement submitted by the master shall be countersigned by any attending physician aboard, otherwise by any of the ship's officers. A list of personal effects and amounts of money left on board the vessel shall be attached. (Code 1970, tit. 19, § 216.)

§ 217. Same; issuance of death certificate. — Where a death has been reported in accordance with the requirements of section 216 of this chapter, the office of the director shall issue a death certificate containing the particulars set forth in section 216 of this chapter upon the request of anyone having a legal interest. (Code 1970, tit. 19, § 217.)
§ 218. Same; burial expenses. — In the case of death of a seaman occurring on board the vessel or in case of his death occurring on shore, if, at the time, he was entitled to medical care and maintenance at the shipowner's expense, the shipowner shall be liable to defray reasonable local funeral expenses and make payment of the base wages of the deceased seaman up to the end of the month in which the death occurs. (Code 1970, tit. 19, § 218.)

§ 219. Working hours; overtime. — In relation to the members of the crew on a vessel engaged in foreign trade:
(1) The normal hours of work in port and at sea shall be eight per day; provided, that Saturdays and Sundays shall be included as weekdays;
(2) Work performed over and above the eight-hour period shall be considered as overtime and shall be compensated for at overtime rate;
(3) A reasonable number of men shall be employed to promote safety of life at sea and to avoid excessive work burdens; and
(4) Whenever the master of any vessel shall fail to comply with this section, he shall be liable to a penalty not exceeding one hundred dollars. (Code 1970, tit. 19, § 219.)

§ 220. Repatriation; rights generally. — (1) Any seaman who is put ashore at a port other than the one where he signed the shipping articles and who is put ashore for reasons for which he is not responsible, shall be returned as a crew member or otherwise, but without expense to him:
(a) At the shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port of the seaman's own country; or
(b) To another port, agreed upon between the seaman and the shipowner or the master.
However, in the event that the seaman's contract period of service has not expired, the shipowner shall have the right to transfer him to another of the shipowner's vessels to serve thereon for the balance of the contract period of service.
(2) Any seaman whose period of employment is terminated by reason of completion of the voyage for which he was engaged or by expiration of his contract period of employment shall be entitled to repatriation, at no expense to him, to the port at which he was engaged or to such other port as may be agreed upon.
(3) The right to repatriation shall be lost by failure of the seaman to request repatriation within one week from the time that he is in condition to be repatriated. (Code 1970, tit. 19, § 220.)

§ 221. Same; loss of right. — A seaman shall forfeit his right of repatriation in case of:
(1) Desertion;
(2) Entering into a new agreement with the same owner after his discharge;
(3) Entering into a new agreement with another owner within one week after his discharge;
(4) Criminal offenses under sections 224, 226, and 227 of this chapter; or
(5) Unjustifiable repudiation of the shipping articles. (Code 1970, tit. 19, § 221.)

§ 222. Offenses against the internal order of the vessel. — (1) Any seaman on a Trust Territory vessel who commits any of the following offenses may, in addition to any criminal penalties provided in this chapter, be punished by the master as follows:
(a) For neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, either at the
commencement or during the progress of the voyage, or for absence at any time, without leave and without sufficient reason, from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than two days' wages or wages sufficient to defray any expenses which shall have been properly incurred in hiring a substitute;

(b) For quitting the vessel without leave before it is placed in security, by forfeiture from his wages of not more than one month's wages;

(c) For intoxication or wilful disobedience to any lawful command, by being placed in restraint until such intoxication or disobedience shall cease and by forfeiture from his wages of not more than four days' wages;

(d) For continued intoxication or wilful disobedience to any lawful command or continued wilful neglect of duty, by being placed in restraint until such intoxication, disobedience or neglect shall cease, and by forfeiture, for every twenty-four hours continuance of such intoxication, disobedience or neglect, of a sum of not more than twelve days' wages;

(e) For wilfully damaging the vessel, or embezzling or wilfully damaging any part of the stores or cargo, whether on board the vessel, in boats or ashore, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained;

(f) For any act of smuggling, whereby loss or damage is occasioned to the master or shipowner, by payment to such master or shipowner of such a sum as is sufficient to reimburse the master or shipowner for such loss or damage; the whole or any part of his wages may be retained in satisfaction or on account of such liability;

(g) For assaulting any master, pilot, or officer, by forfeiture from his wages of not more than three months pay;

(h) For mutiny or desertion, by forfeiture of all accrued wages.

(2) All earnings forfeited as a result of penalties imposed by the master pursuant to this section shall be applied to reimburse the master or shipowner for any loss or damage resulting from the act for which the forfeiture was imposed, and the balance with an accounting thereof shall thereupon be forwarded to the director. (Code 1970, tit. 19, § 222.)

§ 223. Corporal punishment. — Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel, and any master who shall violate the provision of this section shall be guilty of a misdemeanor. (Code 1970, tit. 19, § 223.)

§ 224. Drunkenness, neglect of duty. — Whoever, being a master, seaman, or other person on any vessel, by wilful breach of duty or by reason of drunkenness does any act tending to the immediate loss or destruction of, or serious damage to, such vessel or its cargo, or tending immediately to endanger his life or limb or the life or limb of any person belonging to or on board such vessel, or by wilful breach of duty or by neglect of duty or by reason of drunkenness refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel and her cargo from immediate loss, destruction or serious damage or for preserving any person on such vessel from immediate danger to life or limb, shall be subject to a fine of not more than two hundred fifty dollars. (Code 1970, tit. 19, § 224.)

§ 225. Desertion. — (1) Any seaman who deserts his vessel with the intention of not returning to duty and who remains unlawfully in a foreign country shall be guilty of desertion and shall be liable to answer for any damages or losses suffered by the shipowner as a consequence of such desertion.

(2) The master shall make an entry of all desertions in the logbook and file a report with the office of the director. The local authorities of the port shall be notified and requested to apprehend and deliver the deserter. (Code 1970, tit. 19, § 225.)
§ 226. Incitement of revolt, mutiny, riot, etc. — Whoever, being of the crew of a Trust Territory vessel, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires or confederates with any other person on board to make such revolt or mutiny, or solicits, incites or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officers of such vessel, or refuses or neglects his proper duty on board thereof, or betrays his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be fined not more than one thousand dollars, or imprisoned for not more than five years, or both. (Code 1970, tit. 19, § 226.)

§ 227. Revolt or mutiny of seamen. — Whoever, being of the crew of a Trust Territory vessel, unlawfully and with force, or by fraud or intimidation, usurps the command of such vessel from the master or other lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny and shall be fined not more than two thousand dollars, or imprisoned for not more than ten years, or both. (Code 1970, tit. 19, § 227.)

§ 228. Entry of the offenses in logbook. — Upon the commission of any offense, an entry thereof shall be made in the official logbook of the vessel on the day on which the offense was committed and an entry made of any penalty or fine imposed, and shall be signed by the master and by the mate or one of the crew; and the offender, if still on the vessel, shall, before next arrival of the vessel at any port or, if it is at the time in port, before its departure therefrom, be furnished with a copy of such entry and have the same read over distinctly and audibly to him, and may thereupon make such a reply thereto as he thinks fit; and a statement that a copy of the entry has been so furnished or the same has been so read over, together with his reply, if any, made by the offender, shall likewise be entered and signed in the same manner. (Code 1970, tit. 19, § 228.)

§ 229. Abandonment of seamen. — (1) Whoever, being master or in charge of a Trust Territory vessel, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the articles any member of the crew of such vessel in condition and willing to proceed when the master is ready to proceed, shall be fined not more than five hundred dollars.

(2) The abandoned seaman shall retain his right to repatriation. (Code 1970, tit. 19, § 229.)

§ 230. Freedom of association. — Seamen and their employers, without distinction whatsoever, shall have the right to establish and to become members of organizations of their choosing, subject always to Trust Territory jurisdiction. (Code 1970, tit. 19, § 230.)

§ 231. Time limit. — (1) The following rights of action are subject to a one year prescription:

(a) Claims arising out of the shipping articles.

(2) The following rights of action are subject to a two year prescription:

(a) The right of action for death of a seaman caused by wrongful act, neglect or default on the high seas;

(b) Claims of the shipowner against the master for acts committed during the performance of his duties;
(c) All other tort claims.
(3) All other claims are subject to a three year prescription.
(4) The period of prescription of the claims laid down in the preceding subsections runs from the time when the right of action accrues. (Code 1970, tit. 19, § 231.)

§ 232. Director to make rules and regulations. — The director may make rules and regulations not contrary to the provisions of this title relating to conditions and terms of employment, wages, vacations and leave, hours of work, repatriation, minimum age, and compensation for sickness, injury or death of masters, seamen and seagoing laborers employed on vessels documented under the laws of the Trust Territory. Such rules and regulations, when signed and approved by the High Commissioner, shall have the force and effect of law. (Code 1970, tit. 19, § 232.)
Title 20.
[Reserved.]
Title 21.

Aeronautics.

Chap. 1. Administration of Airports and Air Navigational Facilities, §§ 1 to 12.

CHAPTER 1.

ADMINISTRATION OF AIRPORTS AND AIR NAVIGATIONAL FACILITIES.

Sec. 1. Definitions.
Sec. 2. General duties of department.
Sec. 3. Airport administration of airports and facilities.
Sec. 4. Operation and maintenance of airports.
Sec. 5. Miscellaneous fees and charges.
Sec. 6. Liens.
Sec. 7. Federal aid.
Sec. 8. United States-Trust Territory joint hearings; reciprocal services.
Sec. 9. Accidents involving aircraft.
Sec. 10. Enforcement of aeronautical laws.
Sec. 11. Rules, regulations, and standards.
Sec. 12. Derivation and disbursement of funds.

§ 1. Definitions. — As used in this act, unless the context otherwise requires:

(1) "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

(2) "Airport" means any area of land or water which is used or intended for use for the landing and take-off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights of way, including approaches, together with all airport buildings and facilities located thereon.

(3) "Aeronautics" means the science and art of flight.

(4) "Department" means the department of transportation and communications of the Trust Territory.

(5) "Director" means the director of the department of transportation and communications of the Trust Territory.

(6) "Trust Territory" means Trust Territory. (P.L. No. 7-35, § 1.)

§ 2. General duties of department. — The department shall have general supervision over aeronautics within the Trust Territory. It shall encourage, foster, and assist in the development of aeronautics in the Trust Territory and encourage the establishment of airports and air navigation facilities in appropriate areas. It shall cooperate with and assist agencies of the United States government, district governments, and other agencies, parties, or persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of the Trust Territory with appropriate agencies of the United States government. District governments of the Trust Territory shall cooperate with the department in the development of aeronautics and aeronautic facilities. (P.L. No. 7-35, § 2.)

§ 3. Airport administration of airports and facilities. — The department shall be responsible for and have the authority to regulate the administration of airports and air navigational facilities in the Trust Territory including:

(1) The planning, acquisition, establishment, enlargement, and improvement of airports, airport facilities, and air navigational facilities;
§ 4. Operation and maintenance of airports. — Each district administrator shall be responsible for the operation and maintenance of all airports of the Trust Territory government or his district government. Each district may, upon the approval of the director, enter into such leases, contracts, or maintenance and management agreements with private parties or governmental agencies as may be determined by the district administrator to be in the public interest. (P.L. No. 7-35, § 4.)

§ 5. Miscellaneous fees and charges. — The director is empowered and directed to establish and fix reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports and the service and facilities furnished in connection therewith. (P.L. No. 7-35, § 5.)

§ 6. Liens. — To enforce the payment of any charges for repairs or improvements to, or storage or care of, any personal property made or furnished by the department, any district government, or agent thereof in connection with the operation of an airport or air navigation facility owned or operated by the department or district government, the department or district government shall have a lien on such property. (P.L. No. 7-35, § 6.)

§ 7. Federal aid. — The department may accept, receive, disburse, and expend moneys from the United States government and other moneys, public or private, made available by grant or loan to accomplish, in whole or in part, any of the purposes of this act. All moneys from the United States government accepted under and pursuant to this act shall be accepted and expended by the department upon such terms and conditions as are prescribed by the United States government, and the department may enter into any contracts which may be required in connection therewith. (P.L. No. 7-35, § 7.)

§ 8. United States-Trust Territory joint hearings; reciprocal services. — (1) Joint hearings. The department may confer with or hold joint hearings with any agency of the United States government in connection with any matter arising under this act or relating to the sound development of aeronautics.

(2) Reciprocal services. The department may avail itself of the cooperation, services, records, and facilities of the agencies of the United States government as fully as may be practicable in the administration and enforcement of this act. The department shall furnish to the agencies of the United States government its cooperation, services, records, and facilities, insofar as may be practicable. (P.L. No. 7-35, § 8.)

§ 9. Accidents involving aircraft. — (1) It shall be the duty of the director to:
(a) Make rules and regulations governing notification and report of accidents involving aircraft, subject to section 10 of this act;
(b) Investigate such accidents and prepare records of the facts, conditions, and circumstances relating to each accident and the probable cause thereof, and, in carrying out his duties under this section, the director is authorized to examine and test to the extent necessary any aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident; and
(c) Take necessary steps that will tend to prevent similar accidents in the future.
(2) In conducting any investigation as provided in this section, the director may seek assistance from the appropriate agency of the United States government and may make available to such agency his records and any parts of any aircraft involved in an accident. (P.L. No. 7-35, § 9.)

§ 10. Enforcement of aeronautical laws. — The director, officers, and employees of the department, and every police officer charged with the enforcement of laws in the Trust Territory, shall enforce and assist in the enforcement of this act and of all rules, regulations, and orders issued pursuant thereto, and of all other laws of the Trust Territory relating to aeronautics, and, in that capacity, may inspect and examine at reasonable hours any premises and the buildings and other structures thereon where airports, air navigation facilities, or other aeronautical activities are operated or conducted. (P.L. No. 7-35, § 10.)

§ 11. Rules, regulations, and standards. — (1) The director may perform acts, issue and amend orders, make, promulgate, and amend reasonable rules, regulations, and procedures, and establish minimum standards consistent with this act as he deems necessary to carry out the provisions of this act. The director is to perform his duties under this title commensurate with and for the purpose of protecting and insuring the general public interest and safety, and the safety of persons operating, using, or traveling in aircraft, and the safety of persons and property on land or water, and commensurate with and for the purpose of developing and promoting aeronautics in the Trust Territory. No rule or regulation of the director shall apply to airports or air navigation facilities owned or operated by the United States government.
(2) No rules, regulations, orders, or standards prescribed by the director shall be inconsistent with or contrary to any act of the Congress of the United States, or any regulations promulgated or standards established pursuant thereto that are applicable to the Trust Territory.
(3) All rules and regulations having the force and effect of law shall be approved by the High Commissioner and promulgated in accordance with chapter 1 of title 17 of this Code. (P.L. No. 7-35, § 11.)

§ 12. Derivation and disbursement of funds. — All moneys received by the department from rates, fees and other charges pursuant to this act shall be paid to a special airport trust account to be expended only for the district from which such moneys were received, and to be used at the discretion of the director for:
(1) Matching funds for grants from the United States government for airport development;
(2) Maintenance of runways and navigational aids;
(3) Improvements, expansion, and maintenance of the terminal buildings; and
(4) Other matters related to airport operations. (P.L. No. 7-35, § 12.)
Title 22.

[Reserved.]
Title 23.
Agriculture and Marketing.

Chap. 1. Micronesian Coconut Processing Authority, §§ 1 to 11.

CHAPTER 1.

MICRONESIAN COCONUT PROCESSING AUTHORITY.

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Cross reference. — Licensing of copra trade, 33 TTC ch. 2.

§ 1. Purposes. — The Congress of Micronesia recognizes that products derived from the coconut tree are one of the major sources of income for the majority of the people of Micronesia. Because the price of copra has been erratic on the world market in recent years, steps must be taken to preserve and revitalize this essential industry. The purpose of this chapter is to establish a government authority to process, manufacture and sell, at a profit, products derived from the coconut tree and to preserve and revitalize the copra industry. (P.L. No. 5-72, § 1.)

§ 2. Creation. — There is hereby created a government authority, to be known as the Micronesian coconut processing authority, hereafter called the authority, to process, manufacture and sell oils and other products derived from copra, coconuts, and the coconut tree. (P.L. No. 5-72, § 2.)

§ 3. Principal office. — The board of directors shall determine the district in which the authority’s principal office shall be located, and the authority shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The authority may establish offices in such other places as it may deem necessary or appropriate for the conduct of its operations. (P.L. No. 5-72, § 3.)

§ 4. General powers. — The authority shall have the following general powers:

1. To engage in the manufacture and processing of oils and other products derived from copra, coconut, or the coconut tree.

2. To purchase or otherwise acquire, operate, maintain, lease, sell and dispose of factories, warehouses, facilities, machinery, expellers, grinders, presses, filters, cookers, tanks and other apparatus, raw materials, equipment, utensils, supplies, parts and other goods, wares, products and merchandise.
related to the business of manufacturing, storing, processing and selling out
and other produces derived from copra, coconuts, or the coconut tree.

(3) To improve and construct improvements upon any land or other reason
property owned or leased by the authority.

(4) To enter into and perform such contracts, leases, cooperatives
agreements, or other transactions as may be necessary in the conduct of its
business and on such terms as it may deem appropriate.

(5) To buy, sell, hold for investment, and deal in securities of every
description including mortgages, bonds, debentures, promissory notes,
commercial papers, and securities of other classes.

(6) To determine the character of and the necessity for its obligations and
expenditures, and the manner in which they shall be incurred, allowed, and
paid.

(7) To sue and be sued in its own name; provided, that neither the Congress
of Micronesia, the Trust Territory government or any political subdivision
thereof, nor the United States government shall be liable for any debts of the
authority, nor shall any action be brought in any court of the Trust Territory
against the Congress of Micronesia, the Trust Territory government or any
political subdivision thereof or the United States government because of any
activities, actions, or omissions of the authority, its officers, employees or
agents.

(8) To appoint such officers, attorneys, agents and employees, to vest them
with such powers and duties, and to fix and pay such compensation to them for
their services as the authority may determine; to require bonds for the faithful
performance of their duties and to pay the premiums for such bonds.

(9) To execute, in accordance with it bylaws, all instruments necessary or
appropriate in the exercise of any of its powers.

(10) To take such other actions as may be necessary or appropriate to carry
out the powers herein or hereafter specifically conferred upon it. (P.L. No. 5-72,
§ 4.)

§ 5. Management. — (1) The authority shall be managed and its powers
exercised by the board of directors which shall consist of seven persons
appointed to terms of four years by the High Commissioner with the advice and
consent of the Congress of Micronesia or any authorized joint committee
thereof; provided, that three of the initial appointments shall be for three years
and one of the initial appointments shall be for two years, as designated by the
High Commissioner. There shall be one board member appointed from each of
the six administrative districts in the Trust Territory and one member
appointed at large. New appointments to a term of office shall be made in the
same manner as original appointments.

(2) Any vacancy occurring in the board of directors during a term of office
shall be filled by appointment by the remaining directors, and any director so
appointed shall serve for the unexpired term of the director he replaces.

(3) Any director may be removed from office by the High Commissioner for
incompetence, neglect of duty, or criminality.

(4) Members of the board of directors shall be paid at the rate of thirty
dollars per day when actually performing authority business. If a member of
the board is concurrently employed in another post in the government of the
Trust Territory, he shall receive his regular salary during the period the board
is convened in lieu of thirty dollars per day. Members will be paid per diem and
travel expenses incidental to travel required to fulfill their responsibilities
under this chapter on the same basis as regular government employees.

(5) The authority shall have at least the following officers: a president, a
vice-president, a treasurer and a secretary. These officers shall be appointed by
the board of directors for a term of office which shall not exceed four years. No
member of the board shall simultaneously serve as an officer or an employee
§ 6. Bylaws. — The board of directors, by an affirmative vote of a majority of the whole board, may adopt, amend, alter or repeal such bylaws for the authority as are not inconsistent with this chapter, providing for the management of the business of the authority, the organization, conduct and meetings of the board of directors, the duties of the officers of the authority, the officers required to furnish bonds and the amounts thereof, and any other matter not inconsistent with the purposes of the authority; provided, that the bylaws shall not be adopted, amended, altered or repealed at any meeting of the board of directors unless written notice of any proposed action to change the bylaws has been sent by certified mail to each director two weeks prior to such meeting. (P.L. No. 5-72, § 6.)

§ 7. Audit. — The books and records of the authority shall be thoroughly examined and audited annually, at such time as the High Commissioner may direct, by qualified independent auditors appointed by the High Commissioner. An audit of the authority may be conducted more frequently if deemed necessary by the High Commissioner. (P.L. No. 5-72, § 7.)

§ 8. Tax exemption. — It is hereby found and declared that the purpose for which the authority is created is a public purpose for the benefit of the people of Micronesia, and that, therefore, the authority shall not be required to pay any taxes or assessments on any of the property acquired or to be acquired by it, or on its operations or activities. (P.L. No. 5-72, § 8.)

§ 9. Debts of authority not public debts. — The debts or obligations of the authority shall not be debts or obligations of the government of the Trust Territory or any political subdivision thereof, or the Congress of Micronesia, or the United States government, and neither the government of the Trust Territory or any political subdivision thereof, the Congress of Micronesia, nor the United States government shall be responsible for the same. (P.L. No. 5-72, § 9.)

§ 10. Annual reports. — The authority shall file with the High Commissioner and the Congress of Micronesia, within ninety days after the close of each fiscal year, a report, sworn to by the members of the board of directors, stating the name and address of the authority, containing a profit and loss statement for the preceding fiscal year and a statement of its assets and liabilities as of the close of such year, and stating the names and addresses of all directors and officers of the authority. Such report shall be made available to the general public without charge. (P.L. No. 5-72, § 10.)

§ 11. Wilfully defrauding authority. — (1) Any director, officer, employee or agent of the authority who embezzles, abstracts, or wilfully misapplies any moneys, funds, credits or securities of the authority, or who wilfully makes any false entry in any book, report or statement of the authority, or does any other act with intent to defraud the authority, (2) or any individual who knowingly aids or abets any director, officer, employee or agent in any violation of this section, shall be guilty of a felony and, upon conviction, shall be fined not more than twenty thousand dollars, or imprisoned for not more than ten years, or both. (P.L. No. 5-72, § 11.)
Title 24.

[Reserved.]
Title 25.

Animals and Plants.

Chap. 1. Quarantine Regulations, §§ 1 to 10.
2. Export Meat Inspection Act, §§ 51 to 78.

CHAPTER 1.

QUARANTINE REGULATIONS.

Sec. Sec.
quarantine regulations.
3. Administration and enforcement. 8. Disposition of contraband material.
4. Emergency measures authorized. 9. Treatment for insects or other pests.

§ 1. Purpose. — In order to protect the agricultural and general well-being of the people of the Trust Territory, quarantine regulations are promulgated as a means of preventing the introduction and further dissemination of injurious insects, pests, and diseases into and within the Trust Territory. (Code 1966, § 730; Code 1970, tit. 25, § 1.)

§ 2. Promulgation of plant and animal quarantine regulations. — (1) With the prior approval of the High Commissioner, the chief of agriculture shall issue plant and animal quarantines and regulations, relating to the administration and enforcement of the controls established by this chapter.

Letters and memoranda may be issued from time to time by the chief of agriculture, High Commissioner and deputy high commissioner relating to the administration and enforcement of such controls, quarantines and regulations.

(2) Emergency district orders relating to domestic quarantine may be issued from time to time by the different district administrators, providing such emergency district orders are not in conflict with the controls, quarantines and regulations issued pursuant to subsection (1) of this section.

(3) The plant and animal quarantines and regulations issued pursuant to this chapter shall be translated in whole or in summary from English to the predominant native language of each local government area, and shall be published by posting in each local-government office and filing with each clerk of courts a copy of such translation and a copy of the English language version. (Code 1966, § 731; Code 1970, tit. 25, § 2; P.L. No. 4C-32, § 1.)

Enforcement of quarantines and regulations. — Section 5 of this title gives authority to enforce quarantines and regulations established pursuant to this section. Uchel v. Owen, 4 TTR 132 (1968).

§ 3. Administration and enforcement. — (1) The chief of agriculture, under the director of the deputy high commissioner, shall administer the provisions of the plant and animal quarantine controls, quarantines and regulations.

(2) Agricultural quarantine inspectors may be appointed by the High Commissioner, and shall, under the direction of the chief of agriculture, enforce
the provisions of the plant and animal quarantine controls, quarantines regulations. (Code 1966, § 732; Code 1970, tit. 25, § 3; P.L. No. 4C-32, § 3.)

§ 4. Emergency measures authorized. — (1) Upon the discovery of a situation not covered by the controls, quarantines or regulations issued under this chapter, or any other situation warranting immediate action, emergency quarantine measures may be made at any time by an agricultural quarantine inspector or the chief of agriculture.

(2) Such emergency quarantine measures must be reviewed by the chief of agriculture and either incorporated into existing regulations in the manner which is or may be provided by law, or rescinded as soon as practicable after issuance, and in no case shall such action be taken later than thirty days after the measure is taken. (Code 1966, § 733; Code 1970, tit. 25, § 4; P.L. No. 4C-32, § 3.)

Constitutionality of section prior to 1972 amendment. — In the field of quarantine measures and enforcement this section of the Code, which provides for immediate action in emergency quarantine subject to the later approval of the High Commissioner, is not unconstitutional. Uchel v. Owen, 4 TTR 132 (1968).

Circumstances justify destruction of property. — Under the circumstances presented the public officer involved was justified in ordering the destruction of the property in question under this section. Uchel v. Owen, 4 TTR 132 (1968).

§ 5. Inspection. — (1) All animals and plants or parts thereof, including seeds, fruits, vegetables, cuttings, etc., entering or transported within the Trust Territory are subject to inspection by agricultural quarantine inspectors and may be refused entry into or movement within the Trust Territory if they are known to be, or are suspected of being, infected or infested with disease or pests.

(2) All aircraft and vessels or their cargoes, including baggage, ship’s stores and ballast, entering or moving within the Trust Territory, are subject to inspection by agricultural quarantine inspectors for the purpose of enforcing the controls, quarantines and regulations established pursuant to this chapter; provided, that such inspections of U.S. military aircraft and vessels shall be subject to existent military security regulations.

(3) It shall be a petty misdemeanor for anyone to interfere with or refuse to submit to the inspections authorized by this section. (Code 1966, § 734; Code 1970, tit. 25, § 5.)

Authority to enforce quarantines and regulations. — This section gives authority to enforce quarantines and regulations established pursuant to section 2 of this title. Uchel v. Owen, 4 TTR 132 (1968).

§ 6. Manifests and information. — Cargo manifests and other similar documents concerning aircraft and vessels traveling in the Trust Territory will be made available to the agricultural quarantine inspectors upon request. Those authorities having information as to the movements of aircraft and vessels will furnish such information to agricultural quarantine inspectors upon request; provided, that the provisions of this section are subject to military security regulations. (Code 1966, § 735; Code 1970, tit. 25, § 6.)
§ 7. In-transit material. — Any animals, plants, or other quarantinable material in transit through the Trust Territory on aircraft or vessels shall be kept aboard such aircraft or vessels while in port or on any island of the Trust Territory, unless such material is otherwise enterable. If it is necessary to transfer such quarantinable material from one vessel or aircraft to another, such transfer shall be made under the direction of an agricultural quarantine inspector, and with such safeguards as he deems necessary. (Code 1966, § 736; Code 1970, tit. 25, § 7.)

§ 8. Disposition of contraband material. — Anything attempted to be brought into or transported within the Trust Territory in contravention of the controls, quarantines or regulations established pursuant to this chapter shall be seized by an agricultural quarantine inspector and destroyed by fire or other appropriate means, or expelled from the Trust Territory, or returned to its place of origin, at the shipper’s expense, depending on the pest risk involved. (Code 1966, § 737; Code 1970, tit. 25, § 8.)

Destruction without compensation of pest-infested property. — The government may provide for the destruction without compensation of property which is infested with pests which are dangerous or suspected to be dangerous to the agricultural industry, where this is reasonably necessary for the protection of the agricultural industry. Uchel v. Owen, 4 TTR 132 (1968).

§ 9. Treatment for insects or other pests. — Vessels and aircraft traveling into or within the Trust Territory and known or suspected upon reasonable grounds to be harboring insects or other agricultural pests will be subject to spraying with insecticides or such other treatment as may be deemed necessary by an agricultural quarantine inspector; provided, that the spraying of aircraft with insecticides and the fumigation of ships is subject to public health regulations. (Code 1966, § 738; Code 1970, tit. 25, § 9.)

§ 10. Penalties. — A person who violates any of the provisions of this chapter or any properly issued plant and animal controls, quarantines or regulations shall be guilty of a misdemeanor. (Code 1966, § 739; Code 1970, tit. 25, § 10.)
CHAPTER 2.

EXPORT MEAT INSPECTION ACT.

Sec.
51. Definitions.
52. Examination and inspection of animals prior to slaughtering.
53. Methods of slaughtering allowed.
54. Post-mortem examination.
55. Application of provisions.
56. Examination and inspection of meat products prepared for export.
57. Labeling of packaged meat products.
58. Sanitation inspections; authorized; action on discovery of insanitary conditions.
59. Same; when made.
60. Compliance with provisions of chapter required.
61. Marking to be authorized; practices prohibited.
62. Appointment of inspectors; promulgation of rules and regulations governing inspections.
63. Bribing officials; accepting bribe.

§ 51. Definitions. — As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

1. "Chief of agriculture" means the chief of agriculture or his designated representative.

2. "Firm" means any partnership, association, or other unincorporated business organization.

3. "Meat broker" means any person, firm, or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, swine, or goats, on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person, firm or corporation.

4. "Renderer" means any person, firm, or corporation engaged in the business of rendering carcasses, or parts or products of carcasses, of cattle, sheep, swine, or goats, except rendering conducted under inspection under this chapter.

5. "Animal food manufacturer" means any person, firm, or corporation engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of cattle, sheep, swine, or goats.

6. "Export" means commerce from the Trust Territory to any foreign country or the United States, its territories and possessions.

7. "Meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the chief of agriculture under such conditions as he may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products.

8. "Capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any animal, unless it is denatured or otherwise
identified as required by regulations prescribed by the chief of agriculture
deter its use as human food, or it is naturally inedible by humans.

(9) "Prepared" means slaughtered, canned, salted, rendered, boned, cut up
or otherwise manufactured or processed.

(10) "Adulterated" shall apply to any carcass, part thereof, meat or meat
food product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may
render it injurious to health; but, in case the substance is not an added
substance, such article shall not be considered adulterated under this clause if
the quantity of such substance in or on such article does not ordinarily render
it injurious to health;

(b) (i) If it bears or contains (by reason of administration of any substance
to the live animal or otherwise) any added poisonous or added deleterious
substance (other than one which is a pesticide chemical in or on a raw
agricultural commodity, a food additive, a color additive or antibiotic or other
medication) which may, in the judgment of the chief of agriculture make such
article unfit for human food;

(ii) If it is, in whole or in part, a raw agricultural commodity, and such
commodity bears or contains a pesticide chemical which is unsafe as defined by
the chief of agriculture;

(iii) If it bears or contains any food additive which is unsafe as defined by
the chief of agriculture;

(iv) If it bears or contains any color additive which is unsafe as defined by
the chief of agriculture; provided, that an article which is not adulterated
under clauses (ii), (iii) or this clause shall nevertheless be deemed adulterated
if use of the pesticide chemical, food additive, color additive or antibiotic in or
on such article is prohibited by regulations of the chief of agriculture in
establishments at which inspection is maintained under this chapter;

(c) If it consists in whole or in part of any filthy, putrid, or decomposed
substance or is for any other reason unsound, unhealthful, unwholesome, or
otherwise unfit for human food;

(d) If it has been prepared, packed, or held under unsanitary conditions
whereby it may have become contaminated with filth, or whereby it may have
been rendered injurious to health;

(e) If it is, in whole or in part, the product of an animal which has died
otherwise than by slaughter;

(f) If its container is composed, in whole or in part, of any poisonous or
deleterious substance which may render the contents injurious to health;

(g) If it has been intentionally subjected to radiation, unless the use of the
radiation was in conformity with a regulation or exemption in effect pursuant
to regulations issued by the chief of agriculture;

(h) If any valuable constituent has been in whole or in part omitted or
abstracted therefrom; or if any substance has been substituted, wholly or in
part therefor; or if damage or inferiority has been concealed in any manner; or
if any substance has been added thereto or mixed or packed therewith so as to
increase its bulk or weight, or reduce its quality or strength, or make it appear
better or of greater value than it is; or

(i) If it is margarine containing animal fat and any of the raw material used
therein consisting in whole or in part of any filthy, putrid, or decomposed
substance.

(11) "Misbranded" shall apply to any carcass, part thereof, meat or meat food
product under one or more of the following circumstances:

(a) If its labeling is false or misleading in any particular;

(b) If it is offered for sale under the name of another food;

(c) If it is an imitation of another food, unless its label bears, in type of
uniform size and prominence, the word "imitation" and immediately
thereafter, the name of the food imitated;
(d) If its container is so made, formed, or filled as to be misleading;

(e) If in a package or other container unless it bears a label showing (i) the name and place of business of the manufacturer, packer, or distributor; and (ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (ii) of this paragraph, reasonable variations may be permitted, and exemptions as to small packages may be established, by regulations prescribed by the chief of agriculture.

(f) If any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be used and understood by the ordinary individual under customary conditions of purchase and use;

(g) If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the chief of agriculture under section 57 of this chapter unless (i) it conforms to such definition and standard, and (ii) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;

(h) If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the chief of agriculture under subsection (g) of this section, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(i) If it is not subject to the provisions of subsection (g) of this section, unless its label bears (i) the common or usual name of the food, if any there be, and (ii) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the chief of agriculture, be designated as spices, flavorings, and colorings without naming each; provided, that, to the extent that compliance with the requirements of clause (ii) of this subsection is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the chief of agriculture;

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the chief of agriculture, after consultation with the director for health services, determines to be, and by regulations prescribes as necessary in order fully to inform purchasers as to its value for such uses;

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that, to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the chief of agriculture, or

(l) If it fails to bear the inspection legend directly thereon or on its container as the chief of agriculture may by regulations prescribe, and, unrestricted by any of the foregoing, such information as the chief of agriculture may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(12) "Label" means a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article.

(13) "Labeling" means all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers, or (b) accompanying such article.
§ 52. Examination and inspection of animals prior to slaughtering. — For the purpose of preventing the use in export commerce, as hereinafter provided, of meat and meat food products which are adulterated, the chief of agriculture shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine and goats before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment in the Trust Territory in which slaughtering and preparation of meat and meat food products of such animals are conducted solely for export commerce, and all cattle, sheep, swine and goats found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, sheep, swine or goats, and when so slaughtered, the carcasses of said cattle, sheep, swine or goats shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the chief of agriculture. The chief of agriculture may, with the approval of the High Commissioner, promulgate and issue rules and regulations covering the disposition of condemned carcasses and materials classified as inedible. Such rules and regulations shall have the force and effect of law. (Code 1970, tit. 25, § 52.)

§ 53. Methods of slaughtering allowed. — No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the Trust Territory unless it is humane. The following methods of slaughtering and handling are hereby found to be humane in the case of cattle, calves, sheep, swine, goats and other livestock: where all animals are rendered insensible to pain by a single blow or gunshot or an electric, chemical or other means that is rapid and effective before being shackled, hoisted, thrown, cast or cut. (Code 1970, tit. 25, § 53.)

§ 54. Post-mortem examination. — For the purposes set forth in sections 51 to 53 of this chapter:
(1) The chief of agriculture shall appoint inspectors and cause the same to make post-mortem examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats capable of use as human food, to be prepared at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in the Trust Territory in which such articles are prepared solely for export commerce. The carcasses and parts of all such animals found to be unadulterated shall be marked, stamped, tagged, or labeled as ‘Inspected and Passed.’ The carcasses and parts of all such animals found to be adulterated shall be marked, stamped, tagged, or labeled as ‘Inspected and Condemned.’ The carcasses and parts of all such inspected and condemned animals shall be destroyed for food purposes by said establishment in the presence of an inspector, and the chief of agriculture may remove
inspectors from any such establishment which fails to so destroy any such condemned carcass or part thereof.

(2) After the first inspection authorized under subsection (1) of this section, the inspectors shall, when they deem it necessary, reinspect said animal carcasses or parts thereof to determine whether the same have become adulterated, and, if any carcass or any parts thereof shall be found to have become adulterated, the same shall be destroyed for food purposes by the said establishment in the presence of an inspector. The chief of agriculture may remove inspectors from any establishment which fails to so destroy any such condemned carcass or part thereof. (Code 1970, tit. 25, § 54.)

§ 55. Application of provisions. — Sections 52 to 54 of this chapter shall apply to all carcasses or parts of carcasses of cattle, sheep, swine, and goats, or the meat or meat products thereof, capable of use as human food, which may be brought into any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where inspection under this chapter is maintained. Examination and inspection shall be had before the said carcasses or parts thereof shall be allowed to enter into any department wherein the same are to be treated and prepared for meat food products. The foregoing sections referred to shall also apply to all such products which, after having been issued from any such slaughtering, meat-canning, salting, packing, rendering, or similar establishment, shall be returned to the same or to any similar establishment where such inspection is maintained. The chief of agriculture may limit the entry of carcasses, parts of carcasses, meat and meat food products, and other materials into any establishment at which inspection under this chapter is maintained, under such conditions as he may prescribe, to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purpose of this chapter. (Code 1970, tit. 25, § 55.)

§ 56. Examination and inspection of meat products prepared for export. — For the purposes of this chapter, the chief of agriculture shall appoint inspectors and cause the same to make an examination and inspection of all meat food products prepared in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, where such articles are prepared solely for export commerce. For the purposes of any examination and inspection, said inspectors shall have access at all times, by day or by night, whether the establishment be then in operation or not, to every part of said establishment. The inspectors shall mark, stamp, tag, or label as "Trust Territory — Inspected and Passed" all such products found to be unadulterated. The inspectors shall label, mark, stamp, or tag as "Trust Territory — Inspected and Condemned" all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes as provided in subsection (1), section 54 of this chapter. The chief of agriculture may remove inspectors from any establishment which fails to so destroy such condemned meat food products. (Code 1970, tit. 25, § 56.)

§ 57. Labeling of packaged meat products. — (1) When any meat or meat food product prepared for export commerce which has been inspected as provided in section 56 of this chapter and marked "Trust Territory — Inspected and Passed" shall be placed or packed in any can, pot, tin, canvas, or other receptacle or covering in any establishment where inspection under the provisions of this chapter is maintained, the person, firm, or corporation preparing said product shall cause a label to be attached to said can, pot, tin, canvas, or other receptacle or covering, under supervision of an inspector, which label shall state that the contents thereof have been inspected and passed under the provisions of this chapter, and no inspection and examination of meat or meat food products deposited or enclosed in cans, tins, pots, canvas,
or other receptacle or covering in any establishment where inspection under
the provisions of this chapter is maintained shall be deemed to be complete
until such meat or meat food products have been sealed or enclosed in said can,
tin, pot, canvas, or other receptacle or covering under the supervision of an
inspector.

(2) All carcasses, parts of carcasses, meat and meat food products inspected
at any establishment under the authority of this chapter and found to be
unadulterated shall, at the time they leave the establishment, bear, in
distinctly legible form, directly thereon or on their containers, as the chief of
agriculture may require, the information required under subsection (11),
section 51.

(3) The chief of agriculture, whenever he determines such action is
necessary, may prescribe the styles and sizes of type to be used with respect to
material required to be incorporated in labeling to avoid false or misleading
labeling of any articles or animals subject to this chapter.

(4) No article subject to this chapter shall be sold or offered for sale by any
person, firm, or corporation, in export commerce, under any name or other
marking or labeling which is false or misleading, or in any container of a
misleading form or size, but established trade names and other marking and
labeling and containers which are not false or misleading and which are
approved by the chief of agriculture are permitted.

(5) If the chief of agriculture has reason to believe that any marking or
labeling, or the size or form of any container in use or proposed for use with
respect to any article subject to this chapter, is false or misleading in any
particular; he may direct that such use be withheld unless the marking,
labeling, or container is modified in such manner as he may prescribe so that
it will not be false or misleading. If the person, firm, or corporation using or
proposing to use the marking, labeling or container does not accept the
determination of the chief of agriculture, such person, firm, or corporation may
request a hearing, but the use of the marking, labeling, or container shall, if
the chief of agriculture so directs, be withheld pending hearing and final
determination by the chief of agriculture. Any such determination by the chief
of agriculture shall be conclusive unless, within thirty days after receipt of
notice of such final determination, the person, firm, or corporation adversely
affected thereby appears before the trial division of the high court. (Code 1970,
tit. 25, § 57.)

§ 58. Sanitation inspections; authorized; action on discovery of
insanitary conditions. — The chief of agriculture shall cause to be made, by
experts in sanitation or by other competent inspectors, such inspection of all
slaughtering, meat-canning, salting, packing, rendering or similar
establishments in which cattle, sheep, swine and goats are slaughtered and the
meat or meat food products thereof are prepared solely for export commerce, as
may be necessary to inform himself concerning the sanitary conditions of the
same, and to prescribe the rules and regulations of sanitation under which such
establishment shall be maintained. Where the sanitary conditions of any such
establishments are such that the meat or meat food products there are
rendered adulterated, he shall refuse to allow said meat or meat food products
to be labeled, marked, stamped or tagged as “Trust Territory — Inspected and
Passed.” (Code 1970, tit. 25, § 58.)

§ 59. Same; when made. — The chief of agriculture shall cause an
examination and inspection of all cattle, sheep, swine, and goats, and the food
products thereof, slaughtered and prepared in the establishments described in
the preceding sections of this chapter for the purposes of export commerce, to
be made during the nighttime, as well as during the daytime, when the
slaughtering of said cattle, sheep, swine and goats, or the preparation of said
food products, is conducted during those hours. (Code 1970, tit. 25, § 59.)

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§ 60. Compliance with provisions of chapter required. — No person, firm or corporation shall, with respect to any cattle, sheep, swine or goats or any carcasses, parts of carcasses, meat or meat food products of any such animals:

1. Slaughter any such animals or prepare any such articles which are capable of use as human food, at any establishment preparing such articles solely for export commerce, except in compliance with the requirements of this chapter;

2. Sell, transport, offer for sale or transportation, or receive for transportation, in export commerce,
   (a) Any such articles which (i) are capable of use as human food, and (ii) are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or
   (b) Any articles required to be inspected under this chapter unless they have been so inspected and passed;

3. Do, with respect to any such articles which are capable of use as human food, any act while they are being transported in export commerce or held for sale after such transportation which is intended to cause or has the effect of causing such articles to be adulterated or misbranded. (Code 1970, tit. 25, § 60.)

§ 61. Marking to be authorized; practices prohibited. — (1) No brand manufacturer, printer, or other person, firm or corporation shall cast, print, lithograph or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the chief of agriculture.

(2) No person, firm, or corporation shall:
   (a) Forge any official device, mark, or certificate;
   (b) Use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark or certificate without authorization from the chief of agriculture;
   (c) Fail to use, or to detach, deface, or destroy any official device, mark, or certificate contrary to the regulations prescribed by the chief of agriculture;
   (d) Knowingly possess, without promptly notifying the chief of agriculture or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate of any device or label, or any carcass of any animal, or any part or product thereof bearing any counterfeit, simulated, forged, or improperly altered official mark;
   (e) Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the chief of agriculture; or
   (f) Knowingly represent that any article has been inspected and passed, or exempted, under this chapter when, in fact, it has not been so inspected and passed, or exempted. (Code 1970, tit. 25, § 61.)

§ 62. Appointment of inspectors; promulgation of rules and regulations governing inspections. — The chief of agriculture shall appoint from time to time inspectors to make examination and inspection of all cattle, sheep, swine and goats, the inspection of which is hereby provided for, and of all carcasses and parts thereof, and of all meats and meat food products thereof, and of the sanitary conditions of all establishments in which such meat and meat food products destined for export are prepared. The inspectors so appointed shall refuse to stamp, mark, tag or label any carcass or any part thereof, or any meat food product theferefrom, prepared in any such establishment, until the same shall have been inspected and found to be unadulterated, and shall perform such other duties as are provided by this
chapter and by the rules and regulations to be prescribed by the chief of agriculture from time to time as are necessary for the efficient execution of the provisions of this chapter. All inspections and examinations made under the chapter shall be made in such manner as described in the rules and regulations prescribed by the chief of agriculture and shall be consistent with provisions of this chapter. (Code 1970, tit. 25, § 62.)

§ 63. Bribing officials; accepting bribe. — (1) Any person, firm or corporation, or any agent or employee of any person, firm, or corporation, who shall give, pay, or offer, directly or indirectly, to any inspector, deputy inspector, chief inspector, or any other officer or employee of the Trust Territory authorized to perform any of the duties prescribed by this chapter by the rules and regulations of the chief of agriculture, any money or other thing of value, with intent to influence said inspector, deputy inspector, chief inspector, or other officer or employee of the Trust Territory in the discharge of any duty specified in this chapter, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, and by imprisonment for not less than one year nor more than three years.

(2) Any inspector, deputy inspector, chief inspector, or other officer or employee of the Trust Territory authorized to perform any of the duties prescribed by this chapter who shall accept any money, gift, or other thing of value from any person, firm, or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in export commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars and by imprisonment of not less than one year nor more than three years. (Code 1970, tit. 25, § 63.)

Cross references. — Bribery generally, 11 TTC ch. 7.
Misconduct in public office, 11 TTC ch. 22.

§ 64. Control of handling and storage. — The chief of agriculture may, by regulations, prescribe conditions under which carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine or goats, capable of use as human food, shall be stored or otherwise handled by any person, firm or corporation engaged in the business of buying, selling, freezing, storing, or transporting, in or for export commerce, such articles, whenever the chief of agriculture deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. The violation of any such regulations promulgated by the chief of agriculture under the authority of this section is prohibited. (Code 1970, tit. 25, § 64.)

§ 65. Animal products not intended for human consumption. — Inspection shall not be provided under this chapter at any establishment for the slaughter of cattle, sheep, swine, or goats, or the preparation of any carcasses or parts of products of such animals, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in export commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the chief of agriculture to deter their use for human food. No person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for

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transportation, in export commerce, any carcasses, parts thereof, meat or meat
food products of any such animals, which are not intended for use as human
food, unless they are denatured or otherwise identified as required by the
regulations of the chief of agriculture or are naturally inedible by humans.
(Code 1970, tit. 25, § 65.)

§ 66. Maintenance and inspection of records. — (1) The following
classes of persons, firms and corporations shall keep such records as will fully
and correctly disclose all transactions involved in their businesses that directly
relate to the activities sought to be regulated by this chapter, and all such
persons, firms, and corporations subject to such requirements shall, at all
reasonable times, upon notice from the chief of agriculture, afford access to
their places of business and opportunity to examine the facilities, inventory,
and records thereof, to copy all such records, and to take reasonable samples
of their inventory upon payment of the fair market value thereof:

(a) Any persons, firms or corporations that engage, for export commerce, in
the business of slaughtering any cattle, sheep, swine, or goats, or preparing,
freezing, packaging, or labeling any carcasses, or parts or products of carcasses,
or any such animals, for use as human food or animal food;

(b) Any persons, firms or corporations that engage in the business of buying
or selling (as meat brokers, wholesalers or otherwise), or transporting in export
commerce, or storing in or for such commerce, any carcasses or parts or
products of carcasses, of any such animals;

(c) Any persons, firms or corporations that engage in business, in or for
export commerce, as renderers, or engage in the business of buying, selling, or
transporting, in such commerce, any dead, dying, disabled, or diseased cattle,
sheep, swine or goats, or parts of the carcasses of any such animals that die
otherwise than by slaughter.

(2) Any records required to be maintained under this section shall be
maintained for such period of time as the chief of agriculture may, by
regulations, prescribe. (Code 1970, tit. 25, § 66.)

§ 67. Registration of business. — No person, firm, or corporation shall
engage in business, in or for export commerce, as a meat broker, renderer, or
animal food manufacturer, or engage in business in such commerce as a
wholesaler of any carcasses, or parts or products of the carcasses, of any cattle,
sheep, swine, or goats, whether intended for human food or other purposes, or
engage in business as a public warehouseman storing any such articles in or
for such commerce, or engage in the business of buying, selling, or transporting
in such commerce, any dead, dying, disabled, or diseased animals of the
specified kinds, or parts of the carcasses of any such animals that died
otherwise than by slaughter, unless, when required by regulations of the chief
of agriculture, he has registered with the chief of agriculture his name, and the
address of each place of business at which, and all trade names under which,
he conducts such business. (Code 1970, tit. 25, § 67.)

§ 68. Animals dying otherwise than by slaughter. — No person, firm or
corporation engaged in the business of buying, selling or transporting in export
commerce, dead, dying, disabled or diseased animals, or any parts of the
carcasses of any animals that died otherwise than by slaughter, shall buy, sell,
transport, offer for sale or transportation, or receive for transportation, in such
commerce, any dead, dying, disabled or diseased cattle, sheep, swine or goats,
or parts of the carcasses of any such animals that died otherwise than by
slaughter, unless such transaction or transportation is made in accordance
with such regulations as the chief of agriculture may prescribe to assure that
such animals, or the unwholesome parts or products thereof, will be prevented
from being used for human food purposes. (Code 1970, tit. 25, § 68.)
§ 69. Withdrawal of inspection services. — (1) The chief of agriculture may, indefinitely, or for such period as he deems necessary to effectuate the purposes of this chapter, refuse to provide, or withdraw, inspection service with respect to any establishment if he determines, after opportunity of a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this chapter because the applicant or recipient, or anyone responsibly connected therewith, has been convicted in any court of the Trust Territory or any United States federal or state court of a violation of any law based upon the acquiring, handling, or distributing of unwholesome, mislabeled or deceptively packaged meat products or upon fraud in connection with transactions in food. This section shall not affect in any way any other provisions of this chapter for the withdrawal of inspection services under this chapter from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products.

(2) For the purposes of this section, a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director holder, or owner of ten percent or more of its voting stock, or an employee thereof in a managerial or executive capacity. The determination and order of the chief of agriculture with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the appropriate court as provided in section 72 of this chapter. Judicial review of any such order shall be upon the record upon which the determination and order were based. (Code 1970, tit. 25, § 69.)

§ 70. Detention of adulterated products; removal of official markings. — Whenever any carcass, part of a carcass, meat or meat food product of cattle, sheep, swine or goats, or any product exempted from the definition of a meat food product, or any dead, dying, disabled cattle, sheep, swine or goat, is found by any authorized representative of the chief of agriculture upon any premises where it is held for purposes of or during or after distribution in export commerce, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected, in violation of the provisions of this chapter, or that such article or animal has been or is intended to be distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 71 of this chapter, and shall not be moved by any person, firm or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the chief of agriculture that the article or animal is eligible to retain such marks. (Code 1970, tit. 25, § 70.)

§ 71. Seizure and condemnation. — (1) Any carcass, part of a carcass, meat, or meat food product of cattle, sheep, swine or goats or any dead, dying, disabled, or diseased cattle, sheep, swine or goat, that is being transported in export commerce, and that (a) is being or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter, or (b) is capable of use as human food and is adulterated or misbranded, or (c) in any other way is in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under section 71 of this chapter, and shall not be moved by any person, firm or corporation from the place at which it is located when so detained, until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the chief of agriculture that the article or animal is eligible to retain such marks. (Code 1970, tit. 25, § 70.)
fees, and storage and other proper expenses, shall be paid into the treasury of the Trust Territory; provided, that such articles or animals shall not be sold contrary to the provisions of this chapter; and provided further, that upon the execution and delivery of a good and sufficient bond, conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter, or the laws of the Trust Territory, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the chief of agriculture as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs, fees, storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, and all such proceedings shall be at the suit of and in the name of the Trust Territory.

(2) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter, or other laws of the Trust Territory. (Code 1970, tit. 25, § 71.)

§ 72. Jurisdiction of high court. — The trial division of the high court is vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter. (Code 1970, tit. 25, § 72.)

§ 73. Obstructing enforcement of chapter. — (1) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than five thousand dollars, or imprisoned for not more than three years, or both.

(2) Any person who, in the commission of any acts prohibited by subsection (1) of this section, uses a deadly or dangerous weapon, shall be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.

(3) Any person who kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided in section 751, chapter 16, title 11 of this Code. (Code 1970, tit. 25, § 73.)

Cross references. — Murder in the first degree, 11 TTC 751.
Obstruction of justice, 11 TTC 1151.

§ 74. Miscellaneous violations; prosecution for minor violations discretionary. — (1) Any person, firm, or corporation who violates any provision of this chapter for which no other criminal penalty is provided shall, upon conviction therefor, be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both such imprisonment and fine; provided, that if such violation involves an intent to defraud or any distribution or attempted distribution of an article that is adulterated (except as defined in paragraph (i), subsection (10), section 51), such person, firm, or corporation shall be subject to imprisonment for not more than three years, or a fine of not more than ten thousand dollars, or both; provided further, that no person, firm, or corporation shall be subject to penalties under this section for receiving for transportation any article or animal in violation of this chapter if such receipt was made in good faith, unless such person, firm, or corporation refuses to furnish on request of a representative of the chief of agriculture the name and address of the person
§ 75. Additional powers of chief of agriculture and other officials.

(1) The chief of agriculture shall have the power:

(a) To gather and compile information concerning, and to investigate from time to time, the organization, business, conduct, practices, and management of any person, firm, or corporation engaged in export commerce, and the relation thereof to other persons, firms, and corporations;

(b) To require, by general or special orders, persons, firms, and corporations engaged in export commerce, or any class of them, or any of them, to file with the registrar of corporations, in such form as the registrar of corporations may prescribe, annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the registrar of corporations such information as he may require as to the organization, business, conduct, practices, management, and relation to other persons, firms, and corporations. of the person, firm, or corporation filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the registrar of corporations may prescribe, and shall be filed with the registrar of corporations within such reasonable period as he may prescribe, unless additional time be granted in any case by such registrar.

(i) For the purposes of this chapter, the Attorney General or his designated representatives shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any documentary evidence of any person, firm, or corporation being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence of any person, firm, or corporation relating to any matter under investigation. The Attorney General may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.

(a) Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing. In case of disobedience to a subpoena the Attorney General may invoke the aid of any court designated in section 72 of this chapter requiring the attendance and testimony of witnesses and the production of documentary evidence.

(b) Any of the courts designated in section 72 of this chapter within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, firm, or corporation, issue an order requiring such person, firm, or corporation to appear before the Attorney General, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Upon the application of the Attorney General of the Trust Territory, the trial division of the high court shall have jurisdiction to issue writs of mandamus commanding any person, firm, or corporation to comply with the provisions of this chapter or any order of the Attorney General made in pursuance thereof.

(d) The Attorney General may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Attorney General and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the
deposition, or under his direction, and shall then be subscribed by the
depONENT. Any person may be compelled to appear and depose and to produce
documentary evidence in the same manner as witnesses may be compelled to
appear and testify and produce documentary evidence before the Attorney
General as provided in this section.

e) Witnesses summoned before the Attorney General shall be paid the same
fees and mileage that are paid witnesses in the courts of the Trust Territory,
and witnesses whose depositions are taken and the persons taking the same
shall severally be entitled to the same fees as are paid for like services in such
courts.

(f) No person, firm, or corporation shall be excused from attending and
testifying or from producing books, papers, schedules of charges, contracts,
agreements, or other documentary evidence before the Attorney General or in
obedience to the subpoena of the Attorney General whether such subpoena be
signed or issued by him or his delegate, or in any cause or proceeding, criminal
or otherwise, based upon or growing out of any alleged violation of this chapter,
or of any amendments thereto, on the ground or for the reason that the
testimony or evidence, documentary or otherwise, required of him or it may
tend to incriminate him or it or subject him or it to a penalty of forfeiture; but
no person shall be prosecuted or subjected to any penalty or forfeiture for or on
account of any transaction, matter, or thing concerning which he is compelled,
after having claimed his privilege against self-incrimination, to testify or
produce evidence, documentary or otherwise, except that any person so
testifying shall not be exempt from prosecution and punishment for perjury
committed in so testifying.

(g) Any person, firm, or corporation that shall neglect or refuse to attend and
testify or to answer any lawful inquiry, or to produce documentary evidence,
if it is in his or its power to do so in obedience to the subpoena or lawful
requirement of the Attorney General, shall be guilty of an offense and upon
conviction thereof by a court of competent jurisdiction shall be punished by a
fine of not less than one thousand dollars nor more than five thousand dollars,
or by imprisonment for not more than one year, or by both such fine and
imprisonment.

(ii) Any person, firm, or corporation that shall wilfully make, or cause to be
made, any false entry or statement of fact in any report required to be made
under this chapter, or that shall wilfully make, or cause to be made, any false
entry in any account, record, or memorandum kept by a person, firm, or
corporation subject to this chapter, or that shall wilfully neglect or fail to make
or cause to be made, full, true, and correct entries in such accounts, records, or
memoranda, of all facts and transactions appertaining to the business of such
person, firm, or corporation, or that shall wilfully remove out of the jurisdiction
of the Trust Territory, or wilfully mutilate, alter, or by any other means falsify,
any documentary evidence of any such person, firm, or corporation, or that
shall wilfully refuse to submit to the Attorney General or to any of his
authorized agents, for the purpose of inspection and taking copies, any
documentary evidence of any such person, firm, or corporation in his possession
or within his control, shall be deemed guilty of an offense and shall be subject,
upon conviction in any court of competent jurisdiction, to a fine of not less than
one thousand dollars, nor more than five thousand dollars, or to imprisonment
for a term of not more than three years, or to both such fine and imprisonment.

(iii) If any person, firm, or corporation required by this chapter to file any
annual or special report shall fail to do so within the time fixed by the registrar
of corporations for filing the same, and such failure shall continue for thirty
days after notice of such default, such person, firm, or corporation shall forfeit
to the Trust Territory the sum of one hundred dollars for each and every day
of the continuance of such failure, which forfeiture shall be payable into the
treasury of the Trust Territory and shall be recoverable in a civil suit in the
name of the Trust Territory brought in the trial division of the high court shall be the duty of the various district attorneys, under the direction of the Attorney General of the Trust Territory, to prosecute for the recovery of such forfeitures.

(2) Any officer or employee of the Trust Territory who shall make public any information obtained by the registrar of corporations without his authority unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court. (Code 1970, tit. 25, § 75.)

§ 76. Severability. — If any provision of this chapter or the application thereof to any person, firm, or corporation or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons, firms, and corporations and circumstances shall not be affected thereby. (Code 1970, tit. 25, § 76.)

§ 77. Ratification of rules and regulations. — The rules and regulations authorized by this chapter to be promulgated by the chief of agriculture shall be temporary until their ratification by the Congress of Micronesia; provided, that should the Congress of Micronesia fail to reject or ratify such rules and regulations within eighteen months after they are published, they shall have the effect of law as if they had been formally ratified. (Code 1970, tit. 25, § 77.)

§ 78. Short title. — This chapter shall be designated as the "Trust Territory Export Meat Inspection Act." (Code 1970, tit. 25, § 78.)
Title 26.

[Reserved.]
Title 27.

Aliens.

Chap. 1. Alien Property, §§ 1 to 5.

CHAPTER 1.

ALIEN PROPERTY.

Sec. Sec.
1. Defined. 4. Prohibited acts.
2. Custodian. 5. Power of custodian to void transactions.
3. District property custodians.

§ 1. Defined. — Alien property, as used in this chapter, includes property situated in the Trust Territory which was formerly owned by private Japanese nationals, by private Japanese organizations, by the Japanese government, or by Japanese government organizations, agencies, quasi-corporations or government-subsidized corporations. Such property shall be deemed to include tangible and intangible assets, as well as any right, title or interest therein. (Code 1966, § 532; Code 1970, tit. 27, § 1.)

Interests of Japanese government in land vested in alien property custodian. — Under former interim regulations nos. 4-48, 6-48 and 3-50, any interest previously owned or held by Japanese government in land or other property in the Trust Territory is vested in the alien property custodian. Wasisang v. Trust Territory, 1 TTR 14 (1952).

§ 2. Custodian. — (1) The Attorney General shall act as alien property custodian, and as such is authorized and empowered to vest title of all alien property as defined in this chapter in the alien property custodian and to take immediate possession of all alien property in the Trust Territory.

Under such vesting order, the alien property custodian is empowered to hold, use, administer, liquidate, sell or otherwise deal with alien property in the interest and for the benefit of the indigenous inhabitants of the Trust Territory, in accordance with the terms of the trusteeship agreement, and is further empowered to direct, manage, supervise and control any business enterprises connected with such property.

(2) The alien property custodian is empowered to assume custody, distinguished from title, of all property in the Trust Territory owned by allied governments or nationals sequestered by the enemy and of all other property owned by non-Japanese persons who are absent from the Trust Territory, are making no attempt to assert possession thereover and who have no agent present in the area. With reference to such property, the alien property custodian shall:

(a) Provide protection and security for the property;
(b) Assume full authority for the direction, management and operation of the property;
(c) Utilize the property to the best interests of the government of the Trust Territory and of the indigenous inhabitants of the area; and
(d) In the management of such property, act in accordance with the principle of usufruct for the benefit of the indigenous inhabitants of the Trust Territory.
(3) The alien property custodian is authorized and empowered to take such action as he deems necessary in the interest of all persons concerned to direct, manage, supervise and control all properties which come within the purview of this chapter. He is further empowered to issue all such orders, rules, regulations or other instructions as may be requisite for executing or carrying out the provisions of this chapter, subject to the approval of the High Commissioner. (Code 1966, § 533; Code 1970, tit. 27, § 2.)

Position of alien property custodian is that of prior bona fide purchaser. — Although no consideration was paid by Trust Territory's alien property custodian for transfer of property from Japanese national to him, and therefore he does not fulfill all requirements of bona fide purchaser, he is entitled to same position as was occupied by prior bona fide purchaser. Ngirkelau v. Trust Territory, 1 TTR 543 (1958).

Interests of Japanese government in land vested in alien property custodian. — Under former interim regulations nos. 4-48, 6-48 and 3-50, any interest previously owned or held by Japanese government in land or other property in the Trust Territory is vested in the alien property custodian. Wasisang v. Trust Territory, 1 TTR 14 (1952).

Any interest previously owned or held by Japanese government in any land or other property in Trust Territory is vested in alien property custodian. Catholic Mission v. Trust Territory, 2 TTR 251 (1961).

Interests in land previously held by Japanese government vested in predecessor of alien property custodian. — Any interest previously owned or held by Japanese government in any land in Trust Territory is vested in predecessor of alien property custodian of Trust Territory. Ngikleb v. Trust Territory, 2 TTR 139 (1960).

Passage of title to alien property custodian. — Japanese national's title to property in Palau Islands passed to Trust Territory's alien property custodian just as effectively as if made in appropriate deed of conveyance. Ngirkelau v. Trust Territory, 1 TTR 543 (1958).

Power of alien property custodian to vest title in himself. — Trust Territory's alien property custodian is empowered to vest in himself title to alien property, including property formerly owned by private Japanese national. Ngirkelau v. Trust Territory, 1 TTR 543 (1958).

Property confiscated by German government vested in alien property custodian. — Since the legality of the German government's confiscation of the whole of Pakein Atoll in the Sokaes municipality, Ponape District, must be decided according to the law at the time such confiscation took place, and no such showing of illegality was made, the property in question was deemed to belong to the alien property custodian. As it is not a proper function of the courts of the present administration to right wrongs which may have occurred during former administrations and which persisted for many years during the previous administrations, the decision announced would hold even if it had been proven that such confiscation was illegal at the time it was made. Christopher v. Trust Territory, 1 TTR 150 (1954).

Effect of revocable permit from American administration. — A revocable permit from the American administration to use land on Ponape Island authorizes the exercise of only such rights in land as the alien property custodian might have, and is not a determination of who should succeed to vacant title. Francisca v. Ladore, 1 TTR 303 (1957).

No determination of rights made when parties are not party to action. — Where neither the Trust Territory nor the alien property custodian is a party to the action, no determination is made as to their rights in land. Francisca v. Ladore, 1 TTR 303 (1957).

Where Trust Territory government or alien property custodian are not party to action for determination of ownership of land in Truk, no determination is made as to rights of government. Tosiko v. Upuili, 1 TTR 436 (1958).

§ 3. District property custodians. — (1) There shall be a district property custodian appointed for each district of the Trust Territory by the High Commissioner from nominations submitted by the district administrators and approved by the Attorney General.

(2) District property custodians, under the supervision of the alien property custodian, shall be responsible for the control and administration of all alien property in the district for which they are appointed, including responsibility for conducting investigations to locate alien property, and representing the
§ 4. **Prohibited acts.** — Any person who knowingly and without lawful authority: (1) interferes with or obstructs the alien property custodian or his assistants in the exercise of any of the functions prescribed by this chapter; or (2) interferes with, removes, damages, conceals or makes away with any property which the alien property custodian has vested or is authorized to take into his control; or (3) interferes with, removes, damages, conceals or makes away with any property with intent to defeat, evade or avoid any responsibility, fine or punishment; or (4) withholds any information or document which the alien property custodian is entitled to receive, or makes any false statements, or uses or refers to any false document in order to mislead the alien property custodian as to any of the purposes of this chapter; or (5) violates any other provisions, orders, rules or regulations issued pursuant to this chapter, shall be tried before a court of proper jurisdiction and upon conviction shall be imprisoned for a period of not more than one year, or fined not more than one thousand dollars, or both. (Code 1966, § 535; Code 1970, tit. 27, § 4.)

§ 5. **Power of custodian to void transactions.** — The alien property custodian may, upon approval of the High Commissioner, by order, direct that any transaction or commitment made at any time with regard to property under his jurisdiction be set aside and held null and void, if, in his opinion, the transaction was made to defeat, evade or avoid any provision of this chapter, or any lawful responsibility, fine or punishment imposed or to be imposed on any person. (Code 1966, § 536; Code 1970, tit. 27, § 5.)
Title 28.

[Reserved.]
Title 29.
Banks and Financial Institutions.

Chap. 1. Micronesia Development Bank, §§ 51 to 64.
2. Commercial Bank Disclosures, §§ 101 to 106.

CHAPTER 1.

MICRONESIA DEVELOPMENT BANK.

§ 51. Purpose. — It is the intent of the Congress of Micronesia to create a financial institution to provide the people of Micronesia with special facilities required to meet the needs of their developing economy. (P.L. No. 5-88, § 1.)

§ 52. Creation. — There is hereby created a body corporate to be known as the Micronesia Development Bank, hereinafter referred to as the "bank." (P.L. No. 5-88, § 2.)

§ 53. Charter. — The charter of the bank shall be as follows:

(1) The existence of the bank shall be perpetual.

(2) The principal office of the bank shall be located in Saipan, Mariana Islands District; there may be such subordinate or branch offices in such place or places in the other districts as the board of directors of the bank may deem necessary. There shall be such branch, subordinate or representative offices to be in the charge of such person or persons as may be appointed by the board of directors.

(3) Subject to any existing limitation or limitations hereafter enacted, the bank, through its officers and agents, is authorized to engage in all banking functions that will assist in the economic advancement of Micronesia. Such functions shall include but not be limited to the following: to mobilize, from both within and outside Micronesia, additional financial resources for development; to provide medium and long-term loans for high priority projects with special attention to the needs of Micronesia; to provide equity capital for financially sound enterprises of importance to the people of Micronesia; to provide technical assistance and services for project identification, project formulation, and pre-investment studies; to administer trust funds and special funds available to Micronesia on a grant or loan basis; to foster economic activities and cooperate with other institutions within and outside Micronesia in supporting activities for Micronesia’s development.

(4) In performing the functions authorized in subsection (3) of this section, the bank shall have and exercise all powers normally exercised by a banking corporation, including but not limited to the following:
(a) To adopt, alter, and use a corporate seal;
(b) To adopt and amend its bylaws governing the conduct of its business and the exercise of its powers;
(c) To sue and be sued in its corporate name;
(d) To acquire in any lawful manner, real, personal, or mixed property either tangible or intangible, to hold, maintain, use, and operate such property and to sell, lease, or otherwise to dispose of such property;
(e) To acquire in any mode and take over the whole or any part of the business, property, goodwill, and liabilities of any other bank or banks; to administer and manage the Trust Territory economic development loan fund upon the granting of such authority by the United States government including debts, liabilities, and obligations incurred prior to the time the fund is actually transferred to the bank;
(f) To act as agents of and as correspondents for other banks;
(g) To make, issue, and circulate notes upon such terms and subject to such provisions and conditions as may be prescribed by the board of directors;
(h) To guarantee or become liable for the payment of money or for the performance of any obligations, and generally to carry on guarantee and indemnity business of all kinds and to effect counter guarantees;
(i) To take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kinds;
(j) To lend money either with or without security, and if with security upon such security and upon such terms as may from time to time seem expedient.
(k) To borrow or raise any sum or sums of money on such security and, upon such terms as to interest or otherwise, as may from time to time seem expedient;
(l) To buy, sell, and deal in bullion, specie, precious metals, currencies, and exchange of and with all countries;
(m) To lend and advance money to or negotiate loans or discount promissory notes or other negotiable instruments for, or on behalf of, or otherwise financially assist, persons, firms, or companies concerned in any way whatever in the sale or purchase of any property, real or personal, for cash or on credit or on hire purchase, hire agreement, time payment, installment system, or otherwise, and generally to transact or engage in any class of business commonly undertaken by financiers;
(n) To establish agencies or connections in relation to the business of the bank in any part of the world;
(o) To give letters of credit on agents and banking connections in any part of the world;
(p) To buy, sell, discount, and rediscount bills of exchange, promissory notes, and treasury bills;
(q) To buy and sell securities issued by any government agency, international organization, companies, institutions, or otherwise;
(r) To form or assist in forming any company for the purpose of carrying on any business which the bank is authorized to carry on, or any other business which may seem conducive to any of the interests of the bank, or to acquire by purchase or otherwise the whole or any part of the business, property, and liabilities, or the whole or any part of the shares or stock of any company carrying on or proposing to carry on any such businesses as aforesaid; to hold shares, stock, debentures, debenture stock, or any interest in any such company and to dispose of such shares, stock, debentures, debenture stock, or interest and to make or carry out arrangements for giving the bank the entire or partial control and management or benefit of the business of any such company and to guarantee dividends and interest on shares, stock, debentures, debenture stock, mortgages, bonds, or securities of any such company;
(s) To issue corporate bonds for various periods of time, upon such terms and with such conditions and provisions as are deemed necessary and desirable by
the board of directors, for sale to the general public or to other financial institutions, and government agencies;

(t) To permit the bank to be registered or recognized in any country, state, or place outside Micronesia, and to comply with any condition necessary or expedient in order to enable the bank to carry on business in any such country, state, or place and to establish or guarantee local companies or branch offices constituted or regulated under or by local laws for carrying on any business which the bank is authorized to carry on;

(u) To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them. (P.L. No. 5-88, § 3; P.L. No. 6-57, § 2; P.L. No. 6-136, § 1.)

§ 54. Board of directors; created; composition; officers; compensation; conflict of interests. — The affairs of the bank shall be managed and its corporate powers exercised by a board of directors, ten in number, hereinafter referred to as the "board" which shall consist of three members to be appointed by and from the Congress of Micronesia or any authorized joint committee thereof, six members, one from each administrative district, who shall be appointed by the respective district legislature, or any authorized committee thereof, and the High Commissioner or his designee. The board shall select a chairman from among its membership and shall select a president, a vice-president, and a secretary-treasurer, who shall be the officers of the bank. The chairman of the board shall have no vote except when necessary to break tie votes. The president shall manage the operations of the bank, with the assistance of the other two officers and such employees as the board may authorize. Appointments of officers and employees of the bank shall be made without regard to the provisions of the Trust Territory merit system law and compensation plan. The salary of the president shall be set by the board and shall not be less than fifteen thousand dollars nor more than thirty thousand dollars a year, including benefits. The salary of the vice-president shall be set by the president with the approval of the board and shall not exceed a sum equal to ninety percent of the salary of the president. The salary of all the other officers and employees of the bank shall be established by the board. No member of the board shall be an officer of the bank except that the president of the bank shall be an ex officio member of the board, without the power to vote. No member of the board or officer of the bank, during the term for which he was appointed or reappointed and during six calendar months following the expiration of the term for which he was appointed or reappointed, shall be eligible either to borrow moneys from or through the bank, or to assume responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security to the bank in respect of a debt or obligation of a third party. (P.L. No. 5-88, § 4; P.L. No. 6-57, § 1.)

§ 55. Same; terms; vacancies; travel expenses. — Members of the board, except the bank president, the three members from the Congress of Micronesia and the High Commissioner or his designee, shall each serve for a period of five years; provided, that at the first meeting of the board, these members shall, by lot, determine which two members shall have terms of two years, which two members shall have terms of three years, which two members shall have terms of four years, and which two members shall have terms of five years. Vacancies in the membership of the board shall be filled in the same manner as the original appointment. Board members shall be eligible for reappointment. Any director may be removed from office by the affirmative vote of two-thirds of the board of directors. All members of the board shall be entitled to necessary travel expenses and to per diem at standard Trust Territory rates, while on the business of the bank. Board members who are neither employees of the Trust Territory government nor members of the Congress of Micronesia shall, in
addition, be paid thirty dollars per day while on the business of the bank. (P.L. No. 5-88, § 5; P.L. No. 6-57, § 1.)

§ 56. Same; adoption of bylaws. — The board may, by majority vote of its entire membership, adopt, amend, or repeal bylaws of the bank providing for the management of the business of the bank, the organization, meetings, and procedures of the board, the duties of the officers of the bank, the officers required to furnish bonds and the amounts thereof, the form of the seal of the bank, and the preparation and submission of required reports. Bylaws may not be adopted, amended, or repealed except after one week's written notice to each director. (P.L. No. 5-88, § 6.)

§ 57. Examination and audit of books and records. — The books and records of the bank shall be thoroughly examined and audited at such times as the board may provide, by qualified independent examiners appointed by the board. (P.L. No. 5-88, § 7.)

§ 58. Costs of administration. — There is hereby authorized to be appropriated from the general fund of the Congress of Micronesia such amount of funds necessary to carry out the cost of administration of this chapter. The board of directors of the bank shall, to the extent feasible, forecast the needed appropriations for the fiscal year and request the funds from the Congress of Micronesia. Nothing herein contained shall prohibit the board from seeking or soliciting funds for its operation and capitalization from additional sources within and outside the Trust Territory. (P.L. No. 5-88, § 8.)

§ 59. Tax exemptions; debts and obligations. — The bank shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, or activities. The debts and obligations of the bank shall not be debts or obligations of the government of the Trust Territory, nor shall the government be responsible for any debts or obligations. (P.L. No. 5-88, § 9.)

§ 60. Annual report. — (1) The bank shall file with the High Commissioner and the Congress of Micronesia annually, within ninety days after the close of its fiscal year, a report sworn to by an officer of the bank stating:
   (a) The name and address of the bank;
   (b) A profit and loss statement of the last fiscal year and a statement of its assets and liabilities as of the close of the year; and
   (c) The names and addresses of all directors and officers of the bank.
   (2) The report shall be made available to the public by publication or otherwise. (P.L. No. 5-88, § 10.)

§ 61. Defrauding bank. — Any director, officer, employee or agent of the bank who embezzles, abstracts, or wilfully misapplies any moneys, funds, credits, or securities of the bank, or who wilfully makes any false entry in any book, report or statement of the bank, or who does any other act, with intent to injure or defraud the bank; or any individual who with like intent aids or abets any director, officer, employee or agent in any violation of this section; or any individual who makes a false statement with the intent of defrauding the bank of moneys, funds, credits or securities, shall be fined not more than twenty thousand dollars, or imprisoned for not more than ten years, or both. (P.L. No. 5-88, § 11.)

CHAPTER 2.

COMMERCIAL BANK DISCLOSURES.

Sec. 101. Savings disclosure. — Each commercial bank shall, upon opening a savings account of whatever nature or issuing a certificate of deposit, inform the customer in simple and clear written language about the manner in which interest is calculated, the periods for which and circumstances under which interest is and is not payable, the rate of interest, and penalties and forfeitures, if any. (P.L. No. 7-105, § 1.)

Sec. 102. Checking account disclosure. — Each commercial bank shall, upon opening a checking account, inform the customer in simple and clear written language about all fees which may be charged. (P.L. No. 7-105, § 2.)

Sec. 103. Loan disclosure. — Each commercial bank shall, prior to entering into a loan agreement, inform the customer in simple and clear written language about the rate of interest and the dollar amount of interest which will be payable if the loan is repaid according to the contractual terms, and the manner in which interest is calculated; provided, that if the rate of interest is based upon the prime interest rate, only the method of interest computation need be disclosed. (P.L. No. 7-105, § 3.)

Sec. 104. Shipping document fees disclosure. — Each commercial bank, upon receipt of shipping documents relating to the release of cargo, shall notify the cargo purchaser in simple and clear written language about all fees and interests it may charge for holding or processing the documents. (P.L. No. 7-105, § 4.)

Sec. 105. Form and copies of disclosure statements. — Each written statement required by this act shall be written and provided to the customer both in English and the primary vernacular language of the district in which the bank is located. A bank shall furnish a copy of any such statement to any person upon request. (P.L. No. 7-105, § 5.)

Sec. 106. Civil penalty; punitive damages; right to bring action; attorney's fees and costs. — (1) A bank which violates any provision of this act shall be subject to a civil penalty of two hundred fifty dollars for each wilful violation and one hundred fifty dollars for each unwilful violation. The court may, in its discretion, award punitive damages for each wilful violation and may provide such equitable relief as it deems necessary or proper.

(2) The attorney general, or any person whose rights as established by this act have been violated, is entitled to bring an action. A person entitled to bring an action may do so on behalf of himself and other persons similarly situated.

(3) In any action the court may award, in addition to the relief provided for herein, reasonable attorney's fees and costs. (P.L. No. 7-105, § 6.)
Title 30.

[Reserved.]
Title 31.

Businesses and Professions.

Chap. 1. Land Surveyors, §§ 1 to 153.
2. Notaries Public, §§ 201 to 256.

CHAPTER 1.

LAND SURVEYORS.

Subchapter I.

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3. "Practice of land surveying" defined.
4. Application of chapter.
5. Duties of territorial surveyor.
6. Disposition of fees.
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Subchapter II.

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51. Created; composition; qualifications of members.
52. Removal of members; vacancies.
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54. Clerical and logistic support by division of lands and surveys.
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56. Meetings; quorum; vote required to arrive at decision.
57. Records; list of registered surveyors.
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Subchapter III.

Registration.

101. Required.

Subchapter I.

General Provisions.

§ 1. Short title. — This chapter may be cited as the "Land Surveyors Registration Act." (Code 1970, tit. 31, § 1.)

§ 2. Reference to land surveyors. — Where in any law of the Trust Territory a reference is made to a surveyor as a registered surveyor, that reference shall be read as a reference to a registered land surveyor within the meaning of this chapter. (Code 1970, tit. 31, § 2.)

§ 3. "Practice of land surveying" defined. — The practice of land surveying means a person who practices surveying within the meaning of this chapter, either in a public or private capacity, and who does or offers to do any or more of the following:
§ 4. Application of chapter. — This chapter applies only to:
(1) Surveys of the boundaries of land, or surveys for the purpose of the establishment, re-establishment or determination of titles to land; and
(2) Any activity performed in relation to the practice of land surveying as defined in section 3 of this chapter. (Code 1970, tit. 31, § 4.)

§ 5. Duties of territorial surveyor. — The territorial surveyor is charged with the general administration and supervision of this chapter. (Code 1970, tit. 31, § 5.)

§ 6. Disposition of fees. — All fees received pursuant to this chapter shall be deposited in the Trust Territory treasury for appropriation by the Congress of Micronesia. (Code 1970, tit. 31, § 6.)

§ 7. Trainees or apprentices. — A registered land surveyor, who has a trainee, apprentice or cadet surveyor, shall permit the trainee, apprentice or cadet surveyor a reasonable time for the purpose of attending lectures or gaining practical experience which is included in the course of traineeship, apprenticeship or cadetship undertaken by the trainee, apprentice or cadet surveyor by arrangement with registered land surveyor. (Code 1970, tit. 31, § 7.)

§ 8. Prohibited practices. — (1) It shall be a misdemeanor punishable by a fine of not less than twenty-five dollars nor more than one thousand dollars, or imprisonment for not more than one year, or both, for any person to:
(a) Practice, or offer to practice, or hold himself out as entitled to practice, land surveying except when authorized by this chapter;
(b) Use or attempt to use a certificate of registration that has expired or has been suspended or revoked;
(c) Present or use as his own the certificate of registration of another;
(d) Stamp or seal any document with the seal of a registrant after the certificate of the registrant has expired or has been suspended or revoked; or
(e) Otherwise violate any provision of this chapter.
(2) It shall be a felony punishable by a fine of not more than five thousand dollars, or imprisonment for not more than three years, or both, for any person to present any false or forged information or evidence applying for registration under this chapter.

(3) In addition to any other remedy provided by law, upon request of the board an action may be filed in the name of the government of the Trust Territory in the trial division of the high court to restrain or enjoin the commission or continuance of any acts in violation of this chapter. In any such proceeding it shall be unnecessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if the relief requested were not granted. (Code 1970, tit. 31, § 8.)

Subchapter II.

Board of Examiners.

§ 51. Created; composition; qualifications of members. — There is hereby created a board of land surveyor examiners which shall consist of the territorial surveyor, who shall be chairman, two official members, being the chief engineer and the chief of lands and surveys, and three additional members who are citizens of the Trust Territory, appointed by the High Commissioner. The appointed members shall have at least six years of active experience, be of recognized good standing in their profession of either land surveying or civil engineering, and be at least thirty years of age; provided, that each of the six aforementioned members first serving on the board shall receive a certificate of registration as a land surveyor and without payment of fees of any kind; provided further, that the High Commissioner may appoint to the board a person exempted under subsection (4), section 115, subchapter III of this chapter, and, in that event, such a person need not be registered under this chapter. (Code 1970, tit. 31, § 51.)

§ 52. Removal of members; vacancies. — The High Commissioner may remove any member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the board shall be filled by appointment by the High Commissioner as provided in section 51 of this subchapter. (Code 1970, tit. 31, § 52.)

§ 53. Compensation of members. — Members of the board shall be reimbursed for reasonable and necessary expenses incurred in the course of their official duties. (Code 1970, tit. 31, § 53.)

§ 54. Clerical and logistic support by division of lands and surveys. — The division of lands and surveys shall provide the board with necessary clerical personnel, office facilities and other logistic support. (Code 1970, tit. 31, § 54.)

§ 55. Promulgation of rules and regulations. — (1) The board is hereby authorized to make rules and regulations needed in performing its duties not inconsistent with law.

(2) Such rules and regulations shall be:
(a) Subject to approval by the High Commissioner;
(b) Issued by administrative order; and
(c) Promulgated in a government bulletin or land gazette or in a recognized newspaper or periodical circulating in the Trust Territory or as otherwise provided by law. (Code 1970, tit. 31, § 55.)
§ 56. Meetings; quorum; vote required to arrive at decision. — The board shall meet at such times and places as it may by rule prescribe, but shall hold at least two regular meetings in each year. The chairman may call special meetings. At all meetings the presence of five members shall constitute a quorum, and the concurrence of four members shall be required in arriving at any decision. (Code 1970, tit. 31, § 56.)

§ 57. Records; list of registered surveyors. — The board shall keep a complete record of all applications for registration together with the boards action thereon and shall annually, during the month of July, prepare a list showing the names, places of business and residences of all registered land surveyors for publication. A copy of the list shall be filed with the chief of lands and surveys. (Code 1970, tit. 31, § 57.)

§ 58. Annual report. — The board shall prepare a printed annual report of its activities for the past fiscal year, which shall be submitted to the High Commissioner not later than the first day of September of each year. (Code 1970, tit. 31, § 58.)

Subchapter III.

Registration.

§ 101. Required. — (1) No person shall practice or offer to practice land surveying, or use in connection with his name, or otherwise use, assume, or advertise, any title or description to convey the impression that he is a land surveyor, unless such person has qualified as such by registration as a land surveyor or is otherwise exempt under this chapter.

(2) A person shall be construed to practice or offer to practice land surveying within the meaning and intent of this chapter who practices land surveying, or who by oral or written claim or sign, advertising, letterhead, card, or in any other way represents himself to be a land surveyor, or through the use of some other title implies that he is such, or who holds himself out as able to perform or who does perform any surveying service or work or any other professional service designated by him as land surveying or generally recognized as such. (Code 1970, tit. 31, § 101.)

§ 102. Acts construed as practicing surveying. — A person shall be construed to practice or offer to practice land surveying within the meaning and intent of this chapter who:

(1) Practices land surveying; or

(2) By oral or written claim, or sign, advertising, letterhead, card or in any other way represents himself to be a land surveyor, or through the use of some other title implies that he is such; or

(3) Holds himself out as able to perform, or who does perform, any surveying, service or work or any other professional service designated by him as land surveying, or generally recognized as such. (Code 1970, tit. 31, § 102.)

§ 103. Qualifications; residency; age; character; knowledge. — No person shall be eligible for registration as a land surveyor under this chapter unless he:

(1) Is a resident of the Trust Territory;
(2) Is more than twenty-one years of age;
(3) Is of good character and repute; and
§ 104. Same; training; experience. — The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor:

(1) Graduation from university, college, institute or school approved by the board as of satisfactory standing, including the completion of an approved course in surveying, and a specific record of an additional two years or more of experience in land surveying of a character satisfactory to the board, and indicating that the applicant is competent to practice land surveying and passing the prescribed examination; or

(2) A specific record of six years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying and has passed the prescribed oral and practical examinations set by the board; or

(3) A specific record of eight years or more of lawful practice in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying and has passed the prescribed examinations set by the board, provided, that the applicant is not less than thirty-three years of age and provided that the eight years or more of lawful practice in land surveying work was gained before July 1967. (Code 1970, tit. 31, § 104.)

§ 105. Same; credits for experience. — In considering the qualifications of applicants as to experience under section 104 of this chapter:

(1) Teaching of land surveying in an approved curriculum in a university, college, or school approved by the board as of satisfactory standing may be credited as experience.

(2) Experience and training in the armed services of the United States in civil engineering or land surveying may be credited as experience.

(3) The satisfactory completion of each year of approved curriculum in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience under subsections (2) or (3), section 104 of this chapter. Graduation in a curriculum other than land surveying from a college or university of recognized standing may be considered equivalent to two years of experience under this chapter: provided, however, that no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications. (Code 1970, tit. 31, § 105.)

§ 106. Reciprocity. — (1) The board may, upon application and payment of the fee required by section 107 of this chapter, issue a certificate of registration as a land surveyor, without oral or written examination, to any person who holds a current valid certificate of registration (or the equivalent thereof) issued as such by any state, territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of this chapter.

(2) The territorial surveyor may, with the consent of the chief of lands and surveys, enter into a reciprocal arrangement with surveyor's registration boards or other competent authorities of a state or a territory of the United States, or of any country:

(a) For the recognition of the status of a person authorized by that board or competent authority to practice as a land surveyor in the state, territory, or country, and for the registering of any such person as a registered land surveyor under this chapter; and
(b) For the examination of a candidate who has served under a term of cadetship or apprenticeship to a licensed or registered land surveyor and when articles have been registered in the office of the territorial surveyor. (Code 1970, tit. 31, § 106.)

§ 107. Applications. — (1) Application for registration shall be on forms prescribed and furnished by the board and shall:
   (a) Designate the registration applied for;
   (b) Show the applicant's education and a detailed summary of his technical work;
   (c) Furnish not less than five references, at least three of which shall be with regard to his technical work; and
   (d) Set forth such other information as the board may prescribe.
   (2) Every application shall be accompanied by an application fee of ten dollars. No refund shall be made in the event registration is denied. (Code 1970, tit. 31, § 107.)

§ 108. Examinations. — (1) When oral or written examinations are required, they shall be held at such time and place as the board shall determine.
   (2) All examinations shall be prescribed by the board, subject to the requirements of this chapter and shall have for their scope the determination of the applicant's ability to practice land surveying. All examinations shall include the subjects of professional ethics and the provisions of this chapter.
   (3) The examination, in addition to other matters, shall cover the procedure and rules governing the survey of public lands as set forth in "Manual of Surveying Instructions," published by the bureau of land management, United States Department of the Interior, Washington, D.C., and in the "Manual of Surveying Instructions" issued by the division of lands and surveys government of the Trust Territory. (Code 1970, tit. 31, § 108.)

§ 109. Certificate of registration; issuance; effect of issuance. — (1) The board shall issue a certificate of registration to any applicant for registration as a land surveyor, who, having paid the application and registration fee, has satisfactorily met all the requirements of this chapter. Certificates shall show the full name of the applicant, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board.
   (2) The certificate for a registered land surveyor shall authorize the "practice of land surveying."
   (3) The certificate of registration, as issued by the board, shall be prima facie evidence that the person named therein is a registered land surveyor entitled to all the rights and privileges of such while such certificate remains unrevoked or unexpired. (Code 1970, tit. 31, § 109.)

§ 110. Same; expiration and renewal. — (1) Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and become invalid at the end of such day unless renewed.
   (2) It shall be the duty of the board to notify every person registered under this chapter of the date of expiration of his certificate of registration and the amount of the fee that shall be required for its renewal for one year. Such notice shall be mailed no later than the first of December. Renewal may be effected at any time during the month of December by payment of a renewal fee of five dollars.
   (3) The failure on the part of any registrant to renew his certificate annually in the month of December shall not deprive such person of the right of renewal, but the renewal fee to be paid after the month of December shall be increased
by one dollar for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed ten dollars. The failure of the board to notify a registrant of the date of the expiration of his certificate, or the amount of the renewal fee, shall not extend the duration of the certificate of registration. (Code 1970, tit. 31, § 110.)

§ 111. Registered land surveyor's seal. — (1) Every registrant may, upon being issued a certificate of registration, obtain a seal of a design authorized by the board, which shall bear the registrant's name and the legend "registered land surveyor," and shall provide space for stating the serial number and date of expiration of the certificate of registration. Plans, specifications, plats and reports prepared by a registrant shall be stamped with such seal when filed with the government of the Trust Territory during the term of the registrant's registration, and shall also show the serial number and date of expiration of such certificate of registration.

(2) It shall be a misdemeanor for anyone to stamp or seal any documents with such seal after the certificate of registration of the person named thereon has expired or has been revoked, unless such certificate shall have been renewed and reissued. (Code 1970, tit. 31, § 111.)

§ 112. Suspension or revocation. — The board shall have the power, duty, and authority to investigate violations of this chapter and may suspend or revoke a certificate of registration on any of the following grounds:

(1) The registrant is practicing in violation of this chapter; or

(2) The certificate of registration has been obtained or that the registrant has obtained such certificate by fraud or misrepresentation; or

(3) The certificate of registration was obtained by bribery or payment of any money except fees prescribed by this chapter; or

(4) The registrant is falsely impersonating a practitioner or former practitioner or is practicing under an assumed or fictitious name; or

(5) The registrant has been convicted of an offense arising from or in connection with the practice of land surveying, or any offense involving moral turpitude, in which case a certified copy of the record of conviction shall be conclusive evidence thereof; or

(6) The registrant has violated any provision of this chapter; or

(7) The registrant has aided and abetted in the practice of land surveying any person not duly authorized to practice land surveying except as provided under subsection (3), section 115 of this chapter; or

(8) The registrant has been guilty of fraud or deceit, or of gross negligence, incompetence, misconduct in the practice of land surveying; or

(9) The registrant has permitted his seal to be affixed to any plans, specifications or drawings that were not prepared by him or under his personal supervision, or by his employee or subordinate.

Proceedings under this section may be initiated upon complaint by any person or by the board. All charges shall be in writing and sworn to by the person making them. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred. The time and place for such hearing shall be fixed by the board, and a copy of the charges together with a notice of the time and place of hearing, shall be personally served upon or mailed to the last known address of such registrant at least thirty days before the date fixed for the hearing. At any hearing, the registrant shall have the right to appear personally and have counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense. (Code 1970, tit. 31, § 112.)
§ 113. Reissuance of certificates of registration. — (1) The board for reasons it deems sufficient may reissue a certificate of registration to any person whose certificate has been revoked provided three or more members of the board vote in favor of such reissuance.

(2) A new certificate of registration may be issued to any person whose certificate has been revoked, lost, destroyed, or mutilated, subject to the rules of the board and upon payment of a fee of ten dollars. (Code 1970, tit. 31, § 113.)

§ 114. Application of chapter to proprietorships, partnerships, and corporations. — (1) The practice and land surveying may be performed by employees of a proprietorship, partnership, or corporation engaged in construction, manufacturing, transportation, distribution, or communications insofar as such land surveying is involved in its operations, provided that it is performed by, or under the supervision of, a land surveyor in responsible charge, registered under this chapter.

(2) The practice or offer to practice land surveying for the public, as defined in section 3 of this chapter, by individuals registered under this chapter through a corporation as officers, employees or agents, is permitted subject to the provisions of this chapter, and provided that all personnel who act in its behalf as land surveyors in responsible charge are registered under this chapter, or are persons lawfully practicing under section 115 of this chapter. In case this practice is done through a corporation organized after the effective date of this chapter, it shall be required at all times that the president and a majority of the officers and directors are registered land surveyors, and further, that said corporation shall have been issued a certificate of authorization by the board as provided in this chapter.

(3) A corporation desiring a certificate of authorization shall file with the board an application, using a form provided by the board, listing the names and addresses of all officers and board members of the corporation, and also, of the individual or individuals duly registered to practice land surveying who shall be in responsible charge, and other information required by the board. The same form, giving the same information, must accompany the annual renewal fee. In the event there shall be a change in any of these persons during the year, such change shall be designated on the same form and filed with the board within thirty days after the effective date of said change. If all of the requirements of this section are met, the board may issue a certificate of authorization to such corporation.

(4) No corporation authorized to practice land surveying under this chapter shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with the provisions of this section, nor shall any individual practicing land surveying be relieved of responsibility for services performed by reason of his employment or relationship with such corporation. All final drawings, specifications, plans, reports, or other papers or documents involving the practice of land surveying which shall have been prepared or approved for the use of such corporation, or for delivery by it to any person, or for public record, shall be dated and bear the signature and seal of the land surveyor who prepared or approved them. (Code 1970, tit. 31, § 114.)

§ 115. Exemptions. — This chapter shall not apply to:

(1) A person not a resident of and having no established place of business in the Trust Territory, practicing or offering to practice land surveying in the Trust Territory when such practice does not extend in the aggregate more than thirty days in any calendar year; provided, that such person is legally qualified by registration to practice such profession in the state or territory of his residence and in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter;
(2) A person not a resident of and having no established place of business in the Trust Territory, or who has recently become a resident thereof, practicing or offering to practice land surveying in the Trust Territory for more than thirty days in any calendar year, if he has filed an application for a certificate of registration with the board and has paid the required fee, such exemption to continue only for such time as the board requires for the consideration of the application for registration; provided, that such person is legally qualified to practice such profession in the state or territory of his residence and in which the requirements or qualifications for obtaining a certificate are not lower than those specified in this chapter;

(3) An employee or subordinate of a person holding a certificate of registration under this chapter or an employee or a person exempted from registration by subsections (1) and (2) of this section; provided, that the work of such employee or subordinate does not include final designs or decisions and is under the direct responsibility and supervision of a person holding a certificate of registration under this chapter or a person exempted from registration by subsections (1) and (2) of this section;

(4) Officers, employees or members of the armed forces of the United States, as long as their practice of land surveying is limited to that work specifically authorized by the armed forces;

(5) The practice of any legally recognized profession other than that of land surveyor. (Code 1970, tit. 31, § 115.)

Subchapter IV.

Register.

§ 151. Required; contents; prima facie evidence of status. — The territorial surveyor shall record in a book to be kept for the purpose and to be known as the register of land surveyors the names and addresses of all registered land surveyors, together with the details and dates of the qualifications in respect of which they are registered by the board of land surveying examiners. Every entry in the register shall be signed by the territorial surveyor. A copy of an entry in the register, purporting to be certified by the territorial surveyor as a true copy, is prima facie evidence that the person named therein is a registered land surveyor. (Code 1970, tit. 31, § 151.)

§ 152. Public inspection. — The register of land surveyors shall be opened to public inspection upon payment of a fee of one dollar. (Code 1970, tit. 31, § 152.)

§ 153. Alteration and amendment. — The territorial surveyor shall from time to time make such alterations and amendments in the register as are necessary for the purpose of making the register an accurate record of the names, addresses and qualifications of registered land surveyors. (Code 1970, tit. 31, § 153.)
CHAPTER 2.

NOTARIES PUBLIC.

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Subchapter I.

General Provisions.

§ 201. Appointment; term; removal; reporting of change of status. — (1) The High Commissioner may in his discretion appoint and commission such numbers of notaries public for the Trust Territory as he shall deem necessary for the public good and convenience.

(2) The term of office of a notary public shall be two years from the date of his commission, unless sooner removed by the High Commissioner on recommendation of the Attorney General made on findings of cause after due hearing; provided, that after due hearing the commission of a notary public may be revoked by the High Commissioner in any case where any change shall occur in such notary's office, occupation or employment which in the judgment of the High Commissioner renders the holding of such commission no longer necessary for the public good and convenience.

(3) Each notary shall, upon any change in his office, occupation or employment, forthwith report the same to the Attorney General. (Code 1966, § 1075; Code 1970, tit. 31, § 201.)

§ 202. Rules and regulations. — (1) The Attorney General, with the approval of the High Commissioner, shall have power to prescribe such rules and regulations having the force and effect of law as he may deem advisable concerning the appointment and duties of notaries public and the administration of this chapter.

(2) The Attorney General shall file a copy of such rules and regulations with each district clerk of courts. (Code 1966, § 1082; Code 1970, tit. 31, § 202.)

§ 203. Application; qualifications; oath. — (1) Except as otherwise provided in this chapter, application for a commission as notary public for the Trust Territory shall be submitted to the Attorney General and must be accompanied by two letters of recommendation. Every person appointed a notary public must be, at the time of his appointment, of good character, at least twenty-five years of age, and a permanent resident of the Trust Territory, who has resided in it for at least three years, or a United States citizen, resident in the Trust Territory and employed by the United States government or by a contractor engaged in work for the United States government in the Trust Territory.
§ 204. Filing and certification of commission, seal and signature. — (1) It shall be the duty of each person appointed and commissioned a notary public under the provisions of this chapter to forthwith file a literal or photostatic copy of his commission, an impression of his seal and a specimen of his official signature with the clerk of courts of each district for and in which he decides to act. Thereafter, such clerk, when so requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal and specimen of official signature is filed in his office.

(2) The clerk of courts of each district shall charge and receive a fee of one dollar for filing a copy of a commission and a fee of twenty-five cents for filing each certificate of authentication. (Code 1966, §§ 1078, 1083; Code 1970, tit. 31, § 204.)

§ 205. Official bond; appointment of agent for service of process. — (1) Each notary public forthwith and before entering upon the duties of his office may, at the discretion of the High Commissioner, be required to execute at his own expense, an official surety bond in a sum not exceeding one thousand dollars.

(2) The obligee of each bond shall be the Trust Territory and the condition contained therein shall be that the notary public will well, truly and faithfully perform all the duties of his office which are then and may thereafter be required, prescribed or defined by law or by any rule or regulation made under the express or implied authority of any law of the Trust Territory, and all duties and acts are undertaken, assumed or performed by the notary public by virtue or color of his office. The surety on any such bond shall be a surety company approved by the High Commissioner. The notary public by accepting his commission, and the surety company by issuing the bond, thereby agree and appoint the district administrator of any district in which the notary public performs any official act as his agent to accept service of process on his behalf for any purpose. After approval, the bond shall be deposited and kept in the office of the Attorney General, who will certify to the clerk of courts in the district in which the notary public is commissioned that the bond has been accepted and filed in proper form. (Code 1966, § 1079; Code 1970, tit. 31, § 205.)

§ 206. Liabilities of notary and surety on bond. — For the official misconduct of a notary public or breach of any of the conditions of his official bond, he and the surety on his official bond shall be liable to the party injured thereby for all damages sustained. Such party shall have a right of action in his own name upon such bond and may prosecute the same to final judgment and execution. (Code 1966, § 1080; Code 1970, tit. 31, § 206.)

§ 207. Compliance with chapter required; penalties. — (1) No person shall be qualified to act as a notary public or shall enter upon any of the duties of such office, or offer or assume to perform any such duties until he shall have fully complied with the requirements of this chapter.

(2) Any person wilfully violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, such person shall be punished
by a fine of not more than five hundred dollars, or by imprisonment for not
more than one year, or both. Nothing in this section shall be construed to
restrict or to do away with any liability for civil damages. (Code 1966, § 1081;
Code 1970, tit. 31, § 207.)

SUBCHAPTER II.

Powers and Duties.

§ 251. Generally. — A notary public has the power and is authorized to
administer oaths and affirmations, receive proof and acknowledgement of
writings, and present and protest commercial paper. A notary public may act
officially anywhere in the Trust Territory but shall, before so acting in any
district, comply with the provisions of section 204, subchapter I of this chapter.
(Code 1966, § 1084; Code 1970, tit. 31, § 251; P.L. No. 4C-27, § 2.)

§ 252. Seal. — (1) Every notary public shall constantly keep a seal of office,
which may be a rubber stamp or impression seal, whereon shall be engraved
his name, and the words "Notary Public" and "Trust Territory of the Pacific
Islands." He shall authenticate all of his official acts, attestations, certificates
and instruments therewith.

(2) Upon resignation, death, expiration of term of office without
reappointment, removal from or abandonment of office, or change in residence
from the Trust Territory, he shall immediately deliver his seal to the Attorney
General, who shall deface or destroy the same. By failing for sixty days to
comply with the above requirement, the notary public, his executor or
administrator, shall forfeit to the Trust Territory not more than two hundred
dollars, in the discretion of the court, to be recovered in an action to be brought
by the Attorney General on behalf of the Trust Territory. (Code 1966, § 1077;
Code 1970, tit. 31, § 252.)

§ 253. Records; form and effect of granted copies or certificates. —
Every notary public shall record at length in a book of records all acts, protests,
depositions, and other things noted by him or done in his official capacity. All
copies or certificates granted by him shall be under his hand and notarial seal,
and shall be received as evidence of such transactions. (Code 1966, § 1085;
Code 1970, tit. 31, § 253.)

§ 254. Disposition of records. — (1) The records of each notary public
shall each year on the thirtieth of June and upon the resignation, death,
expiration of term of office, removal from or abandonment of office, or change
of residence from the Trust Territory be deposited with the clerk of courts for
the Truk District.

(2) By a failure for sixty days to comply with the requirement of this section,
the notary public, his executor or administrator shall forfeit to the Trust
Territory not less than ten dollars nor more than one hundred dollars, in the
discretion of the court, in an action brought therefor by the Attorney General
on behalf of the Trust Territory. (Code 1966, § 1086; Code 1970, tit. 31, § 254.)

§ 255. Fees; schedule. — Every notary public, except as provided in section
256 of this chapter, shall be entitled to demand and receive the following fees:
(1) Noting the protest of mercantile paper, one dollar;
(2) Each notice and certified copy of protest of mercantile paper, one dollar;
(3) Noting any protest other than of mercantile paper, two dollars;
Each notice and certified copy of protest other than of mercantile paper two dollars;
(5) Each deposition, or official certificate, two dollars;
(6) Administration of oath, including the certificate of such oath, twenty cents;
(7) Affixing the certificate of such oath to each duplicate original instrument beyond four, fifteen cents;
(8) Taking any acknowledgment, fifty cents for each party signing; and
(9) Affixing to each duplicate original, beyond one of any instrument acknowledged before him, his certificate of acknowledgement, twenty-five cents for each person making such acknowledgment. (Code 1966, § 1087; Code 1970, tit. 31, § 255.)

§ 256. Same; notaries not entitled to fees. — A notary public who is also a paid employee of the United States, or the government of the Trust Territory or of any district administration, and is permitted to perform services as a notary public during the working hours for which he is paid by one of these governments, shall not be entitled to demand or receive any fees for services performed as notary public during such hours or for such services performed at any other time which are in connection with or in aid of his regular employment. (Code 1966, § 1088; Code 1970, tit. 31, § 256.)
Title 32.

[Reserved.]
Title 33.

Business Regulations.

Chap. 1. Foreign Investors Business Permits, §§ 1 to 19.
2. Licensing of Copra Trade, §§ 151 to 153.
4. Usury, §§ 251 to 253.

CHAPTER 1.

FOREIGN INVESTORS BUSINESS PERMITS.

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2. "Noncitizen" defined.
3. Permit required.
4. District foreign investment boards; established; membership; meetings; compensation; technical, clerical and administrative assistance.
5. Same; duties and powers.
6. Application.
8. Applications involving certain Trust Territory-wide businesses.
9. Reservation of the authority of the High Commissioner in certain cases.

Cross references. — Trade and property rights protected, 1 TTC § 13.

§ 1. Short title. — This chapter is known and may be cited as the "Foreign Investors Business Permit Act.” (Code 1970, tit. 33, § 1.)

§ 2. "Noncitizen" defined. — For the purpose of this chapter, unless it is otherwise provided or the context requires a different construction, application, or meaning, "noncitizen" means:
(1) Any person who is not a Trust Territory citizen; or
(2) Any person who is married to a person who is not a Trust Territory citizen; or
(3) Any person under the age of eighteen years and who is adopted by parents, at least one of whom is not a Trust Territory citizen; or
(4) Any company, corporation, or association in which a person not a Trust Territory citizen or a person who is included in subsections (2) or (3) of this section owns any interest. (Code 1970, tit. 33, § 2; P.L. No. 5-85, § 1.)
Constitutionality. — This section is declared null and void. Whipps v. Morris (Tr. Div., November, 1975).

Where less onerous classification is available, equal protection is violated. — Where congress could have settled on a less onerous method for eliminating the use of a Trust Territory citizen as a "front" for a noncitizen in doing business in the Trust Territory, a method which would not have the effect of penalizing all Trust Territory citizens who marry noncitizens, statute clearly denies the equal protection of the law. Whipps v. Morris (Tr. Div., November, 1975).

Denial of incident of citizenship by statute is a denial of due process. — The right of citizenship itself is a property right vested in the individual. Citizenship is the very source of rights such as the individual's right to vote, own land or possess a passport. Where statute attempts to deny to a person an important incident of citizenship, reducing that person to a "second class citizen" in any area, it deprives him of his property without due process of law. Whipps v. Morris (Tr. Div., November, 1975).

Guideline for congressional classifications. — Congress has the authority to make classifications, but that authority is not absolute. Classification must be reasonable if it is to comport with the guarantee of equal protection of the law. Arbitrary or capricious classifications conflict with the equal protection guarantee. Whipps v. Morris (Tr. Div., November, 1975).

Over-broad statute invalid. — The purpose of section as amended is to eliminate the use of a Trust Territory citizen as a "front" for a noncitizen doing business in the Trust Territory. Such use of a citizen might be the subject of congressional action but the action taken by congress here is too broad in scope to be valid. Whipps v. Morris (Tr. Div., November, 1975).

Law denying privileges of citizenship. — Law which attempts to deny to certain Trust Territory citizens privileges to which they are entitled as citizens is clearly contrary to the very notion of citizenship. Whipps v. Morris (Tr. Div., November, 1975).

§ 3. Permit required. — No noncitizen shall be permitted to do business in the Trust Territory without first obtaining a business permit under this chapter. No noncitizen shall be permitted to acquire an interest in any business previously owned entirely by Trust Territory citizens until the latter business obtains a business permit under this chapter. (Code 1970, tit. 33, § 3.)

Regulations imposed not violative of interstate commerce. — The United States constitutional provisions as to interstate commerce do not prohibit the regulations imposed by this section. Trust Territory v. Traid Corp., 4 TTR 300 (1969).

Proceeding concerning local ordinance has no bearing on violation of a public law. — A proceeding in the district court to determine whether an accused had violated the provisions of a local ordinance had no bearing on whether such person had violated or helped a corporation violate the provisions of a public law. Trust Territory v. Traid Corp., 4 TTR 300 (1969).

Activities of corporate representative constitute business activity. — Where corporation's representative solicited orders, demonstrated the product, signed the contracts, forwarded the contracts and also accepted down payments on the product, clearly the corporation through such person was engaged in business activity within the Trust Territory. Trust Territory v. Traid Corp., 4 TTR 300 (1969).


§ 4. District foreign investment boards; established; membership; meetings; compensation; technical, clerical and administrative assistance. — (1) There is hereby established in each district of the Trust Territory a district foreign investment board composed of five members appointed by the district administrator with the advice and consent of the district legislature or a committee thereof as the district legislature may by law or resolution determine; provided, that the initial appointments shall be made within thirty days after the effective date of this chapter and, if the district legislature or a committee thereof is not available to provide advice and consent during such time, the district administrator shall make the
appointments after consulting with the presiding officer of the district legislature, and such appointments shall be subject to confirmation by the district legislature during its next session. The members appointed shall all be Trust Territory citizens residing in the district, and no more than two of the five members selected shall be businessmen. "Businessman" is defined herein to mean a person engaged full time in a managerial capacity in any retail, wholesale, import or export business or any combination thereof in the sale of goods or services for pecuniary profit, excluding casual sales as defined by the director of the department of resources and development. A district representative of the department of resources and development shall be an ex officio member without a vote. No more than two of the appointed members, including the district representative of the department of resources and development, shall be employees of the administrative branch of the Trust Territory government, at either the district or territorial level. The district administrator shall be an ex officio member of the board, without the power to vote.

(2) The term of office of the appointed members of the board shall be three years; provided, that in the case of the first appointments, two of the appointed members chosen by lot shall be appointed for two years. Appointments to fill vacancies shall be for the remainder of the unexpired term.

(3) The first meeting of the board shall be called within sixty days after the appointment of all members. At the first meeting and annually thereafter the board shall elect a chairman from among its appointed members. Meetings shall be held not less than once every three months and may be called by the chairman, the district administrator, or the High Commissioner. A quorum of the board shall be four appointed members, and the assent of three members shall be required for all decisions requiring a vote. The board may adopt bylaws for its own government.

(4) Members of the board shall be compensated at the rate of ten dollars per day when actually performing functions of the board under this chapter at the direction of the chairman, except that those members who are government employees shall instead receive their regular salaries while performing functions of the board. All members shall also receive travel expenses and per diem at Trust Territory government rates when those amounts would be payable to Trust Territory employees in the same circumstances. The chairman shall submit their claims for payment.

(5) The department of resources and development and its district representatives shall offer technical assistance to the board in performing its functions under this chapter. The department of resources and development and the registrar of corporations shall provide information within their possession as requested by the board. The district administrator shall provide clerical and administrative assistance as requested by the board. The board may hire its own staff to the extent that additional assistance is required, and may seek assistance from any other source. (Code 1970, tit. 33, § 4; P.L. No. 5-48; P.L. No. 5-63, § 1; P.L. No. 6-110, § 1.)

§ 5. Same; duties and powers. — For the purposes of this chapter, and without limitations on the scope or responsibilities vested in it by other laws of the Trust Territory or of the district, the powers and duties of each district foreign investment board shall be as follows:

(1) To receive applications for business permits under the provisions of this chapter, obtain opinions and recommendations from members of the district legislature and other local groups and leaders concerning these applications, make studies, investigations and inquiries relevant to the applications, evaluate the applications according to the standards of this chapter and decide which applicants shall be granted business permits.
(2) To cooperate with and assist the department of resources and development, the Congress of Micronesia and the district legislature in making studies to determine the need for and potential sources of foreign investment in the district.

(3) To develop information concerning investment opportunities within the district and potential sources of outside capital and keep the district administrators, district legislatures, and other local groups, leaders and the people informed of such opportunities and sources.

(4) To insure compliance of all noncitizens doing business in the district with the provisions of this chapter and all rules, regulations, and business permits issued pursuant to this chapter, including the performance of investigatory functions as appropriate thereto, and may, upon receipt of a sworn affidavit from any person that there is reason to believe that any provision of this chapter or any regulation issued pursuant thereto has been violated, investigate such alleged violation and in cooperation with the office of the Attorney General, enforce this chapter and rules and regulations issued hereunder. In connection with any hearings or investigations required by this chapter or rules or regulations issued hereunder, the board may subpoena witnesses, records, books and documents. (Code 1970, tit. 33, § 5; P.L. No. 4-C-45, § 1; P.L. No. 6-110, § 2.)

§ 6. Application. — (1) Every noncitizen required to obtain a business permit under this chapter shall submit an application to the department of resources and development. Every application shall be accompanied by a filing fee of one hundred dollars, which shall accrue to the general fund of the Congress of Micronesia and shall not be refundable.

(2) The application for a business permit shall contain the following information:

(a) Name of the applicant's business, the form of the business organization under which the applicant proposes to do business, its officers, directors, and proposed and existing stockholders and their citizenship if a corporate form of business, or ownership and management and their citizenship if a form of business other than a corporation.

(b) Proposed principal office in the Trust Territory, and the district or districts in which the applicant desires to do business.

(c) Purpose, scope, and objective of the business activities to be conducted by the applicant.

(d) The following specific proposals:

(i) For the authorized capitalization, par value if any, proposed or initial issuance of shares of stock, consideration per share of stock issued, subsequent contemplated issuance of stock or for Micronesia equity owners to be allowed Trust Territory citizens;

(ii) Agreeing not to revalue stock shares authorized but not issued that have been set aside for purchase by Micronesians within the first five years after receipt of a business permit unless such revaluation is approved by the board and the High Commissioner;

(iii) Agreeing not to restrict in any manner, except by way of pre-emptive rights existing shareholders or the corporation, the issuance or sale of shares of stock to Trust Territory citizens;

(iv) Agreeing to offer shares of stock at the principal place of business in the Trust Territory, and explaining the procedures required to purchase a share of stock;

(v) Setting forth in detail proposed stock purchase programs for employees of the business;

(vi) Relating to establishing a Trust Territory corporation, the proposed date of incorporation, and such other relevant information thereon as the board may request.
(e) Detailed proposals for management participation to be allowed Trust Territory citizens and provisions for the creation of labor-management boards to represent the views of employees at meetings of the board of directors and to management on matters affecting employees.

(f) Employment preference to be accorded Trust Territory citizens and the initial number of Trust Territory citizens to be employed.

(g) Detailed proposals for training programs for Trust Territory citizen employees in management and in upgrading labor skills.

(h) Existing and proposed wage and employment benefit programs.

(i) A listing of total capital anticipated to be invested initially, identifying borrowed funds and their sources for each of the first five years after receipt of the business permit, and from where such capital funds will be obtained.

(j) A detailed investment analysis for each of the first three years of business showing:

(i) Anticipated gross revenues and gross expenditures;
(ii) Anticipated and proposed marketing schemes;
(iii) Anticipated and proposed use of utilities and infrastructure;
(iv) The numbers of employees by nationality in the proposed business activity and the levels of skills required for the operation of the business in the Trust Territory.

(k) Specific economic and social programs the applicant intends to implement for the district to:

(i) Develop and conserve the land and marine resources;
(ii) Provide community related social services such as beautification programs and libraries.

(l) Any additional information which the director of resources and development or the board may deem necessary to evaluate the application being filed, or any other information which the applicant may deem appropriate.

(3) In addition to the information required for noncitizen applications under subsection (2) of this section, the application of a noncitizen which is a corporation (including a joint stock company) shall contain the following, unless it has already been filed with the registrar of corporations:

(a) A duly certified copy of the articles of incorporation, charter, and by-laws of the corporation;
(b) An affidavit sworn by an authorized officer of the corporation stating the amount of its authorized capital stock on or within sixty days before the date of filing; and
(c) A designation of a person residing within the Trust Territory upon whom process issued under any law of the Trust Territory may be served, and his place of business or residence, and a certified copy of the minutes of the board of directors of the corporation authorizing his designation.

(4) In addition to the information required for noncitizen corporations under subsections (2) and (3) of this section, an insurance company organized under the laws of a state, territory or possession of the United States, or of a foreign country, which desired to maintain an office or agent in the Trust Territory, shall file the following:

(a) A certificate of an authorized official, showing that the company is authorized to transact business in the state, territory, possession, or country under whose laws the company is organized; and
(b) A duly certified copy of the last annual statement of the insurance company. (Code 1970, tit. 33, § 6; P.L. No. 4C-44, § 1.)

§ 7. Procedure in granting business permits. — (1) The director of resources and development shall review the application and require and collect any further information which the board or he believes to be useful for evaluation of the applicant by district boards. The entire file containing the
application, the information supplementally gathered, and any other relevant information requested or received shall be transmitted to the chairman of the board in each district where the applicant seeks to do business. The director of resources and development shall notify the applicant in writing by registered mail that his application is under consideration. In addition, the director shall to the extent he or the board deems necessary, undertake an investigation in the applicant's home jurisdiction, investigating any noncitizens who are officers, directors, owners, managers, or stockholders in a joint noncitizen-Micronesian enterprise, and furnish any relevant information obtained to the boards concerned.

(2) When it has reviewed the application file the board shall undertake an investigation of the desirability of allowing such applicant to do business in the district. It shall also contact the district administrator, the presiding officer of the district legislature, the district delegation to the Congress of Micronesia, the mayor or magistrate of any appropriate municipality and any other persons who may have an interest in the matter. The board may furnish them with copies of the application and other pertinent information regarding the applicant and his proposal, and request an opinion from them within an appropriate time period. The board shall discuss the proposal with the local leaders in the district, and, in the case of potential joint foreign-Micronesian enterprises, it shall act as a liaison between the applicant and the local people.

(3) When it is satisfied that it has received sufficient information and opinion the board shall determine whether permitting the applicant to do business would promote the economic advancement of the citizens of the district and Trust Territory, considering, among others, the following criteria:

(a) The economic need for the service or activity to be performed;
(b) The degree to which such an operation will effect a net increase in exports or a net decrease in imports;
(c) The extent to which such an operation will deplete a non-renewable natural resource, or will disturb the environmental balance required for conservation of renewable natural resources, or will pollute the atmosphere or water;
(d) The extent of participation by Trust Territory citizens at the outset in the ownership and management of the enterprise and, in the case of noncitizen corporations chartered outside the Trust Territory, the degree of willingness to form a Trust Territory corporation at some time in the future and to offer a majority of the ownership and capital to Trust Territory citizens;
(e) The willingness of the applicant to give employment preference to Trust Territory citizens, and to train Trust Territory citizens for positions in management and at other levels by instituting training programs;
(f) The extent to which the capital, managerial skills, and technical skills required for such an enterprise are available among Trust Territory citizens at the current time or can be expected to be available in the near future; and
(g) The extent to which an operation will contribute to the overall economic well-being of the district without adversely affecting the existing social and cultural values and ethnic conditions of the district.

(4) If on its final review of the application the board determines that the applicant should be allowed to do business in the district, it shall determine the conditions under which a business permit may be granted. These conditions may include but shall not be limited to the following:

(a) The length of time for which the permit may be granted before it shall be subject to renewal and reconsideration by the board;
(b) The types of business activity or the scope of business activity in which the applicant may engage;
(c) The minimum amount of Trust Territory citizen ownership and control in a noncitizen business, and the number of years a noncitizen corporation chartered outside the Trust Territory may do business under the permit before
it must form a Trust Territory corporation and sell a certain percentage of its stock to Trust Territory citizens;

(d) Guarantees of employment preference for Trust Territory citizens; and

(e) Guarantees of training programs for Trust Territory citizens.

(5) Within sixty days after receiving the preliminary opinion of the director of resources and development, the board shall transmit the application file and report its decision to the High Commissioner through the director of resources and development. The report of the board shall describe its findings and state any conditions to be included if the business permit is to be granted, or, if it is denied, detailed reasons supporting the denial. If the High Commissioner objects to the determination of the board he may return the application file and report to the board within fifteen days after receipt, together with his objections and recommendations. He may include among his recommendations a proposal for reconciliation of the differences among the districts if the application has been considered by two or more districts and he believes that the applicant would be unduly burdened by different conditions attached to the granting of a permit by different districts. If the application file has been returned the board shall meet and consider his objections and recommendations and proposed reconciliations, if any, and may in its judgment reverse, modify, or affirm its previous determination. The board shall transmit the file and results of its review to the High Commissioner through the director of resources and development within fifteen days of receipt.

(6) After any objections have been made and considered, if the board has determined that a permit should be granted and if the High Commissioner approves the granting of a permit then he shall draw up and issue the business permit to the applicant. The permit shall state the conditions prescribed by the board under which the applicant may do business in the district, or in the case of applicants wishing to do business in two or more districts, the permit shall state conditions prescribed by the several boards for doing business in their respective districts. The High Commissioner shall sign and transmit a copy of the permit to the applicant. If the High Commissioner does not approve the granting of a business permit as the board has determined, then he shall notify the board and the applicant, stating his reasons. He shall also notify the applicant if the board denies the permit. (Code 1970, tit. 33, § 7; P.L. No. 4C-44, § 2.)

§ 8. Applications involving certain Trust Territory-wide businesses.
— In the case of any application in which (1) the primary purpose of the business is interdistrict communications, or bulk distribution of petroleum products, and (2) the applicant seeks to do business in all districts, and (3) the High Commissioner determines that the business cannot perform an adequate public service unless it operates in all districts, the High Commissioner shall so inform the district boards at the time the application is first transmitted to them. In such cases the reports of the district boards shall be advisory only, and the final determination shall be made by the six chairmen of the district boards in a meeting called by the High Commissioner. An affirmative vote of four of the chairmen and the approval of the High Commissioner shall be necessary for the granting of a permit to do business in all districts under this section and for the conditions of such permit; otherwise the business permit shall be denied. (Code 1970, tit. 33, § 8.)

§ 9. Reservation of the authority of the High Commissioner in certain cases. — In any case where disposition of an application by district boards would be in conflict with executive orders of the President of the United States, secretarial orders of the Department of the Interior, or the commitments of the United States under the trusteeship agreement, the High Commissioner shall so specify at the time the application is forwarded to the district boards. In such
§ 10. Noncitizen corporations doing business in the Trust Territory. — (1) In the case of all noncitizen corporations doing business in the Trust Territory under a business permit granted under this chapter, process served on the person designated by the corporation in its application for a business permit, or, if he cannot be found at the place designated, on the registrar of corporations, is a valid service on the corporation. When the registrar of corporations is served with process he shall send by registered mail a notice of service and a copy of the summons and complaint to the corporation concerned at its last known address. A default judgment may not be entered against the corporation in an action in which process is served on the registrar of corporations until at least sixty days after the date of service.

(2) Every noncitizen doing business in the Trust Territory under a business permit granted under this chapter shall file, in original copy with the chief of the division of economic development and in duplicate original with the district economic development officer and chairman of the foreign investment board of the district or districts in which the noncitizen is doing business, a full and accurate exhibit of the business activities undertaken in the Trust Territory a profit and loss statement, and an up-to-date listing of information as set forth under subsection (2) of section 6 of this chapter undertaken by the noncitizen business during the past calendar year within ninety days immediately following the end of its calendar year.

(3) A noncitizen business which has been issued a permit pursuant to this chapter shall also file with the registrar of corporations and with the district board and district economic development officer of the district where the noncitizen corporation or business is doing business any changes in the provisions of its original charter, articles of incorporation, or bylaws within fifteen days of such change.

(4) The registrar of corporations or a person authorized by him may, for the purposes of this chapter upon his own initiative at any time or upon request by a district board, shall call for the production of the books and papers of any noncitizen business doing business in the Trust Territory, and examine its officers, members of its board of directors, its agents, or its employees, under oath, concerning the business activities of said business; and the registrar of corporations shall submit to the appropriate boards copies of all such documents or examinations. (Code 1970, tit. 33, § 10; P.L. No. 4C-44, §§ 3 to 5.)

§ 11. Insurance companies doing business in the Trust Territory. — (1) Every insurance company granted a business permit pursuant to this chapter shall file, within thirty days after it is granted such business permit, a deposit with the registrar of corporations of one hundred thousand dollars in cash, negotiable securities, or a bond from a corporate surety acceptable to the registrar of corporations which shall be held in trust by the registrar of corporations for the account of the company to satisfy any judgment that may be rendered against the company under insurance policies that it may issue, and which shall be maintained as long as the insurance company may do business in the Trust Territory.

(2) Every insurance company granted a business permit pursuant to this chapter shall file with the registrar of corporations before July 1 of each year a verified statement showing the business transacted within the Trust Territory by the company during its previous fiscal year and a duly certified copy of its annual report to an authorized official of the state, territory, possession, or country in which the company is organized. Upon showing of
good cause therefor, the registrar of corporations may extend the time of filing
the statement for a period not exceeding two months after July 1. (Code 1970,
tit. 33, § 11.)

§ 12. Commencement of business. — Any noncitizen which has been
granted a business permit shall commence business in the Trust Territory
within a reasonable time after receipt of the permit. (Code 1970, tit. 33, § 12.)

§ 13. Abridgment, modification, suspension, or revocation;
conditions. — (1) Basis. A business permit granted under this chapter shall
at all times be subject to abridgment, modification, suspension or revocation
by the High Commissioner or a majority vote of the members of the board of
the district in which the permit was issued if:
(a) The application of the grantee is found to have contained false or
fraudulent information;
(b) The grantee bribed or otherwise unlawfully influenced any member of
the board to issue the permit other than on the merits of the application;
(c) The grantee presented false or fraudulent information to the board in
support of his application;
(d) The grantee violates any of the provisions of the Trust Territory Code or
any of the rules or regulations issued thereunder;
(e) The grantee engages in business activities which are violative of any
condition or term imposed in the business permit; or
(f) The grantee engages in business activities outside the scope of the
business permit or charter.
(2) Procedure. The chairman of the board, the district economic development
officer, or an authorized representative of the High Commissioner, shall, upon
receipt of information that a business permit should be abridged, modified,
suspended, or revoked, call a meeting of the board. Advance written notice of
at least three weeks shall be given to the holder of the permit in question, or
his authorized representative, of the alleged violations and of the time and date
set for a hearing thereon. Upon receipt of satisfactory evidence before the date
set for the hearing that the alleged violation has been corrected, the authority
calling the hearing may cancel said hearing. At any such hearing, the board
may by majority vote abridge, modify, suspend, or revoke said permit. In such
cases, the board shall notify the holder of said permit or his authorized
representative, in writing, of the decision of the board and the reasons for the
action taken. The holder of a permit which has been abridged, modified,
suspended, or revoked, may, within twenty days after receipt of said notice,
appeal the decision of the board to the High Commissioner. In such cases, an
intend to appeal shall first be filed with the board and the director of resources
and development. Thereupon, the board shall forward all information relating
to the permit in question to the director of resources and development, who
shall prepare in conjunction with the Attorney General a review of the case for
the High Commissioner. The High Commissioner may uphold, modify, or
overrule the decision of the board.
(3) Applicability of rules and regulations. An individual, partnership,
corporation, or business association granted a business permit under the
provisions of this chapter shall be subject to all rules and regulations
promulgated under this chapter and any present or future laws of the Trust
Territory which are applicable to his business operations in the Trust
Territory. (Code 1970, tit. 33, § 13; P.L. No. 4C-44, § 6.)

§ 14. Surrender by noncitizen. — (1) A noncitizen doing business in the
Trust Territory under a business permit granted under the provisions of this
chapter may surrender its business permit by filing with the registrar of
corporations a certificate signed and acknowledged by the permittee setting
forth:
(a) The name of the noncitizen as shown on the records of the registrar of corporations, and the state or place of incorporation if a corporation; 
(b) That it revokes its designation of agent for the service of process; 
(c) That it surrenders its authority to do business in the Trust Territory and returns its business permit for cancellation; 
(d) That it consents that process against it in any action upon a liability or obligation incurred within the Trust Territory prior to the filing of the certificate of surrender be served upon the registrar of corporations; and 
(e) A post office address to which the registrar of corporations may mail a copy of any process served upon him, which address may be changed from time to time by filing a certificate entitled "notification of change of address" signed and acknowledged by the permittee.

(2) The business permit shall be attached to the certificate of surrender unless the permit has been lost or destroyed, in which case there shall be attached an affidavit of the permittee to that effect.

(3) Mere retirement from doing business in the Trust Territory without filing a certificate of surrender of business does not revoke the appointment of any agent for the service of process within the Trust Territory. (Code 1970, tit. 33, § 14.)

§ 15. Service of process on noncitizen after revocation or surrender.
— After the business permit of a noncitizen has been revoked or surrendered, process against the noncitizen may be served upon the registrar of corporations in any action upon a liability or obligation incurred within the Trust Territory prior to the filing of the certificate of surrender. (Code 1970, tit. 33, § 15.)

§ 16. Loss of benefit of statute of limitations.
— A noncitizen which does business in the Trust Territory in violation of this chapter shall not be entitled to the benefit of the laws of the Trust Territory limiting the time for commencement of civil actions. (Code 1970, tit. 33, § 16.)

§ 17. Rules and regulations.
— The director of resources and development shall, with the approval of the High Commissioner, promulgate rules and regulations necessary to implement this chapter, which rules and regulations shall have the force and effect of law. (Code 1970, tit. 33, § 17.)

§ 18. Exemptions.
— The provisions of this chapter shall not apply to cooperative associations or credit unions duly organized and incorporated under the law of the Trust Territory. (Code 1970, tit. 33, § 18.)

§ 19. Prohibited acts.
— Any noncitizen, as defined in this chapter, (1) who does business in the Trust Territory without first obtaining a business permit, or (2) who, after obtaining a permit, does business not authorized by the permit or intentionally fails to comply with the conditions of the permit, or (3) who obtains a permit by fraud or misrepresentation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period not more than one year, or fined not more than one thousand dollars, or both. (Code 1970, tit. 33, § 19.)
CHAPTER 2.

LICENSING OF COPRA TRADE.

Sec. Sec.
151. Terms and conditions of licensure. 153. Exceptions.
152. License required for purchase of copra for export.

Cross reference. — Micronesian coconut processing authority, 23 TTC ch. 1.

§ 151. Terms and conditions of licensure. — The High Commissioner may license, under such terms and conditions as he may determine, persons, firms or corporations to purchase, within a designated district of the Trust Territory, copra for export through such agency as the High Commissioner may approve. (Code 1966, § 1100(c); Code 1970, tit. 33, § 151.)

§ 152. License required for purchase of copra for export. — No person, firm or corporation shall purchase copra for export within the Trust Territory unless licensed under this chapter. (Code 1966, § 1100(c); Code 1970, tit. 33, § 152.)

§ 153. Exceptions. — Nothing in this chapter shall be construed to prevent the sale by any person, firm or corporation of copra for export to one licensed under this chapter, nor to prevent any person who, or firm or corporation which, has purchased copra in the Trust Territory and processed or manufactured any product therefrom, from exporting such processed or manufactured product. (Code 1966, § 1100(c); Code 1970, tit. 33, § 153.)
§ 201. Exporting or transshipping of imported commodities. — No commodity which has been or may hereafter be imported into the Trust Territory from the United States or its territories or possessions shall be transshipped or exported from the Trust Territory to any place, other than the United States, its territories or possessions, except as provided in this chapter. (Code 1966, § 1102(a); Code 1970, tit. 33, § 201.)

§ 202. Export license. — (1) The exportation of any commodity described in section 201 of this chapter to a country for which no export license would be required if the exportation were from the United States or its territories or possessions, shall be in accordance with written permit granted by the High Commissioner, or on his behalf by such official or officials as he may designate except as expressly provided by subsection (3) of this section.

(2) The exportation of any commodity described in section 201 of this chapter to the Bonin Islands so long as they are under the jurisdiction of the United States, may be made in accordance with written permit granted by the High Commissioner, or on his behalf by such official or officials as he may designate.

(3) The exportation of any commodity described in section 201 of this chapter, other than as authorized in subsections (1) and (2) of this section, may be made only with the written consent of the office of export control of the United States Department of Commerce, or in accordance with an export license duly issued under the export control laws and regulations of the United States. (Code 1966, § 1102(b); Code 1970, tit. 33, § 202.)
CHAPTER 4.

USURY.

Sec. 251. "Defined"; actions to recover usurious amounts.

§ 251. "Defined"; actions to recover usurious amounts. — No action shall be maintained in any court of the Trust Territory to recover a higher rate of interest than two percent per month on the balance due upon any contract made in the Trust Territory on or after February 15, 1965 involving a principal sum of three hundred dollars or less, nor to recover a higher rate of interest than one percent per month on the balance due on any such contract involving a principal sum of over three hundred dollars. (Code 1966, § 1103; Code 1970, tit. 33, § 251.)
§ 252. Crediting of usurious interest to principal. — payments of money or property made by way of usurious interest, whether made in advance or not, as to the excess of interest above the rate allowed by law at the time of making the contract, shall be taken to be payments made on account of principal, and judgment shall be rendered for no more than the balance found due, after deducting the excess of interest so paid. (Code 1966, § 1104; Code 1970, tit. 33, § 252.)

Since usurious loan is unenforceable contract, plaintiffs may recover all interest paid. — Usury, being a criminal offense, is against public policy, and thus a usurious loan is a contract which will not be enforced; so that plaintiffs to whom bank made loans at usurious rates were entitled to recover all interest paid, since one may sue to recover that which was paid under an unenforceable contract. Kingzio v. Bank of Hawaii, 6 TTR 334 (1973).

Right to sue at common law for recovery of usurious interest. — A right of action created by statute need not exist before usurious interest can be recovered, and where statute only allows the usurious interest as an offsetting credit when a borrower sues a lender, borrower may sue at common law for recovery of usurious interest. Kingzio v. Bank of Hawaii, 6 TTR 334 (1973).

§ 253. Prohibited transactions. — Any person who directly or indirectly receives any interest, discount, or consideration for or upon the loan or forbearance to enforce the payment of money, goods and things in action, greater than two percent per month shall be guilty of usury, and upon conviction thereof shall be imprisoned for a period of not more than six months, or fined not more than one hundred dollars, or both. (Code 1966, § 1105; Code 1970, tit. 33, § 253.)

Since usurious loan is unenforceable contract, plaintiff may recover all interest paid. — Usury, being a criminal offense, is against public policy, and thus a usurious loan is a contract which will not be enforced; so that plaintiffs to whom bank made loans at usurious rates were entitled to recover all interest paid, since one may sue to recover that which was paid under an unenforceable contract. Kingzio v. Bank of Hawaii, 6 TTR 334 (1973).

Where statutory limit on interest is two percent, contracts are void with respect to interest in excess of two percent per month. — Where statute provides that if lender receives more than two percent interest per month he violates the criminal law, the imposition of criminal penalties clearly manifests an intent to protect the borrower and contracts to recover interest in excess of two percent per month are void at least with respect to the interest in excess of two percent per month. Kingzio v. Bank of Hawaii (App. Div., December, 1975).

On loan at two percent, bank cannot sue for interest in excess of one percent, but borrower cannot recover interest paid. — Where loans do not exceed the usury rate of two percent per month on the balance due as prohibited by statute, bank is precluded from seeking aid of the courts in collecting any interest in excess of one percent, but the borrower cannot recover the interest paid. Kingzio v. Bank of Hawaii (App. Div., December, 1975).
§ 301. Definitions. — As used in this chapter, "person or persons" includes an individual or individuals, corporations, firms, partnerships or any other association existing under or authorized by the law of the Trust Territory. (Code 1970, tit. 33, § 301.)

§ 302. Prohibited activities. — It is illegal for one or more persons to create or use an existing combination of capital, skill or acts the effect of which is:

1. To create or carry out restrictions in trade or commerce.
2. To limit or reduce the production, or increase the price of, merchandise or of any commodity.
3. To prevent competition in the manufacture, making, transportation, sale, or purchase of any merchandise, produce or commodity.
4. To fix at any standard or figure whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use, or consumption.
5. To discriminate in price between different purchasers of commodities of like grade and quality, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce; provided, that nothing herein contained shall prevent differentials in price which only make allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to be purchased, sold and delivered.
6. To make or enter into or carry out any contract, obligation or agreement by which the persons do any of the following:
   a. Bind themselves not to sell, dispose of or transport any article or commodity below a common standard figure or fixed value.
   b. Agree to keep the price of such article, commodity or transportation at a fixed or graduated figure.
   c. Establish or set the price of any article, commodity or transportation between them or themselves and others, so as directly or indirectly to preclude free and unrestricted competition among themselves or any purchaser or consumer in the sale or transportation of any such article or commodity.
   d. Agree to pool, combine or directly or indirectly unite any interest that they may have connected with the sale or transportation of any such article or commodity that might in any way affect its price. (Code 1970, tit. 33, § 302.)

§ 303. Leases, sales, contracts, conditions, agreements or understandings to lessen competition. — It shall be unlawful for any person to lease or make a sale or contract for the sale of goods, merchandise, machinery, supplies, or commodities for use within the Trust Territory, or to fix a price charged therefor, or discount from, or rebate upon, such price, on condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the lessor or seller,
where the effect of such lease, sale or contract for sale, or such condition,
agreement or understanding may be to substantially lessen competition
tend to create a monopoly in any line of trade or commerce in any district of
the Trust Territory. (Code 1970, tit. 33, § 303.)

§ 304. Contracts or agreements in violation of chapter. — Any contract 
or agreement in violation of this chapter is, to that extent, void and not 
enforceable at law or equity. (Code 1970, tit. 33, § 304.)

§ 305. Competitive agreements. — It is not unlawful to enter into 
agreements or form an association or combination the purposes and effect of 
which is to promote, encourage or increase competition in any trade or 
industry. (Code 1970, tit. 33, § 305.)

§ 306. Criminal and civil liability of violators. — (1) Any person who 
violates section 302 or 303 of this chapter is guilty of a misdemeanor, and upon 
conviction thereof shall be punished by a fine of not less than fifty dollars nor 
more than five thousand dollars.

(2) Any person who is injured in his business, personal property, or real 
property by reason of another's violation of sections 302 or 303 of this chapter 
may sue therefor in the high court in the district where the defendant resides 
or where service may be obtained, and may recover three times the damages 
sustained by him together with a reasonable attorney's fee and the costs of suit: 
provided, that the Trust Territory and any of its political subdivisions and 
public agencies shall be deemed a person within the meaning of this section, 
and may, through the Attorney General or the district attorney, bring an 
action on behalf of the Trust Territory, its political subdivisions or public 
agencies to recover the damages provided by this section, including a 
reasonable attorney's fee together with the costs of the suit.

(3) Upon conviction under this chapter of a noncitizen business, as defined 
in chapter 1 of this title, the High Commissioner may revoke such noncitizen's 
business permit. (Code 1970, tit. 33, § 306.)
§ 351. Short title. — This chapter may be cited as the "Consumer Protection Act." (Code 1970, tit. 33, § 351.)

§ 352. Definitions. — (1) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.

(2) "Trade" and "commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of the Trust Territory. (Code 1970, tit. 33, § 352.)

§ 353. Unlawful acts or practices. — The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful:

(1) Passing off goods or services as those of another.

(2) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(3) Causing likelihood of confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another.

(4) Using deceptive representations or designations of geographic origin in connection with goods or services.

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have.

(6) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand.

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(9) Advertising goods or services with intent not to sell them as advertised.

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(11) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

(12) Engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.
§ 354. Exemptions. — Nothing in this chapter shall apply to:

(1) Actions or transactions carried out by the Trust Territory government, any branch thereof or any other governmental agency; or

(2) Acts done by the publisher, owner, agent, or employee of a newspaper periodical or radio or television station in the publication or dissemination of an advertisement, when the owner, agent, or employee did not have knowledge of the false, misleading or deceptive character of the advertisement, did not prepare the advertisement, and did not have a direct financial interest in the sale or distribution of the advertised product or service. (Code 1970, tit. 33, § 354.)

§ 355. Restraint of prohibited acts. — (1) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared in section 353 of this chapter to be unlawful, and that proceedings would be in the public interest, he may bring a civil action in the name of the Trust Territory against such person to restrain by temporary or permanent injunction the use of such method, act or practice. The notice must state generally the relief sought and must be served at least three days before the hearing of the action. The action may be brought in the high court in the district in which such person resides or has his principal place of business. The said court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter, and such injunctions shall be issued without bond.

(2) The court may make such additional orders or judgments as may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful. (Code 1970, tit. 33, § 355.)

§ 356. Private and class actions. — (1) Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 353 of this chapter, may bring an action under the rules of civil procedure in the high court in the district in which the seller or lessor resides or has his principal place of business. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper.

(2) Any person entitled to bring an action under subsection (1) of this section may, if the unlawful method, act or practice has caused similar injury to numerous other persons similarly situated and if they adequately represent such similarly situated persons, bring an action on behalf of themselves and other similarly injured and situated persons to recover damages as provided for in subsection (1) of this section. In any action brought under this section, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

(3) Upon commencement of any action brought under subsection (1) of this section, the clerk of courts shall mail a copy of the complaint or other initial pleading to the Attorney General and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

(4) In any action brought by a person under this section, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.

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§ 357. Nonnegotiability of consumer paper. — (1) If any contract for sale or lease of consumer goods or services on credit entered into between a retail seller and a retail buyer requires or involves the execution of a promissory note or instrument or other evidence of indebtedness of the buyer, such note, instrument or evidence of indebtedness shall have printed on the face thereof the words "consumer paper," and such note, instrument or evidence of indebtedness with the words "consumer paper" printed thereon shall not be a negotiable instrument.

(2) Notwithstanding the absence of such notice on a note, instrument or evidence of indebtedness arising out of a consumer credit sale or consumer lease as described in this section, an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease. Any agreement to the contrary shall be of no force or effect in limiting the rights of a consumer under this section. The assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Failure to imprint the words "consumer paper" on such note, instrument or evidence of indebtedness shall subject the seller or other responsible person to appropriate civil and criminal sanctions as provided in this chapter. (Code 1970, tit. 33, § 357.)

§ 358. Assurances of voluntary compliance. — In the administration of this chapter, the Attorney General may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be violative of the chapter from any person who has engaged in or is about to engage in such method, act or practice. Any such assurance shall be in writing and shall be filed with and subject to the approval of the high court in the district in which the alleged violator resides or has his principal place of business. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Matters thus closed may at any time be reopened by the Attorney General for further proceedings in the public interest, pursuant to section 355 of this chapter. (Code 1970, tit. 33, § 358.)

§ 359. Investigation authorized. — (1) When it appears to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this chapter, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in such act or practice, he may execute in writing and cause to be served upon any person who is believed to have information, documentary material or physical evidence relevant to the alleged or suspected violation, an Investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the relevant facts and circumstances of which he has knowledge, or to appear and testify or to produce relevant documentary material or physical evidence for examination, at such reasonable time and place as may be stated in the investigative demand.

(2) At any time before the return date specified in an investigative demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date, or to modify or set aside the demand, stating good cause, may be filed in the high court in the district where the person served with the demand resides or has his principal place of business. (Code 1970, tit. 33, § 359.)
§ 360. Authority of Attorney General to issue subpoenas, administer oaths, conduct hearings, and promulgate rules and regulations.—To accomplish the objectives and to carry out the duties prescribed by this chapter, the Attorney General, in addition to other powers conferred upon him by this chapter, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules and regulations as may be necessary which rules and regulations upon approval of the High Commissioner shall have the force of law; provided, that none of the powers conferred by this chapter shall be used for the purpose of compelling any natural person to furnish testimony or evidence which might tend to incriminate him or subject him to a penalty or forfeiture; and provided further, that information obtained pursuant to the powers conferred by this chapter shall not be made public or disclosed by the Attorney General or his employees beyond the extent necessary for law enforcement purposes in the public interest. (Code 1970, tit. 33, § 360.)

§ 361. Service of notices, demands or subpoenas. — Service of any notice, demand or subpoena under this chapter shall be made personally within the Trust Territory, but if such cannot be obtained, substituted service therefor may be made in the following manner:
(1) Personal service thereof without the Trust Territory; or
(2) The mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without the Trust Territory of such person for whom the same is intended; or
(3) As to any person other than a natural person, in the manner provided in the rules of civil procedure as if a complaint or other pleading which institutes a civil proceeding had been filed; or
(4) Such service as the high court may direct in lieu of personal service within the Trust Territory. (Code 1970, tit. 33, § 361.)

§ 362. Orders for enforcement of subpoenas or investigative demands. — (1) If any person fails or refuses to file any statement or report, to or obey any subpoena or investigative demand issued by the Attorney General, the Attorney General may, after notice, apply to the high court in the district in which the person resides or has his principal place of business, and, after hearing thereon, request an order:
(a) Granting injunctive relief to restrain the person from engaging in the advertising or sale of any merchandise or the conduct of any trade or commerce that is involved in the alleged or suspected violation;
(b) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of the Trust Territory or revoking or suspending the business permit in the Trust Territory of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and
(c) Granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena or investigative demand.
(2) Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof. (Code 1970, tit. 33, § 362.)

§ 363. Civil and criminal penalties. — (1) Any person who violates the terms of an injunction issued under section 355 of this chapter shall forfeit and pay to the Trust Territory a civil penalty of not more than ten thousand dollars per violation. For the purposes of this section, the high court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General, acting in the name of the Trust Territory, may petition for recovery of civil penalties.
(2) In any action brought under section 355 of this chapter, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by section 353 of this chapter, the Attorney General, upon petition to the court, may recover, on behalf of the Trust Territory, a civil penalty of not exceeding one thousand dollars per violation.

(3) For the purposes of this section, a wilful violation occurs when the party committing the violation knew or should have known that his conduct was a violation of section 353 of this chapter. (Code 1970, tit. 33, § 363.)

§ 364. Forfeiture of corporate franchise. — Upon petition by the Attorney General, the high court in the district in which the alleged violator has its principal place of business may, in its discretion, order the dissolution or suspension or forfeiture of franchise of any corporation which violates the terms of any injunction issued under section 355 of this chapter. (Code 1970, tit. 33, § 364.)
CHAPTER 7.

DUTY-FREE STORES.

Sec. 401. Definitions. - For the purpose of this chapter:

(1) "Person" means any individual, company, corporation, association, or other business activity, which, except as provided in section 403 hereof, must be wholly owned by citizens of the Trust Territory.

(2) "Taxes" means excise, tariff and other taxes levied on the import, export and sale of merchandise pursuant to the laws of the Trust Territory, but does not include gross revenue taxes.

(3) "Ports of entry" means the official ports specified under section 101 of title 53 of this Code. (P.L. No. 5-70, § 1.)

§ 402. Establishment; operation and maintenance; transfer; fees generally. - The High Commissioner is hereby authorized, subject to the conditions and restrictions of this chapter, to grant to any person the privilege of establishing, operating, and maintaining a duty-free retail concession in or adjacent to any port of entry under the jurisdiction of the Trust Territory. He may lease, rent, or let any public land or building or any part thereof or any interest therein, to any person to establish a duty-free retail concession under terms and conditions which, among others determined by him to be reasonable and proper, shall include the following:

(1) Only one duty-free retail concession shall be permitted at each port of entry.

(2) Each duty-free retail concession shall be advertised for public auction or public bidding and be granted to that financially responsible person of good moral character and reputable experience who, in the sole opinion of the High Commissioner, makes the best offer or bid. A noncitizen who wishes to bid for a duty-free retail concession pursuant to section 403 of this chapter shall comply with all applicable Trust Territory foreign investment laws.

(3) Bids or offers shall be accepted only in conformance with precise terms and conditions uniform in all administrative districts, which terms and conditions, among others, shall include hours of business, standards of operation, reasonableness of prices charged and appropriate record keeping, cash handling and audit procedures all in accordance with sound accounting principles.

(4) The term of any duty-free concession shall not exceed five years except as provided in section 403 hereof, and regardless of term shall not be extended without public auction or bids.

(5) The concession privilege granted hereunder may not be sold or assigned without the prior written approval of the High Commissioner of the financial responsibility, moral character, and reputable experience of the proposed purchaser or assignee. Any such approval if given shall be without charge or levy upon the seller, purchaser or assignee as a condition to such approval. A concession privilege may not be sold or assigned to a noncitizen who has not first obtained a foreign investor's business permit in the district in which the duty-free retail concession is located.
(6) The minimum concession fee shall be seven percent of gross sales of each duty-free retail concession. The percentage fee shall be paid within fifteen days after the last day of each calendar month. In addition to the concession fee, there shall be a business privilege fee of three percent of the gross sales of each duty-free retail concession which shall be paid within fifteen days after the last day of each calendar month and be deposited in and be a part of the general fund of the Congress of Micronesia. The business privilege fee may not be increased during the term of a concession privilege granted by the High Commissioner. (P.L. No. 5-70, § 1.)

§ 403. Grant on prepaid concession fee basis. — At any port of entry where the High Commissioner determines prepayment of the duty-free concession fee to be desirable or necessary to supplement available public funds for purposes of constructing port of entry facilities, including space for said concession, he may require offers or bids on the basis of a prepaid minimum concession fee. In such instances noncitizens may bid for the concession privilege, and the High Commissioner may, with respect to that person who submits the best offer or bid of a prepaid concession fee in excess of one million dollars:

(1) Grant a concession term not in excess of fifteen years; and

(2) Waive the imposition of gross revenue taxes and district and municipal license and permit fees. (P.L. No. 5-70, § 1.)

§ 404. Importation of goods for resale at duty-free stores; taxes. — All foreign merchandise of every description, except such as is prohibited by law, may be imported into the Trust Territory for resale at and from the duty-free retail concessions. Except as hereinafter provided, all sales of merchandise from such duty-free retail concessions shall be restricted to the crew and passengers of any common carrier engaged in foreign commerce, whether oceangoing or air, for consumption or use outside the limits of the Trust Territory by said crew or passengers. Persons traveling between ports of entry within the Trust Territory may reimport not more than two fifths of a wine gallon of distilled alcoholic beverages and three cartons of cigarettes into a Trust Territory port of entry which were purchased at a duty-free retail concession at a different Trust Territory port of entry. Any person who operates a duty-free retail concession shall be eligible for refunds of all taxes paid by him upon merchandise sold at and from the duty-free retail concession and such merchandise shall be exempt from all sales taxes. (P.L. No. 5-70, § 1.)

§ 405. Disposition of concession fees. — All concession fees paid by each duty-free retail concession shall, upon receipt, be deposited into and be a part of the general fund of that administrative district in which the concession is situated; provided, that in those districts in which separate authorities or agencies operate port of entry facilities said concession fees may by determination of the High Commissioner be deposited into and become a part of the funds of such authority or agency operating said port of entry facilities. (P.L. No. 5-70, § 1.)

§ 406. License fee. — There shall be paid to the Trust Territory government the sum of one hundred dollars each year by any person who shall be granted a privilege to establish, operate, and maintain a duty-free retail concession in any port of entry of the Trust Territory. Such license fee shall be in addition to any other sums of money which shall be payable to the government for concession fees, lease of land or other facilities or privileges. (P.L. No. 5-70, § 1.)
§ 407. **Manner of delivery of goods.** — Any and all merchandise sold pursuant to this chapter shall be delivered to the purchaser at a point or points and in a manner whereby said merchandise may not reenter the Trust Territory without customs examination and control. (P.L. No. 5-70, § 1.)

§ 408. **Regulations.** — The High Commissioner shall promulgate such rules and regulations as he shall deem necessary to carry out the provisions and intent of this chapter. (P.L. No. 5-70, § 1.)

§ 409. **Restriction of rights to citizens by district legislature.** — The several district legislatures may, by act of the legislature, at any time prior to the time that bids have been publicly solicited or advertised for a duty-free concession, restrict those eligible to bid upon and receive such a concession in that district to citizens of the Trust Territory. (P.L. No. 5-70, § 1.)

§ 410. **Violations; penalties.** — Any person who violates any of the provisions of this chapter or rules and regulations issued pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or imprisoned for not more than three months, or both. (P.L. No. 5-70, § 1.)
Title 34.

[Reserved.]
Title 35.

Communications.

2. Political Broadcasts, §§ 51 to 54.

CHAPTER 1.

General Provisions.

Sec. 1. Promulgation of regulations. - For the purpose of regulating inter-island, intra-island, inter-district and foreign commerce in communication by radio so as to make available, so far as possible, to the people of the Trust Territory such communication services required for the purpose of conducting personal business, promoting safety of life and property and providing public service, the director of the department of transportation and communications shall, in the manner which is or may be provided by law, promulgate regulations, and amendments thereto, which shall have the force and effect of law and be binding upon persons seeking to perform or performing the act of providing radio communications within the Trust Territory. (Code 1966, § 1200; Code 1970, tit. 35, § 1; P.L. No. 4C-48, § 7(6).)

Sec. 2. Scope of regulations. - The provisions of communication regulations, and amendments thereto, promulgated under section 1 of this chapter, shall apply to all inter-island, intra-island, inter-district and foreign transmission of energy by radio which originates or is received within the Trust Territory, and to all persons engaged within the Trust Territory in such communications or such transmission of energy by radio, and to the licensing and regulating of all radio stations as provided in this chapter. (Code 1966, § 1201; Code 1970, tit. 35, § 2.)

§ 3. Definitions. — For the purposes of communication regulations, and amendments thereto, unless the context otherwise requires:

1. "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, apparatus and services (among other things, the receipt forwarding and delivery of communications) incidental to such transmissions.

2. "Transmission of energy by radio" or "radio transmission of energy" includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

3. "Inter-island communication" or "inter-island transmission" means radio communication or transmission of energy by radio:

(a) From any island now under the jurisdiction of the government of the Trust Territory or which shall be, by executive order of the President of the United States, placed under such jurisdiction, to any other island which now
or shall in the future be under the jurisdiction of the government of the said Trust Territory, or
(b) From or to any island under the jurisdiction of the government of the Trust Territory insofar as the receipt of such radio communication or transmission of energy by radio takes place within that island, or
(c) Between points within the said Trust Territory but through any territory or possession of the United States.

(4) "Intra-island communication" or "intra-island transmission" means radio communication or transmission of energy by radio between points within any island now under the jurisdiction of the government of the Trust Territory or which shall be, by executive order of the President of the United States, placed under such jurisdiction.

(5) "Inter-district communication" or "inter-district transmission" means radio communication or transmission of energy by radio from any island, group or groups of islands within any district in the Trust Territory to an island, group or groups of islands in another such district within the said Trust Territory.

(6) "Foreign communication" or "foreign transmission" means radio communication or transmission of energy by radio from or to any place in the Trust Territory to or from a foreign country, or between a station in the said Trust Territory and a mobile station located outside the said Trust Territory.

(7) "Person" includes an individual, partnership, association, joint-stock company, trust or corporation.

(8) "Corporation" includes any corporation, joint-stock company or association.

(9) "Licensee" means the holder of a radio station license granted or continued in force by the government of the Trust Territory.

(10) "Amateur service" means a service of self-training, inter-communication and technical investigations carried on by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.

(11) "Amateur station" means a station in the amateur service.

(12) "Broadcasting service" means a radiocommunication service of transmissions to be received directly by the general public, and may include transmissions of sounds or transmissions by television, facsimile or other means.

(13) "Broadcasting station" means a station in the broadcasting service.

(14) "Coast station" means a land station in the maritime mobile service carrying on a service with ship stations and which may secondarily communicate with other coast stations incident to communication with ship stations.

(15) "Fixed service" means a service of radio communication between specified fixed points.

(16) "Fixed station" means a station in the fixed service and which may, as a secondary service, transmit to mobile stations on its normal frequencies.

(17) "Maritime mobile service" means a mobile service between ship stations and the coast stations or between ships' stations.

(18) "Ship station" means a mobile station in the maritime mobile service located on board a vessel which is not permanently moored. (Code 1966, § 1202; Code 1970, tit. 35, § 3.)

§ 4. Unauthorized publication of communications prohibited.— (1) No person receiving or assisting in receiving, or transmitting or assisting in transmitting, any inter-island, intra-island, or foreign communication by radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, to any person other than the addressee, his agent, or attorney, or to
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a person employed or authorized to forward such communication to its destination, or to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, or to the master of a ship under whom he is serving, or in response to a subpoena issued by a court of competent jurisdiction, or on demand of other lawful authority.

(2) No person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person.

(3) No person not being entitled thereto shall receive or assist in receiving any inter-island, intra-island, inter-district or foreign communication by radio and use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto.

(4) No person having received such intercepted communication or having become acquainted with the contents, substance, purport, effect or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto.

(5) This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication broadcast or transmitted by amateurs or others for the use of the general public, or relating to ships in distress. (Code 1966, § 1203; Code 1970, tit. 35, § 4.)

§ 5. War emergency provisions. — (1) During the continuance of a war in which the United States is engaged, the High Commissioner of the Trust Territory is authorized, if he finds it necessary for the national defense and security, to direct that such communications as in his judgment may be essential to the national defense and security shall have preference or priority with any licensee subject to the radio regulations of the government of the said Trust Territory. He may give these directions at and for such times as he may determine, and may modify, change, or annul them. For such purpose he is hereby authorized to issue orders directly, or through such person or persons as he designates for the purpose. Any licensee complying with such order or direction for preference or priority authorized in this section shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligations, or liabilities upon licensees by reason of giving preference or priority in compliance with such order or direction.

(2) Upon proclamation by the President of the United States and/or the High Commissioner of the Trust Territory that there exists war or threat of war, or a state of public peril or disaster or other national peril, or in order to preserve the neutrality of the United States, the High Commissioner, if he deems it necessary in the interest of national security or defense, may suspend or amend, for such time as he sees fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations between ten kilocycles and one hundred thousand megacycles, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device or its apparatus and equipment, by any department of the government of the United States or of the government of the said Trust Territory under such regulations as he may prescribe upon just compensation to the owners.

(3) Any person who wilfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the High Commissioner's authority under this section, or who wilfully fails to do any act which he is required to do pursuant to the exercise of the High Commissioner's authority under this section, or who wilfully causes or suffers such failure, shall, upon conviction
thereof, be punished for such offense by a fine of not more than one thousand dollars, or by imprisonment for not more than a year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than five thousand dollars, except that any person who commits such an offense with intent to injure the United States or the Trust Territory, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than twenty thousand dollars, or by imprisonment for not more than twenty years, or both. (Code 1966, § 1204; Code 1970, tit. 35, § 5.)

§ 6. Penalty for violation. — Any person who wilfully and knowingly does or causes or suffers to be done any act, matter, or thing prohibited or declared to be unlawful, or wilfully or knowingly omits or fails to do any act, matter, or thing required to be done, or wilfully and knowingly causes or suffers such omission or failure required by any communication, regulation, or amendments thereto, made or imposed by the High Commissioner, or any rule, regulation, restriction, or condition made or imposed by an international radio or wire communications treaty or convention, or regulations annexed thereto, to which the United States is or may hereafter become a party, shall upon conviction thereof be punished for such offense by a fine of not more than one thousand dollars, or by imprisonment for a term not exceeding one year, or both. (Code 1966, § 1205; Code 1970, tit. 35, § 6.)
§ 51. Availability of government facilities to political candidates. — Any rules, regulations, or directives governing the use of government-owned and operated broadcasting facilities in any district notwithstanding, any candidate for an elective office or any political party as defined in section 104 of title 43 shall have free access to the use of government-owned and operated broadcasting facilities in the district. Any program submitted for broadcasting by a candidate or a political party shall be broadcast as submitted without any preview or censorship or follow-up commentary by the government. Programs submitted by a candidate or a political party may relate to any issue of public interest. Upon conclusion of any program by a candidate or political party, an announcement disclaiming any government responsibility for the views expressed shall be made. (P.L. No. 7-107, § 1.)

§ 52. Promulgation of rules and regulations by district administrators. — Each district administrator may promulgate rules and regulations governing the duration of programs submitted by candidates or political parties. No rules or regulations issued by the district administrator may have the effect of prohibiting use of broadcasting facilities by candidates or political parties. The limit placed upon the duration of programs shall not be less than one hour. (P.L. No. 7-107, § 2.)

§ 53. Assurance of reasonable access. — To ensure reasonable access by responsible persons or groups to government-owned and operated broadcasting facilities, the following provisions shall be complied with by the district administrator and all other government officials responsible for broadcasting operations in any district:

(1) Individuals and representatives of identifiable groups who hold views on issues of public importance which are contrary to views broadcast by a station shall be given a reasonable opportunity to present their views.

(2) Any individual or identifiable group made the subject of criticism, argument or debate during any broadcast shall be allowed an opportunity to respond to or rebut such criticism, argument or debate. The response or rebuttal broadcast shall be of such duration and broadcast at such hours as is calculated to reach the same audience as likely heard the first broadcast, and as allows a timely and adequate response or rebuttal.

(3) These provisions shall not be construed to require interruption of scheduled broadcast programs, but to require timely and equal access to the broadcast media by persons entitled thereto. (P.L. No. 7-107, § 3.)

§ 54. Remedies for denial of access. — Any individual or group who has been denied the right of access to a broadcast station, granted under any statute, regulation, or policy, may apply to a judge of the high court for injunctive and other relief; and, in the absence of a high court judge, may apply to a judge of the district court for such relief. (P.L. No. 7-107, § 4.)
Title 36.

[Reserved.]
Title 37.
Corporations, Partnerships and Associations.

2. Registrar of Corporations, §§ 51 to 54.

CHAPTER 1.
GENERAL PROVISIONS.

Sec. 1. Authority of High Commissioner to grant corporate charters and establish public corporations. - The High Commissioner may grant charters of incorporation for the establishment and functioning of business organizations, associations of persons for any lawful purpose other than pecuniary profit, cooperatives and credit unions. The High Commissioner may create and establish public corporations subject to approval and consent of the Congress of Micronesia. (Code 1966, § 1116; Code 1970, tit. 37, § 1.)

Sec. 2. Scope and application of chapter; exceptions. - (1) The provisions of this chapter are applicable to every private corporation, profit or nonprofit, stock or non-stock, now existing or hereafter formed, and to the outstanding and future securities thereof, unless such corporation be expressly excepted from the operation thereof, or there be a special provision in relation to any class thereof inconsistent with some provision of this chapter, in which case the special provision prevails.

(2) The existence of corporations heretofore formed or existing shall not be affected by the enactment of this chapter nor by any change in the requirements for the formation of corporations nor by amendment or repeal of the laws under which they were formed or created. (Code 1966, §§ 1133 and 1134; Code 1970, tit. 37, § 2.)

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§ 3. Application for charter. — (1) An association of persons seeking a charter as a corporation shall submit for the approval of the High Commissioner articles of incorporation which shall provide at least the following information:

(a) Proposed name of the corporation.
(b) Principal office or place of business.
(c) Proposed duration.
(d) Purposes.
(e) Powers.
(f) Capitalization.
(g) Names of incorporators.
(h) Number of directors, which shall be not less than three, and proposed officers.
(i) Names of directors and officers to serve until first election.
(j) Provisions for management, if any.
(k) Provisions for voting by members.
(l) Provisions for shareholding, if any.
(m) Disposition of financial surplus.
(n) Provisions for liquidation.
(o) Provisions for amendment of articles of incorporation.

(2) In addition to articles of incorporation, persons seeking a charter as a corporation shall submit for the approval of the High Commissioner proposed by-laws governing the operation of the corporation. (Code 1966, § 1118; Code 1970, tit. 37, § 3.)

§ 4. Audits and inspections authorized. — (1) The High Commissioner may appoint officers to audit and report on the accounts of corporations authorized to do business within the Trust Territory and such officers shall have the right at any and all times to inspect, examine and audit the books and accounts of such corporations.

(2) Any member of a nonprofit corporation shall have the right to inspect and examine the books and accounts of the corporation of which he is a member, provided that such inspection and examination shall be held at the place where such books and accounts are normally kept, and shall take place on weekdays during normal business hours in such a manner as not to interfere with usual conduct of business or corporate affairs. (Code 1966, § 1119; Code 1970, tit. 37, § 4.)

§ 5. Use of the terms "cooperative" and "credit union" restricted. — No person, firm, corporation or association hereafter organized or doing business in the Trust Territory shall be entitled to use the terms "cooperative" or "credit union" as part of its corporate name or other business name or title, or otherwise represent itself to the public to be a nonprofit cooperative association or a credit union or cooperative savings and loan association unless it has complied with the provisions of this chapter, except as provided in section 2. (Code 1966, § 1117; Code 1970, tit. 37, § 5.)

§ 6. Enjoinder of violations. — Violations of the provisions of this chapter or regulations promulgated hereunder are hereby declared to be enjoinable, and the Attorney General, or the district attorney in the name of the Attorney General, shall have the power to seek appropriate relief from such violations or from other corporate practices in violation of the law of the Trust Territory or contrary to the public interest. (Code 1966, § 1135; Code 1970, tit. 37, § 6.)

Showing required of persons seeking injunction. — While a showing that irreparable injury, loss or damage would result to the citizens of the Trust Territory if defendants were not enjoined from violation of law in question might have had to have been made in order to get a restraining order pendente lite, such a showing need not be made at trial where section of Code provided that a violation of its provisions may be enjoined. Trust Territory v. Traid Corp., 4 TTR 300 (1969).
§ 51. Office created; duties. — There shall be in the office of the Attorney General a registrar of corporations appointed by the High Commissioner, who shall issue, receive, and hold as custodian all certificates, papers, statements, or other records of documents required by the provisions of this title, or rules or regulations promulgated hereunder, to be distributed by or filed with the government of the Trust Territory, and shall perform such other duties as may from time to time be assigned to him by the High Commissioner or the Attorney General. (Code 1966, § 1115(a); Code 1970, tit. 37, § 51.)

§ 52. Authority to promulgate rules and regulations. — The registrar of corporations, with the approval of the Attorney General and the High Commissioner, shall have the power to prescribe such rules and regulations as are deemed advisable to administer and carry into effect the provisions of this title. Such rules and regulations shall have the force and effect of law. The registrar of corporations shall file a copy of such rules and regulations with each clerk of courts. (Code 1966, § 1115(b); Code 1970, tit. 37, § 52.)

§ 53. Power to convene corporate meeting. — The registrar of corporations may, when deemed by him to be in the public interest, convene a special meeting of the members, board of directors, or officers of any corporation organized or existing under the provisions of this chapter, by giving notice, not less than ten days prior to the date of such meeting, to the members, directors, or officers, as the case might be. Such notice shall state the purpose of the meeting and the subject, or subjects to be discussed. (Code 1966, § 1115(c); Code 1970, tit. 37, § 53.)

§ 54. Power to order production of records. — In connection with the duties prescribed in this chapter the registrar of corporations is authorized and empowered to order the production of books of account, papers and documents of any corporation or company authorized to do business within the Trust Territory. Refusal, without a showing of good cause, to produce books of account, papers and documents within thirty days after an order for the production thereof shall be a misdemeanor punishable by a maximum fine of fifty dollars, or, when the order is directed to an individual, imprisonment of such individual for a period not to exceed ninety days, or both. (Code 1966, § 1115(d); Code 1970, tit. 37, § 54.)
Title 38.

[Reserved.]
Title 39.
Domestic Relations.

1. Marriage, §§ 51 to 55.
2. Annulment and Divorce, §§ 101 to 204.
3. Adoption, §§ 251 to 255.
4. Reciprocal Enforcement of Support, §§ 301 to 428.

CHAPTER 1.
GENERAL PROVISIONS.

Sec. Sec.
1. Jurisdiction of high court. 4. Same; local custom recognized.
2. Proceedings in annulment, divorce, or adoption; petitions. 5. Same; confirmation in accordance with recognized custom.
3. Same; appeal and review. 6. Age of majority.

§ 1. Jurisdiction of high court. — The high court shall have concurrent jurisdiction with the district courts to grant any adoption, and with the community and district courts to grant any annulment or divorce authorized under this title, and may, for cause shown, order any proceeding in annulment, divorce, or adoption pending before another court transferred to the high court for disposition. Proceedings in annulment, divorce, or adoption in the high court may be filed in any administrative district within which the matter might have been handled by a community court or a district court. (Code 1966, § 711; Code 1970, tit. 39, § 1; P.L. No. 4C-56, § 1.)

§ 2. Proceedings in annulment, divorce, or adoption; petitions. — (1) All proceedings for annulment, divorce, or adoption shall be commenced by petition signed and sworn to by the petitioner or petitioners personally, except that a community court may accept an oral petition under oath if it deems best.
(2) The petition shall set forth sufficient facts as to the residence of the parties to show jurisdiction under this title.
(3) A petition for annulment or divorce shall, so far as practicable, include the date and place of marriage of the parties, the cause for the annulment or divorce, and the approximate date and place where it occurred if the cause consists of individual acts, otherwise sufficient details as to cause to identify with reasonable certainty the facts relied upon, and a statement as to any prior application which is known to have been made by either party for annulment or divorce of the marriage in question or for separation under it, in this or any other jurisdiction, and the result of such application, if known.
(4) Service of petitions filed under this section shall be made upon any respondent or respondents, if any, in the manner provided by law for service of complaints. In such cases, any respondent or respondents shall be accorded such time as may be provided by law for filing an answer to complaints to file an answer to the petition. (Code 1966, § 712; Code 1970, tit. 37, § 2; P.L. No. 4C-56, § 2.)

§ 3. Same; appeal and review. — (1) All decrees for annulment, divorce, or adoption under this title shall be subject to appeal, and in the case of
community courts and district courts to review as in other civil cases, and no such decree shall become absolute or affect the legal status of the parties until the case has been reviewed, if subject to review by the high court, and until the period for appeal has expired without any appeal having been filed or until any appeal taken shall have been finally dispatched.

(2) Except as otherwise expressly provided by this title, annulment, divorce and adoption proceedings shall be governed by the provisions of law and rule of civil procedure applicable to civil actions. (Code 1966, § 713; Code 1970, tit. 37, § 3.)

§ 4. Same; local custom recognized. — Nothing contained in this title, except for the provisions of section 5 of this chapter, shall apply to any annulment, divorce, or adoption effected in accordance with local custom, nor shall any restrictions or limitations be imposed upon the granting of annulments, divorces, or adoptions in accordance with local custom. (Code 1966, § 714; Code 1970, tit. 39, § 4.)

Cross references. — Local customs, 1 TTC § 14.

Local customary divorces permitted. — Local customary divorces are permitted under Trust Territory law. Ketari v. Taro, 3 TTR 279 (1967).

Local customary law as to annulments, divorces or adoptions is unrestricted. — No restrictions or limitations are imposed by Trust Territory law upon granting of annulments, divorces or adoptions in accordance with local custom. Ketari v. Taro, 3 TTR 279 (1967).

Original granting of customary divorce may not involve courts. — Although Trust Territory law recognizes divorce under local custom, courts should have nothing to do with original granting of customary divorce. Yamada v. Yamada, 2 TTR 66 (1959).

Dissolution of marriage by "throwing away" of other spouse is valid. — Divorce effected in accordance with local custom is recognized as valid; thus, a marriage may be legally dissolved under Truk custom at any time, at will and without the action of any court, magistrate or official, by either spouse "throwing away" the other spouse. Aisea v. Trust Territory, 1 TTR 245 (1955).

Dissolution of marriage by custom: "throwing away" of spouse not a crime. — Under Truk custom, marriage may be dissolved by either spouse at any time at will without action by any court, magistrate or official, and the "throwing away" of a spouse does not constitute a crime. Lornis v. Trust Territory, 2 TTR 114 (1959).

Effect of failure to record a customary divorce. — Failure to record a divorce in municipal office has no effect on the validity of a divorce under Truk custom. Aisea v. Trust Territory, 1 TTR 245 (1955).

Whether intercourse occurred before or after customary divorce is vital question in adultery prosecution. — Since parties who are married under Truk custom cannot commit customary crime of adultery with each other, question as to whether intercourse occurred before or after customary divorce from former spouse is of utmost importance in prosecution for adultery. Lornis v. Trust Territory, 2 TTR 114 (1959).

§ 5. Same; confirmation in accordance with recognized custom. — When an annulment, divorce, or adoption has been effected in the Trust Territory in accordance with recognized custom and the validity thereof is questioned or disputed by anyone in such a manner as to cause serious embarrassment to or affect the property rights of any of the parties or their children, any party thereto or any of his children may bring a petition in the high court for a decree confirming the annulment, divorce, or adoption effected in accordance with recognized custom. Such a petition shall be signed and sworn to by the petitioner personally, and shall be filed in the district where the annulment, divorce, or adoption was effected. If, after notice to all parties still living and a hearing, the court is satisfied that the annulment, divorce, or adoption alleged is valid in accordance with recognized custom in the part of the Trust Territory where it was effected, the high court shall enter a decree confirming the annulment, divorce, or adoption and may include in this decree the date it finds the annulment, divorce, or adoption was absolute until the
period for appealing has expired without any appeal having been filed or until any appeal taken shall have been filed or until any appeal taken shall have been finally dispatched. (Code 1966, § 715; Code 1970, tit. 39, § 5; P.L. No. 4C-56, § 3.)

High court decree confirming customary annulment, divorce or adoption. — The high court may enter decree confirming annulment, divorce or adoption in accordance with recognized custom. Mutong v. Mutong, 2 TTR 588 (1964).

Once marriage is dissolved, action may not be dismissed by motion stating reconciliation of parties. — Once marriage has been dissolved by court action, it is not possible to dismiss action on basis of motion filed thereafter reciting that parties have reconciled. Mutong v. Mutong, 3 TTR 165 (1966).

Customary adoption not barred because of variation in names of those concerned. — Variation in names of those concerned with adoption of child will not bar confirmation of customary Palauan adoption authorized by Trust Territory law. In re Iyar, 2 TTR 331 (1962).

Adoption confirmed as of date of customary adoption. — Where adoption is effected in accordance with recognized Palau custom, it will be confirmed as of date of customary adoption. In re Iyar, 2 TTR 331 (1962).

§ 6. Age of majority. — All persons, whether male or female, residing in the Trust Territory, who shall have attained the age of eighteen years shall be regarded as of legal age and their period of minority to have ceased. (Code 1970, tit. 39, § 6.)
CHAPTER 2.

MARRIAGE.

Sec.
51. Two noncitizens or noncitizen and citizen; requisites of marriage contract.
52. Same; license.

$§ 51.$ Two noncitizens or noncitizen and citizen; requisites of marriage contract. — In order to make valid the marriage contract between two noncitizens or between a noncitizen and a citizen of the Trust Territory, it shall be necessary that:

1. The male at the time of contracting the marriage be at least eighteen years of age and the female at least sixteen years of age, and if the female is less than eighteen years of age she must have the consent of at least one of her parents or her guardian;

2. Neither of the respective parties has a lawful spouse living; and,

3. A marriage ceremony be performed by a duly authorized person as provided in this chapter. (Code 1966, § 690; Code 1970, tit. 39, § 51.)


$§ 52.$ Same; license. — (1) The district administrator in each district is authorized to grant a license for marriage between two noncitizens or between a noncitizen and a citizen of the Trust Territory. Upon the filing of an application for such a license, the district administrator shall collect from the parties making the application the sum of two dollars to be remitted to the treasurer of the Trust Territory.

(2) In order to obtain a license to marry, the parties shall file with the district administrator an application in writing setting forth as to each party: his or her full name, age, citizenship, residence, occupation, if any, whether previously married and the manner of dissolution of such prior marriage or marriages. If the statements in the application are satisfactory and it appears that the parties are free to marry, the district administrator shall issue to the parties a license to marry. Nothing in this section shall be construed to prevent the issuance of a license to marry to two citizens of the Trust Territory. (Code 1966, § 691; Code 1970, tit. 39, § 52.)


$§ 53.$ Same; ceremony. — The presence of two witnesses, at least, is requisite for the celebration of a marriage between two noncitizens or between a noncitizen and a citizen of the Trust Territory. The marriage ceremony shall be performed in the district in which the license is issued. The marriage rite may be performed and solemnized by an ordained minister, a judge of the high court, a judge of the district court, a district administrator, or by any person authorized by law to perform marriages, upon presentation to him of a license to marry as prescribed in section 52 of this chapter. The person solemnizing a marriage may receive a fee to be stipulated by the parties, or the gratification tendered to him. (Code 1966, § 692; Code 1970, tit. 39, § 53.)
Mandatory that a person mentioned in section solemnize marriage. — Requirement that solemnization be performed by a person mentioned in section in order to constitute a valid marriage is a mandatory condition. In re Airam (App. Div., July, 1976).

§ 54. Records; certificates; register. — It shall be the duty of every person authorized to perform marriages to make and preserve a record of every marriage performed by him, regardless of the citizenship of the parties, showing the names of the persons married, their places of residence and the date of marriage, and to deliver to the bride immediately after the ceremony a certificate of the record of such marriage, signed by him, two witnesses, if there were as many as two, and the persons married. He shall send a copy of the marriage certificate, not later than ten days after the granting of the same, to the clerk of courts for the district to be recorded in the marriage register. Forms issued by the High Commissioner for such marriage certificates shall be used when available, but lack of such forms shall not excuse failure to provide the bride with the certificate and the clerk with the copy required above in substantially the same form, and containing the same information as in the forms issued by the High Commissioner. (Code 1966, § 693; Code 1970, tit. 39, § 54.)

§ 55. Marriages between citizens. — Marriage contracts between parties, both of whom are citizens of the Trust Territory, solemnized in accordance with recognized customs, shall be valid. A notice of such marriage, showing the names and addresses of the persons married, their ages and the date of marriage, shall be sent to the clerk of courts, who shall upon receipt thereof record the same in the marriage register. (Code 1966, § 694; Code 1970, tit. 39, § 55.)


Appearance of marriage under local custom enough for bigamy statute. — In Trust Territory, where marriages under local custom are expressly recognized, appearance of marriage under local custom is sufficient to constitute "marrying" within meaning of bigamy statute, even though no marriage ceremony is involved. Umiich v. Trust Territory, 3 TTR 231 (1967).
CHAPTER 3.

ANNULMENT AND DIVORCE.

Subchapter I.

General Provisions.

Sec.

101. Competency of community and district courts.

102. [Repealed.]

103. Orders for custody, support and alimony.

104. Effect of decree.

Subchapter II.

Annulment.

151. Authorized; grounds.

§ 101. Competency of community and district courts. — An annulment or a divorce authorized by this chapter may be granted by any community court or district court within whose jurisdiction either of the parties has resided for three months immediately prior to the filing of the complaint. (Code 1966, § 702; Code 1970, tit. 39, § 101.)

Authorization of district and community courts as to divorces, annulments, support orders. — District and community courts are authorized to grant divorces and annulments and to make orders for support of minor children and support of either party. Sam v. Sam, 3 TTR 203 (1966).

District court may consider prayers for support only in divorce or annulment actions. — There is no authorization for district court to consider prayers for support except in actions for divorce or annulment and unless prayer is for amount within jurisdiction of court. Sam v. Sam, 3 TTR 203 (1966).


§ 103. Orders for custody, support and alimony. — In granting or denying an annulment or a divorce, the court may make such orders for custody of minor children for their support, for support of either party, and for the disposition of either or both parties’ interest in any property in which both have interests, as it deems justice and the best interests of all concerned may require. While an action for annulment or divorce is pending, the court may make temporary orders covering any of these matters pending final decree. Any decree as to custody or support of minor children or of the parties shall be subject to revision by the court at any time upon motion of either party and such notice, if any, as the court deems justice requires. (Code 1966, § 704; Code 1970, tit. 39, § 103.)

Authorization of district and community courts as to divorces, annulments, support orders. — District and community courts are authorized to grant divorces and annulments and to make orders for support of minor children and support of either party. Sam v. Sam, 3 TTR 203 (1966).

Repeated forgiveness of parties may indicate possibility of reconciliation. — Courts may choose not to grant a divorce where repeated forgiveness of parties indicates possibility of reconciliation. Yamada v. Yamada, 2 TTR 66 (1959).

Only property in which both spouses have interest is subject to court award. — This section does not give the court authority to award the separate property of one of the spouses to the other in a divorce proceeding. Rather such section permits disposition of only property in which both have interests. Nekai v. Nekai, 4 TTR 388 (1969).
Jurisdiction to dispose of property as justice and best interests of parties require. — Under this section the court, as to property in which both parties have interests, has jurisdiction to dispose of it as it deems justice and the best interests of all concerned may require, and this might involve an equal division of the property, or giving it all to the “innocent party,” or it might even require that it be given to the “guilty party,” the one whose wrong caused the divorce. Nekai v. Nekai, 4 TTR 388 (1969).

District court may consider prayers for support only in divorce or annulment actions. — There is no authorization for district court to consider prayers for support except in actions for divorce or annulment and unless prayer is for amount within jurisdiction of court. Sam v. Sam, 3 TTR 203 (1966).

Trust Territory law similar to community property states. — This section was apparently drafted to make the law in the Trust Territory similar to the laws in the “community property states” of the United States. Nekai v. Nekai, 4 TTR 388 (1969).


Usually best for mother to have custody of children under twelve. — In action for divorce, custody of mother of children under twelve years of age usually is best where consistent with local culture. Yamada v. Yamada, 2 TTR 66 (1959).

Power of court to revise support decree construed. — The provisions of section 102, relating to power of the court to revise at any time a decree as to support of minor children, did not imply the court could not make subsequent provisions for child support even though the decree did not contain a provision which could be “revised” in accordance with that Code provision. Ngodrii v. Kumaichi, 5 TTR 121 (1967).

§ 104. Effect of decree. — The effect of a decree of annulment or divorce when it has become absolute shall be to restore the parties to the state of unmarried persons so far as the marriage in question is concerned. (Code 1966, § 705; Code 1970, tit. 39, § 104.)

Effect of absolute decree of divorce. — Absolute decree of divorce granted pursuant to this Code restores parties to state of unmarried persons so far as marriage in question is concerned. Sam v. Sam, 3 TTR 203 (1966).

Subchapter II.

Annulment.

§ 151. Authorized; grounds. — A decree annulling a marriage may be rendered on any ground existing at the time of the marriage which makes the marriage illegal and void or voidable. A court may, however, refuse to annul a marriage which has been ratified and confirmed by voluntary cohabitation after the obstacle to the validity of the marriage has ceased, unless the public interest requires that the marriage be annulled. (Code 1966, § 695; Code 1970, tit. 39, § 151.)

§ 152. Residency requirements. — No annulment shall be granted unless one of the parties shall have resided in the Trust Territory for the three months immediately preceding the filing of the complaint. (Code 1966, § 696; Code 1970, tit. 39, § 152.)

§ 153. Legitimacy of issue of annulled marriage. — The issue of a marriage annulled under this chapter shall be legitimate. (Code 1966, § 697; Code 1970, tit. 39, § 153.)
§ 201. Grounds. — Divorces from marriage may be granted under this chapter for the following causes and no other:

1. Adultery.
2. The guilt of either party toward the other of such cruel treatment, neglect or personal indignities, whether or not amounting to physical cruelty, as to render the life of the other burdensome and intolerable and their further living together unsupportable.
3. Wilful desertion continued for a period of not less than one year.
4. Habitual intemperance in the use of intoxicating liquor or drugs continued for a period of not less than one year.
5. The sentencing of either party to imprisonment for life or for three years or more. After divorce for such cause, no pardon granted to the party so sentenced shall affect such divorce.
6. The insanity of either party where the same has existed for three years or more.
7. The contracting by either party of leprosy.
8. The separation of the parties for two consecutive years without cohabitation, whether or not by mutual consent.
9. Wilful neglect by the husband to provide suitable support for his wife when able to do so or when failure to do so is because of his idleness, profligacy or dissipation. (Code 1966, § 698; Code 1970, tit. 39, § 201.)

Court divorce only authorized on proof of one of listed grounds. — Court divorce is only authorized on proof of one of grounds listed in Code which are recognized by law to constitute good reason. Ketari v. Taro, 3 TTR 279 (1967).

Separation grounds for divorce construed. — Under this Code court may grant divorce on grounds of separation whether or not the separation was by mutual consent, and this negates the question of fault. Katindoy v. Katindoy, 5 TTR 412 (1971).

Measurement of period parties have lived apart without cohabitation. — To establish grounds for divorce based on the parties having lived apart for more than two consecutive years without cohabitation, the two year period does not begin to run until there is a manifestation of intent on the part of the plaintiff not to continue the marriage relationship. Dean v. Dean, 5 TTR 594 (1972).

Court required to exercise good judgment as to divorce even if a permitted cause is shown. — In granting divorce under this Code, court is expected to exercise good judgment in determining in accordance with established legal principles whether divorce should be granted even if one of permitted causes is shown. Yamada v. Yamada, 2 TTR 66 (1959).

Legal principles in decisions apply only to cases of divorce under the Code. — Principles of law contained in Trust Territory decisions regarding divorce apply only to cases of divorce under the Code, and the Code provisions regarding divorce indicate policy of making divorces available in accordance with liberal or tolerant modern view prevailing in some states in the United States. Yamada v. Yamada, 2 TTR 66 (1959).

In Trust Territory, recrimination is a discretionary or qualified defense. — Older view in the United States, that if both parties are guilty of offense constituting grounds for divorce neither could obtain divorce, is not in accord with spirit of this Code nor suitable to conditions here. Proper rule as to granting of divorce under this Code is that misconduct of plaintiff (recrimination) is discretionary or qualified defense, and if both parties are guilty of misconduct, court may grant divorce to one less at fault. Yamada v. Yamada, 2 TTR 66 (1959).

§ 202. Residency requirements. — No divorce shall be granted unless one of the parties shall have resided in the Trust Territory for the two years immediately preceding the filing of the complaint. (Code 1966, § 699; Code 1970, tit. 39, § 202.)
Res, or marriage, over which court must have jurisdiction, follows domicile. — To grant a divorce, a court must have jurisdiction over the res, or marriage, which follows the domicile of the spouses. Hamrick v. Hamrick, 6 TTR 252 (1973).

Residency requirement for divorce is violative of equal protection. — The two year residency requirement for granting a divorce in the Trust Territory denies a party of equal protection of the laws and is thus invalid. Yang v. Yang, 5 TTR 427 (1971).

Jurisdiction of action for divorce involving foreign national. — Foreign national's residence for purpose of divorce is to be considered in the light of the laws of the Trust Territory and where such foreign national had complied with the residency requirement of the Trust Territory, court had jurisdiction of the action. Katindoy v. Katindoy, 5 TTR 412 (1971).

Court does not have discretion to violate residency statute. — Where statute required two years' residence to file for divorce, it was not within court’s discretion to violate it in favor of husband suing wife, a Guam domiciliary, for divorce even though he had been in the Trust Territory for only eight months, merely because wife did not contest the action and even requested the entry of a default against her and the decision would thus not be subject to collateral attack. Hamrick v. Hamrick, 6 TTR 252 (1973).

Right to immigrate at will not insured to noncitizens; residency requirement not violative of rights to travel and equal protection. — The Trust Territory is not a state of the United States and for many purposes is considered a foreign state or territory under United States administration; and its citizens are not citizens of the United States; thus, while the territory must insure equal protection and freedom of migration within the territory under the Code, it is under no obligation to insure to noncitizens the right to immigrate at will, and residency requirement of two years to file for divorce could not be attacked as a denial of the rights to travel and equal protection. Hamrick v. Hamrick, 6 TTR 252 (1973).

§ 203. Forgiveness as defense. — No divorce shall be granted where the ground for the divorce has been forgiven by the injured party. Such forgiveness may be shown by express proof or by the voluntary cohabitation of the parties with knowledge of the fact and restoration of the forgiving party to all marital rights. Such forgiveness implies a condition that the forgiving party must be treated with conjugal kindness. This forgiveness is revoked and the original ground for divorce is revived if the party forgiven commits an act of constituting a like or other ground for divorce or is guilty of conjugal unkindness sufficiently habitual and gross to show that the conditions of forgiveness have not been accepted in good faith or have not been fulfilled. (Code 1966, § 700; Code 1970, tit. 39, § 203.)

§ 204. Procurement or connivance as defense. — No divorce for the cause of adultery shall be granted where the offense has been committed by the procurement or with the connivance of the plaintiff. (Code 1966, § 701; Code 1970, tit. 39, § 204.)
§ 251. Competency of district courts and high court. — An adoption authorized under this chapter may be granted by any district court within whose territorial jurisdiction the person or persons requesting the adoption reside or within whose jurisdiction the child resides, or by the trial division of the high court in such jurisdiction. (Code 1966, § 709; Code 1970, tit. 39, § 251; P.L. No. 4C-56, § 5.)

§ 252. Adoption by decree. — (1) Any suitable person who is not married, or is married to the father or mother of a child, or a husband and wife jointly may by decree of court adopt a child, not theirs by birth, and the decree may provide for change of the name of the child. If the child is adopted by a person married to the father or mother of the child, the same rights and duties which previously existed between such natural parent and child shall be and remain the same, subject, however, to the rights acquired by and the duties imposed upon the adopting parent by reason of the adoption.

(2) The term "child," as used in this chapter and section 5, chapter 1 of this title, shall refer to the parent-child relationship. (Code 1966, § 706; Code 1970, tit. 39, § 252.)

§ 253. Persons to be notified or consents to be obtained. — No adoption shall be granted without either the written consent of, or notice to, each of the known living legal parents who has not been adjudged insane or incompetent or has not abandoned the child for a period of six months, nor shall any adoption of a child of over the age of twelve years be granted without the consent of the child. (Code 1966, § 707; Code 1970, tit. 39, § 253; P.L. No. 4C-56, § 6.)

§ 254. Appearance of child; best interests of child to control. — No adoption shall be granted under this title without the child proposed for adoption appearing before the court, and the adoption shall be granted only if the court is satisfied that the interests of the child will be promoted thereby. (Code 1966, § 708; Code 1970, tit. 39, § 254.)

Cross Reference. — Adoption in Federated States of Micronesia, Part III, Title 39.
Natural mother cannot withdraw consent to adoption of child once decree has been entered. — In the absence of a clear showing of fraud, duress or lack of jurisdiction in the court, the consent of a natural mother to the adoption of her child cannot be withdrawn after the decree has been entered. In re Adoption of Samuel, 5 TTR 420 (1971).
§ 255. Effect of decree. — After a decree of adoption has become absolute, the child adopted and the adopting parents shall hold towards each other the legal relation of parent and child and have all the rights and be subject to all the duties of that relationship. The natural parents of the adopted child are, from the time of adoption, relieved of all parental duties toward the child and all responsibilities for the child so adopted, and have no right over it. A child adopted under this title shall have the same rights of inheritance as a person adopted in accordance with recognized custom at the place where the land is situated in the case of real estate, and at the place where the decedent was a resident at the time of his death in the case of personal property. Where there is no recognized custom as to rights of inheritance of adopted children, a child adopted under this chapter shall inherit from his adopting parents the same as if he were the natural child of the adopting parents, and he may also inherit from his natural parents and kindred the same as if no adoption has taken place. (Code 1966, § 710; Code 1970, tit. 39, § 255.)
CHAPTER 5.

RECIPROCAL ENFORCEMENT OF SUPPORT.

Subchapter I.

General Provisions.

Sec. 301. Purposes. — The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto. (P.L. No. 4C-37, § 1.)

§ 302. Definitions. — For the purposes of this chapter:

1. "Court" means the trial division of the High Court of the Trust Territory, and when the context requires means the court of any state as defined in a substantially similar reciprocal law.

2. "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise, and includes the duty to pay arrearages of support past due and unpaid.

3. "Governor" includes the High Commissioner of the Trust Territory and any person performing the functions of governor or the executive authority of any state covered by this chapter.

4. "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.
§ 303. Remedies of chapter in addition to those now existing. — The remedies herein provided are in addition to and not in substitution for any other remedies. (P.L. No. 4C-37, § 1.)

§ 304. Duties of support regardless of presence or residency. — Duties of support arising under the law of the Trust Territory, when applicable under this Code, bind the obligor present in the Trust Territory regardless of the presence or residence of the obligee. (P.L. No. 4C-37, § 1.)

Subchapter II.

Criminal Enforcement.

§ 351. Interstate rendition; authority of High Commissioner. — The High Commissioner of the Trust Territory may:

(1) Demand of the governor of another state the surrender of a person found in that state who is charged criminally in the Trust Territory with the failure to abide by an order of a court ordering him to provide for the support of any person; or

(2) Surrender on demand by the governor of another state a person found in the Trust Territory who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this chapter apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show
that the person whose surrender is demanded has fled from justice or that at the
time of the commission of the crime said person was in the demanding
state. (P.L. No. 4C-37, § 1.)

§ 352. Same; investigations of circumstances. — (1) Before making the
demand upon the governor of another state for the surrender of a person
charged criminally in the Trust Territory with the failure to abide by an order
of a court ordering him to provide for the support of a person, the High
Commissioner of the Trust Territory may require the Attorney General of the
Trust Territory to satisfy him that at least sixty days prior thereto the obligee
initiated proceedings for support under this chapter or that any such
proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes
a demand upon the High Commissioner of the Trust Territory for the surrender
of a person charged criminally in that state with failure to provide for the
support of a person, the High Commissioner may require the Attorney General
to investigate the demand and to report to him whether proceedings for support
have been initiated or would be effective. If it appears to the High
Commissioner that a proceeding would be effective but has not been initiated,
he may delay honoring the demand for a reasonable time to permit the
initiation of a proceeding.

(3) If proceedings have been initiated, and the person demanded has
prevailed therein, the High Commissioner may decline to honor the demand.
If the obligee prevailed and the person demanded is subject to a support order,
the High Commissioner may decline to honor the demand if the person
demanded is complying with the support order. (P.L. No. 4C-37, § 1.)

Subchapter III.

Civil Enforcement.

§ 401. Choice of law. — Duties of support applicable under this chapter are
those imposed under the laws of any jurisdiction where the obligor was present
for the period during which support is sought. The obligor is presumed to have
been present in the responding jurisdiction during the period for which support
is sought until otherwise shown. (P.L. No. 4C-37, § 1.)

§ 402. Rights of jurisdiction or political subdivision furnishing
support. — If a state or a political subdivision thereof furnishes support to an
individual obligee, it has the same right to initiate a proceeding under this
chapter as the individual obligee for the purpose of securing reimbursement for
support furnished and of obtaining continuing support. (P.L. No. 4C-37, § 1.)

§ 403. How duties of support enforced. — All duties of support,
including the duty to pay arrearages, are enforceable by an action under this
chapter, including a proceeding for contempt. The defense that the parties are
immune to suit because of their relationship as husband and wife or parent and
child is not available to the obligor. (P.L. No. 4C-37, § 1.)

§ 404. Jurisdiction. — Jurisdiction of any proceeding under this chapter is
vested in the trial division of the high court. (P.L. No. 4C-37, § 1.)

§ 405. Contents and filing of complaint for support. — (1) The
complaint shall be verified and shall state the name and, so far as known to
the obligee, the address and circumstances of the obligor and the persons for
whom support is sought, and all other pertinent information and such information as may be required by the Trust Territory rules of civil procedure. The obligee may include in or attach to the complaint any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his Social Security number.

(2) The complaint may be filed in the appropriate court of any jurisdiction in which the obligee resides. The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other jurisdiction where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement. (P.L. No. 4C-37, § 1.)

§ 406. Attorney General to represent obligee. — If the Trust Territory is acting as an initiating state, the Attorney General or his representative, upon the request of the court, shall represent the obligee in any proceeding under this chapter. (P.L. No. 4C-37, § 1.)

§ 407. Complaint on behalf of minor. — A complaint on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem. (P.L. No. 4C-37, § 1.)

§ 408. Duty of initiating court. — If the initiating court finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause three copies of the complaint and its certificate and one copy of this chapter to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court. (P.L. No. 4C-37, § 1.)

§ 409. Costs and fees. — An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in the Trust Territory when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the state or political subdivision thereof. These costs or fees do not have priority over amounts due to the obligee. (P.L. No. 4C-37, § 1.)

§ 410. Jurisdiction by arrest. — If a court of the Trust Territory believes that the obligor may flee, it may:

(1) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(2) As a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his
giving a bond in an amount set by the court to assure his appearance at the hearing. (P.L. No. 4C-37, § 1.)

§ 411. Information agency; efforts of Attorney General to locate obligors. — (1) The Attorney General's office is designated as the information agency under this chapter. It shall:
   (a) Compile a list of the courts and their addresses in the Trust Territory having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law;
   (b) Maintain a register of such lists of courts received from other states and transmit copies thereof promptly to every court in the Trust Territory having jurisdiction under this chapter;
   (c) Distribute copies of this chapter and any amendments thereto and a statement of their effective dates to all other state information agencies; and
   (d) Forward to the court in the Trust Territory which has jurisdiction over the obligor or his property petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(2) If the Attorney General does not known the location of the obligor or his property in the Trust Territory, he shall use all means at his disposal to obtain this information, including but not limited to the examination of any official records, as he may deem appropriate. (P.L. No. 4C-37, § 1.)

§ 412. Duties of the court and officials of the Trust Territory as responding state; prosecution of case. — (1) After the responding court receives copies of the complaint, certificate, and act from the initiating court, the clerk of courts shall docket the case and notify the district attorney of his action.

(2) The district attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of the Trust Territory to enable the court to obtain jurisdiction over the obligor or his property and shall request the clerk of courts to set a time and place for a hearing and give notice thereof to the obligor in accordance with law. (P.L. No. 4C-37, § 1.)

§ 413. Same; location of obligors. — (1) The district attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if, because of inaccuracies in the complaint or otherwise, the court cannot obtain jurisdiction, the district attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended complaint from the initiating court.

(2) If the obligor or his property is not found in the district, and the district attorney discovers that the obligor or his property may be found in another district of the Trust Territory or in another state, he shall so inform the court. Thereupon the clerk of courts shall forward the documents received from the court in the initiating jurisdiction to a court in the other district or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this chapter apply to the recipient of the documents so forwarded. If the clerk of a court of the Trust Territory forwards documents to another court, he shall forthwith notify the initiating court.

(3) If the district attorney has no information as to the location of the obligor or his property, he shall so inform the initiating court. (P.L. No. 4C-37, § 1.)

§ 414. Continuance of case. — If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, may
continue the case for further hearing and the submission of evidence by both parties by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken. (P.L. No. 4C-37, § 1.)

§ 415. Waiver of privilege against self-incrimination and immunity from criminal prosecution. — If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony. (P.L. No. 4C-37, § 1.)

§ 416. Testimony of husband and wife. — Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter including marriage and parentage, the provisions of section 1 of title 7 of this Code and rule 28 of the Trust Territory rules of evidence notwithstanding. (P.L. No. 4C-37, § 1.)

§ 417. Rules of evidence. — In any hearing for the civil enforcement of this chapter the court is governed by the rules of evidence set forth in title 7 of this Code and in the Trust Territory rules of evidence, except as otherwise provided in this chapter. If the action is based on a support order issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity as set forth in section 421 of this chapter or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court. (P.L. No. 4C-37, § 1.)

§ 418. Orders of support; authorized; enforcement. — If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this chapter shall require that payments be made to the clerk of the court of the responding state. The court and district attorney of any district of the Trust Territory in which the obligor is present or has property shall have the same powers and duties to enforce the order as have those of the district in which it was first issued. If enforcement is impossible or cannot be completed in the district in which the order was issued, the district attorney shall send a certified copy of the order to the district attorney of any district in which it appears that proceedings to enforce the order would be effective. The district attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. (P.L. No. 4C-37, § 1.)

§ 419. Same; responding court to transmit copies to initiating court. — The responding court shall cause a copy of all support orders to be sent to the initiating court. (P.L. No. 4C-37, § 1.)

§ 420. Same; additional powers of responding court. — In addition to the foregoing powers, a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:
§ 421. Paternity. — If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated. (P.L. No. 4C-37, § 1.)

§ 422. Forwarding of payments and payment records by responding court. — A responding court has the following duties which may be carried out through the clerk of courts:

(1) To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

(2) To furnish to the initiating court upon request a certified statement of all payments made by the obligor. (P.L. No. 4C-37, § 1.)

§ 423. Receipt and disbursal of payments by initiating court. — An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of courts. (P.L. No. 4C-37, § 1.)

§ 424. Proceedings not to be stayed. — A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other jurisdiction. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding. (P.L. No. 4C-37, § 1.)

§ 425. Application of payments made under orders of another court. — A support order made by a court of the Trust Territory pursuant to this chapter does not nullify and is not nullified by a support order made by a court of another state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by a court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by a court of the Trust Territory. (P.L. No. 4C-37, § 1.)

§ 426. Jurisdictional effect of participation in proceeding. — Participation in any proceeding under this chapter does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding. (P.L. No. 4C-37, § 1.)
§ 427. Interdistrict application. — This chapter applies if both the obligee and the obligor are in the Trust Territory but in different districts. If the court of the district in which the complaint is filed finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another district in the Trust Territory may obtain jurisdiction over the obligor or his property, the clerk of courts shall send the complaint and a certification of the findings to the court of the district in which the obligor or his property is found. The clerk of courts of the district receiving these documents shall notify the district attorney of their receipt. The district attorney and the court in the district to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for the Trust Territory as a responding state. (P.L. No. 4C-37, § 1.)

§ 428. Appeals. — If the Attorney General is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may:

1. Perfect an appeal to the proper appellate court if the support order was issued by a court of the Trust Territory, or
2. If the support order was issued in another state, cause the appeal to be taken in the other state. In either case, expenses of appeal may be paid on his order from funds appropriated for his office. (P.L. No. 4C-37, § 1.)
§ 451. Declaration of policy. — It is the policy of the Trust Territory government to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection. (P.L. No. 7-131, § 1.)

§ 452. Definitions. — When used in this chapter, unless the specific content indicates otherwise:
(1) "Child" means any person under eighteen years of age.
(2) "Abuse" means any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.
(3) "Person" means any physician, dentist, including interns, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day care worker, peace officer or law enforcement official. (P.L. No. 7-131, § 2.)

§ 453. Reporting procedure. — Every person examining, attending, teaching or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse, shall report the matter promptly to the chief of police of the district involved; provided, that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a district hospital or a government medical facility in the district center of the administrative district, such staff member shall immediately notify the district director of health services or another person in charge who shall make the report forthwith. If the person attending a child is a schoolteacher or other school official he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the chief of police. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor. (P.L. No. 7-131, § 3.)

§ 454. Immunity of reporting persons from liability. — Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Likewise, any such participant shall have full
immunity with respect to any evidence, oral or written, or any other testimony which he or she might provide in any judicial proceeding resulting from such report. (P.L. No. 7-131, § 4.)

§ 455. **Physician-patient privilege not applicable.** — In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege. (P.L. No. 7-131, § 5.)

§ 456. **Violations; penalties.** — Anyone knowingly and wilfully violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. (P.L. No. 7-131, § 6.)
Title 40.

[Reserved.]
Title 41.

Education.

Chap. 1. Educational System, §§ 1 to 32.
2. Student Loan Fund, §§ 51 to 56.
5. Special Education Act, §§ 201 to 207.

CHAPTER 1.

EDUCATIONAL SYSTEM.

Sec. 1. Definitions. — As used in this chapter, unless otherwise indicated by the context:

1. "Micronesia" means the Trust Territory.
2. "Territory" means the Trust Territory.
5. "District" means one of the administrative districts of the Trust Territory.
6. "Department" means the department of education of the Trust Territory.
7. "Board" means the Micronesia board of education.
8. "Director" means the director of the department of education. (Code 1970, tit. 41, § 1.)

§ 2. Declaration of policy and purpose. — It is hereby declared and found to be the policy of the Trust Territory government to provide for an educational system in Micronesia which shall enable the citizens of the Territory to participate fully in the progressive development of the islands as well as to become familiar with the Pacific community and the world. To this end the purpose of education in the Territory shall be to develop the human
resources of Micronesia in order to prepare the people for self-government and participation in economic and social development, to function as a unifying agent and to bring to the people a knowledge of their islands, the economy, the government and the people who inhabit the Territory; and to provide Micronesians with skills which will be required in the development of the Territory. These skills include professional and vocational as well as social and political requirements. (Code 1970, tit. 41, § 2.)

§ 3. Micronesia board of education; established; composition; appointment of members. — There is hereby established a Micronesia board of education which shall consist of seven members. There shall be one member from each administrative district of the Trust Territory. The director of the department of education of the Trust Territory government shall also be a member and shall be executive officer of the board. The director shall have no vote except in the event of a tie, in which case he shall cast the tie breaking vote. The members of the board shall be appointed by the High Commissioner with the advice and consent of the Congress of Micronesia as provided by law regarding administrative appointments. (Code 1970, tit. 41, § 3; P.L. No. 4C-48, § 7(7).)

§ 4. Same; terms; vacancies. — (1) Except for the director, the members of the board shall serve for three years, provided, however, that when the board is first appointed two members shall serve for a term of one year, two for a term of two years, and two for a term of three years from the date of their appointment.

(2) The terms of the respective members shall be determined by drawing lots at the initial meeting of the board. Vacancies shall be filled for unexpired terms by the High Commissioner with the advice and consent of the Congress of Micronesia, as provided by law. (Code 1970, tit. 41, § 4; P.L. No. 4C-48, § 7(8).)

§ 5. Same; officers; quorum; meetings. — The board shall by majority vote elect from among its members a chairman who shall serve for such term as may be prescribed by the board, except that the director shall not be elected chairman. In the event of absence or disability of the chairman, the board may designate another member to preside during the meeting. Five members of the board shall constitute a quorum. The board shall meet at such times and places as it may designate but not less than twice each year. The members shall be notified of meetings by the director in writing at least two weeks before the date of any meeting. (Code 1970, tit. 41, § 5.)

§ 6. Same; expenses and compensation. — Members of the board shall be paid at the rate of thirty dollars per day when actually on the business of the board. If a member of the board is concurrently employed in another post in the Trust Territory government, he shall be granted leave to attend to the business of the board, and shall receive his regular salary while on the business of the board or thirty dollars per day, whichever is greater. In addition, members will be paid travel expenses and per diem while on the business of the board, at standard Trust Territory rates. (Code 1970, tit. 41, § 6; P.L. No. 6-43.)

§ 7. Same; duties and functions. — The board shall have power in accordance with law to formulate policy and to exercise control over the educational system in the Trust Territory. The powers and responsibilities of the board shall include but not be limited to defining educational objectives for Micronesia, advising the High Commissioner on the formulation of policies for the educational system in Micronesia, evaluating past and current educational expenditures and recommending education budgets to the High Commissioner for inclusion in the territorial budget which will be submitted to the Congress
§ 8. Director of department of education; administration of programs. — Under policies established by the High Commissioner in consultation with the board, the director shall administer programs of education and public instruction throughout Micronesia, including education at the preschool, primary, middle and secondary school levels, health education and instruction, teacher training programs, adult education, community education programs, vocational schools and training programs, and such other programs as may be established. (Code 1970, tit. 41, § 8; P.L. No. 4C-48, § 7(10).)

§ 9. Same; duties and functions generally. — The director of the department of education shall make provision for curriculum development, budget preparation, personnel selection, teacher training, community and vocational development, and training of Micronesians to assume increasingly important professional and administrative positions in the Trust Territory government and subdivisions thereof. He shall have such technical, administrative, clerical and stenographic assistants as may be necessary and as shall be authorized. (Code 1970, tit. 41, § 9.)

§ 10. District boards of education; established; composition; appointment and terms of members; vacancies. — There shall be in each district of the Trust Territory a district board of education consisting of five members. The district director of education shall be a member and executive officer of the district board and shall be appointed by the High Commissioner. The remaining four board members shall be residents of the district and shall be appointed by the district administrator with the advice and consent of the district legislature. Except for the district director of education, two members of the district board who shall be first appointed shall serve for a term of two years and two members shall serve for a term of four years from the date of their appointment, thereafter the term of office for all members shall be for four years. The terms of the respective members shall be determined by drawing lots at the initial meeting of the district board. Except for the district director of education, vacancies shall be filled for unexpired terms by the district administrator with the advice and consent of the district legislature. (Code 1970, tit. 41, § 10.)

§ 11. Same; officers; quorum; meetings. — The district board shall by majority vote elect from among its members a chairman who shall serve for such term as it shall prescribe, except that the district director of education shall not be elected chairman. In the event of absence or disability of the chairman, the board may designate another member to preside during the meeting. Three members of the district board shall constitute a quorum. The district board shall meet at such time and places as it may designate but not less than twice each year. The members shall be notified of meetings by the district director of education in writing at least two weeks before the date of any meeting. (Code 1970, tit. 41, § 11.)
§ 12. Same; compensation and expenses. — Members of the district board shall receive no compensation for service, but shall be entitled to the necessary expenses incurred in the discharge of their duties. (Code 1970, tit. 41, § 12.)

§ 13. Same; duties and functions. — The district board shall be responsible for advancing the development of the educational system in its district. The functions of the district board shall include but be not limited to the following:

(1) To develop and approve education plans and budgets for the district, in consultation and with the assistance of the district department of education, for submission to the district administrator;

(2) To develop plans and budget for the expenditure of matching funds provided for in sections 15 and 16 of this chapter;

(3) To review and approve, or recommend change, of rules and regulations of all public educational institutions in the districts, and of all nonpublic educational institutions in matters that concern fulfillment of their charters;

(4) To recommend, review and approve district curriculum development programs in order to assure relevancy for Micronesians and district educational objectives;

(5) To recommend territory-wide educational policies and regulations to the director of the department of education and the Micronesia board of education for consideration and action; and

(6) To perform such other and further duties and functions as may be assigned to it by the Micronesia board of education, the director of the department of education, the district administrator, or by law. (Code 1970, tit. 41, § 13.)

§ 14. Community boards of education. — Any municipal or community boards of education which exist on the effective date of this chapter by virtue of charters from the Trust Territory government or any of its political subdivisions thereof shall not be affected by the provisions of this chapter. The Micronesia board of education may grant charters for municipal or community boards of education upon petition presented to it by the people of the municipality or community concerned. The community boards of education shall seek to further educational development in the community in accordance with applicable laws and regulations and with the policies prescribed by competent authorities. The number of members of each community board of education, the procedure for their appointment, and related provisions shall be set forth in the respective charters and shall be made available to the district boards of education. (Code 1970, tit. 41, § 14.)

§ 15. Gifts. — The director may receive and manage money or other property, real, personal, or mixed, which may be given, bequeathed, devised, or in any manner received for the purpose of the department of education from sources other than the legislative bodies in the Trust Territory or any federal appropriation. All such money received by or on behalf of the department shall be paid into the department. The director shall cause to be kept suitable books of accounts wherein shall be recorded each gift, the essential facts of management, and the expenditure of the income. (Code 1970, tit. 41, § 15.)

§ 16. Federal grants. — Subject to the power vested in the High Commissioner, the director, designated as the administrator of such funds as may be allotted to the Trust Territory under federal legislation for public educational purposes, shall, subject to such limitations as may be imposed by the United States congressional action, use and expend such funds:
(1) To improve the program of the public schools of Micronesia, by expanding
the educational offerings, particularly in the outlying islands;
(2) For the payment of salaries to teachers;
(3) To employ additional teachers to relieve overcrowded classes;
(4) To adjust salaries of teachers to meet the increased cost of living, within
such limits as may be fixed by and pursuant to law;
(5) To provide for the purchase of supplies, apparatus, and materials for the
public schools as well as for direct aid to students of nonpublic schools of the
Territory;
(6) For any such purposes and to such extent as shall be permitted by acts
of congress concerned. (Code 1970, tit. 41, § 16.)

§ 17. Nonpublic schools; establishment. — (1) Any person or persons
desiring to establish a nonpublic school within the Trust Territory shall, prior
to the establishment thereof, make written application for a charter to the
director. The application shall be signed by the applicant or applicants and
shall state in substance:
(a) The names of the persons desiring to establish the school,
(b) The proposed location thereof,
(c) The course of instruction and the language in which the instruction is to
be given, and
(d) Such other information as the director may require.
(2) The director shall review the application and make such
recommendation to the High Commissioner as he may consider appropriate.
Upon receipt and approval of the application, the High Commissioner shall
issue to the person or persons applying therefor a charter in form to be by him
approved, authorizing the establishment of school.
(3) No nonpublic school shall be established except in conformity with this
chapter; provided, however, that any nonpublic school existing in the Trust
Territory under a valid charter on the effective date of this law shall be deemed
to have complied with the requirements set forth in this section. (Code 1970,
tit. 41, § 17.)

§ 18. Same; attendance; reports; failure to meet standards. — Attendance at any school established or maintained without complying with
the terms of this chapter shall not be considered attendance at a public or
nonpublic school within the meaning of this chapter. The department of
education may from time to time, require regularly established nonpublic
schools to submit reports of attendance and other matters of public concern.
Failure to meet the standards required of nonpublic schools or failure to in any
way comply with the provisions of law shall be cause for refusal to issue a
charter or for the revocation or suspension of any charter. (Code 1970, tit. 41,
§ 18.)

§ 19. Same; benefits to students. — Students of nonpublic schools shall
receive from the Territory equal benefits with public school students in the
areas of transportation, textbooks, accident insurance, testing services,
medical and nursing services, and feeding programs, provided that such
benefits do not violate the bill of rights set forth in chapter 4, title 1 of this
Code. (Code 1970, tit. 41, § 19.)

§ 20. Same; supervision. — Every nonpublic school shall be subject to the
supervision of the department of education of the Territory. The department
shall require that the premises of nonpublic schools comply with the rules and
regulations of the department, as from time to time promulgated with regard
to sanitary condition, hygiene and structural safety. (Code 1970, tit. 41, § 20.)
§ 21. Teachers' certificates; required; establishment of qualifications.
— No person shall serve as a teacher in any school without first having obtained a certificate from the department, which certificate shall be issued without cost to the teacher, in such form as the department determines. The qualification requirements for such certification shall be established by the director in consultation with the board. (Code 1970, tit. 41, § 21.)

§ 22. Same; revocation. — The department may revoke any certificate after issuance thereof when satisfied that the holder does not possess the ideals or knowledge required by or pursuant to this chapter, but in such case the holder of the certificate shall first be given full opportunity to justify the holding of the certificate. (Code 1970, tit. 41, § 22.)

§ 23. Same; teaching without certificate. — Except as otherwise provided, whoever serves as a teacher, without holding an unrevoked certificate issued under this chapter, shall be fined not more than twenty-five dollars. (Code 1970, tit. 41, § 23.)

§ 24. Same; teachers on effective date of chapter; training programs.
— (1) Any other provision of law to the contrary notwithstanding, any teacher who does not hold a certificate from the department of education but who has been employed by the department or by a chartered nonpublic school as a teacher for a period of not less than two school years prior to the effective date of this chapter is authorized to continue employment as such teacher; provided, that as an additional condition of the continued employment of such teacher, the department may require that the teacher complete a program of professional improvement set by the department.
(2) The director shall provide in-service and pre-service training programs to enable Micronesians to qualify for certification.
(3) The director shall establish a teacher training program for all teachers of the Trust Territory so as to provide for the continuous upgrading of teaching skills of all teachers holding certification. (Code 1970, tit. 41, § 24; P.L. No. 4C-60, § 1.)

§ 25. Curriculum; materials. — The director shall provide for the teaching of the English language in all schools, and shall establish minimum standards for curriculum development and content of territory-wide courses at appropriate levels to be used in the several districts to assure uniform levels of achievement. He shall encourage instruction in the child's own native language, customs and culture at both the elementary and secondary level. He shall establish one or more textbook commissions to review and evaluate textbooks and materials before purchase in order to determine their suitability as may be consistent with economy and desirable within the curriculum differences in the several districts. (Code 1970, tit. 41, § 25.)

§ 26. School year. — The school year in Micronesia shall consist of not less than one hundred eighty days of school in session exclusive of holidays. Each of the several districts may, with the approval of its department, establish beginning and ending dates of the school year in accordance with local needs and customs. Such dates need not be uniform throughout the district. (Code 1970, tit. 41, § 26.)

§ 27. Attendance. — Attendance at a public or nonpublic school shall be required of all children between the ages of six and fourteen inclusive, or until graduation from elementary school, unless excluded from school or excepted from attendance by the district director of education. For the purpose of beginning school, a child shall be admitted at the beginning of a school year
if he has attained the age of six on or before September thirtieth of the year involved. Any parent, guardian, and other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to school. Any parent, guardian, or other person who permits a child who is under his control to be absent from school without good cause and in violation of applicable law or regulations shall be guilty of a violation of this section and, upon conviction, shall be fined not more than ten dollars, or imprisoned not more than one month, or both. (Code 1970, tit. 41, § 27.)

§ 28. Budget for education. — (1) Annually, in accordance with the budget calendar of each administrative district, the district board of education and the district director of education shall together submit to the district administrator and the district legislature of each district a budget showing for the following budget year the estimated requirements of the public schools and of direct aid to nonpublic school students as provided for in section 19 of this chapter. The budget shall be prepared in such form and detail as may be in use for each district, and shall provide for all expenses in conducting the school program. Capital outlays, including furniture and equipment, land, buildings, and improvements, may be submitted separately from the expenses for operations.

(2) The district legislature of each district shall participate in the preparation of the budget which shall be submitted by the district administrator to the High Commissioner. The district administrator shall attach to his budget any changes recommended by the legislature but which he has not adopted. (Code 1970, tit. 41, § 28.)

§ 29. Transportation of school children. — The department may provide suitable transportation to and from school for all children in grades kindergarten through twelve and in special education classes. The department shall adopt such policy, procedure, and program as it deems necessary to provide suitable transportation. In formulating the policy, procedure, and program, the department shall consider the school district, the school attendance area in which a school child normally resides, the distance the school child lives from the school, the availability of public carriers or other means of transportation, the frequency, regularity, and availability of public transportation, and the grade level, physical handicap, or special learning disability of a school child, and it may also consider conditions and circumstances unique or peculiar to a district, island, or community. (Code 1970, tit. 41, § 29.)

§ 30. Residence assistance. — Post-elementary students attending school under such circumstances that transportation cannot be provided on a daily basis shall be provided residence assistance by the Territory. Residence assistance may be provided in a public school dormitory operated by the department or may take the form of a daily subsistence payment made to a family with whom the student resides. (Code 1970, tit. 41, § 30.)

§ 31. School feeding program. — (1) The department may assist any community or district in establishing a school feeding program under such rules and regulations as the director may promulgate.

(2) The department shall establish a feeding program for all schools having dormitory facilities. The program shall be operated under the general direction of the school principal with standards of health and cleanliness being prescribed by the director of health services. (Code 1970, tit. 41, § 31.)

§ 32. Rules and regulations. — Subject to approval by the High Commissioner, the director shall promulgate such rules and regulations as he
may deem necessary to effectuate the provisions of this chapter. (Code 1970, tit. 41, § 32.)
CHAPTER 2.

STUDENT LOAN FUND.

§ 51. Appropriation; nature. — The sum of three hundred thousand dollars is appropriated from the general fund of the Congress of Micronesia to provide working capital for the student loan fund created by section 3 of public law 5-11, as amended, which hereafter shall be administered by the director of education in consultation with the Micronesia board of education as a revolving fund in that sums repaid to such fund by borrowers therefrom are hereby authorized to be reloaned to other borrowers. (P.L. No. 6-134, § 1.)

§ 52. Funds to remain available. — The funds appropriated by section 51 of this chapter shall not revert to the general fund of the Congress of Micronesia, but shall remain available for the purposes for which they were appropriated, any provisions of section 5 of public law 5-11, as amended, to the contrary notwithstanding. (P.L. No. 6-134, § 2.)

§ 53. Use. — The student loan fund shall be used to make education loans to Micronesian citizens to attend accredited schools above the secondary level outside the Trust Territory. The loans shall be made on such terms and conditions as are established by the director of education in consultation with the Micronesia board of education; provided, that no interest shall be charged on such loans until the student has completed the course of study for which the loan was made. No less than fifty percent of the funds herein appropriated shall be used to assist incoming and current freshmen and sophomores who are or will be majoring in agriculture or related fields, marine resources or related fields or other professional and technical fields not normally classified as liberal arts or social sciences. The remainder shall be used to aid juniors, seniors and graduate students, regardless of field of endeavor. (P.L. No. 6-134, § 3.)

§ 54. Repayment credit; services eligible. — Loans made from the student loan fund to persons who perform services which contribute to the general welfare and growth of the Micronesian community upon completion of the course of study for which the loan was made may be eligible for loan repayment credit which will reduce the amount of the loan principal to be repaid. Such services may be performed as an employee of the Trust Territory, district, or municipal government, or as an employee or self-employed person in the private sector of the economy. (P.L. No. 6-134, § 4.)

§ 55. Same; qualification; limitation. — The qualification for loan repayment credit and the percentage of the loan principal which may be cancelled under section 54 will be based on criteria to be established by the director of education, in consultation with the Micronesia board of education and the Trust Territory student assistance committee, consideration being given to services rendered in meeting the critical national needs and priorities as established by the Congress of Micronesia. For each full year of qualifying service performed, the loan repayment credit shall not exceed twenty-five percent of the loan principal for services which meet critical national needs and priorities nor exceed twenty percent of the loan principal for services which meet less critical needs. (P.L. No. 6-134, § 5.)
§ 56. Annual report on status. — The High Commissioner shall submit report to the Congress of Micronesia not later than January 31 each year hereafter which shall: (1) indicate the status of the student loan fund as of the end of the preceding calendar year, (2) provide for the full disclosure of all loans made, all repayments received, all loans in default status, and loan repayment credits granted during the preceding calendar year, and (3) propose defaulted loans and loan repayment credit grants. The report shall separately detail expenditures of the appropriation made herein by student, institution, class, and field of study, consistent with section 54 of this title. (P.L. No. 6-134, § 6.)
§ 101. Library of Congress of Micronesia; established. — There is hereby established within the office of the legislative counsel a library of the Congress of Micronesia, herein referred to as the library. (Code 1970, tit. 41, § 101.)

§ 102. Same; title to library property. — The title to any and all library property is and shall continue to be in the Congress of Micronesia. (Code 1970, tit. 41, § 102.)

§ 103. Same; use. — The library shall be available for the use of all persons in Micronesia in accordance with the rules and regulations set forth by the librarian with the approval of the legislative counsel. (Code 1970, tit. 41, § 103.)

§ 104. Same; librarian. — The librarian of congress shall be appointed by the legislative counsel, with the approval of the Speaker of the House of Representatives and the President of the Senate of the Congress of Micronesia, solely on the basis of merit and fitness to perform the duties of the office. The librarian shall be responsible to the legislative counsel for the administration and operation of the library, its organization, property and personnel. The librarian with the approval of the legislative counsel shall prepare rules and regulations for the governing of the library and its departments. The librarian shall make an annual report to the legislative counsel prior to the beginning of each regular session of the congress, with respect to the activities, financial status, condition of the library, and recommendations as to future operations. (Code 1970, tit. 41, § 104.)

§ 105. Gifts to the library. — The librarian is hereby authorized to accept on behalf and in the name of the library of the Congress of Micronesia, from any government, agency, individual, or any other source, advisory services, grants-in-aid, and gifts and donations of money and other property for the benefit of the library; provided, that any grant-in-aid, donation, or other form of assistance involving an obligation on the part of the library of the Congress of Micronesia shall require the approval of the President of the Senate and the Speaker of the House of Representatives of the Congress of Micronesia. (Code 1970, tit. 41, § 105.)
§ 151. Established as a public corporation. — The College of Micronesia, its rector and board of regents, is hereby established as a public corporation under the style of the College of Micronesia, comprised of the present Community College of Micronesia, the Micronesian Occupational Center, and such other schools as may be established by the aftermentioned board of regents or designated by law. (P.L. No. 7-29, § 1.)

§ 152. Purposes. — The purposes of the college are to make high quality, post-secondary education available to the citizens of the Trust Territory, to conduct research, and to disseminate such knowledge and advanced learning as the board may from time to time prescribe or the Trust Territory government requires. (P.L. No. 7-29, § 2.)

§ 153. Board of regents; created; composition; terms of members. — There shall be a board of regents of the College of Micronesia which shall consist of the following members who shall serve for the following terms:

(1) One member from each administrative district of the Trust Territory appointed by the district administrator, with the advice and consent of the district legislature, to serve a term of four years; provided, that the district administrator shall submit his nomination to the district legislature for the first member appointed pursuant to this subsection on or before November 10, 1977; provided further, that at the first board meeting the members appointed pursuant to this subsection shall by drawing lots designate three members to serve an initial term of two years;

(2) Two members appointed by the High Commissioner with the advice and consent of the Congress of Micronesia to serve terms of four years, one of whom is noted in the Trust Territory for his accomplishments in the field of economic development and who is not a full time employee of the executive or judicial branch of the Trust Territory government at the territorial or district level, and the other of whom is a nonresident of the Trust Territory but who resides within the Pacific area who is well recognized in the field of education for his work with post-secondary institutions of learning; provided, that the High Commissioner shall submit his nominations to the Congress of Micronesia for the first members appointed pursuant to this subsection on or before November 10, 1977; provided further, that the High Commissioner shall designate one of the first two members appointed pursuant to this subsection to serve an initial term of two years; and

§ 154. Same; length of service of members. § 155. Same; vacancies. § 156. Same; removal of members. § 157. Same; organization; meetings; quorum; officers; executive committee; per diem. § 158. Same; powers. § 159. Suits. § 160. Funding. § 161. Budget constraints; overspending. § 162. Chancellor; departmental organization.

§ 163. Duties and bond of the College of Micronesia budget and finance officer. § 164. Accounts; reports. § 165. Modification of personnel system; retention of outside legal counsel; contracts for maintenance and construction; establishment of finance and accounting department and purchasing system.

§ 154. Same; length of service of members. — No person, except the chairman of the board of education or its successor, and ex officio members, shall be eligible to serve more than eight consecutive years on the board. (P.L. No. 7-29, § 3; P.L. No. 7-130, § 15.)

§ 155. Same; vacancies. — Any vacancy on the board of regents shall be filled for the unexpired term in the same manner as originally filled. Three consecutive absences of a board member from separately called meetings of the board, called not less than thirty days apart, shall automatically create a vacancy in his seat. Upon determining a vacancy exists, the rector, or presiding officer of the board in the absence of the rector, shall issue a notice of vacancy to all members of the board and to the party or parties responsible for filling the vacancy. Any vacancy occasioned by failure to make a nomination to the respective legislative body charged with advice and consent within sixty days prior to the expiration of the previous term, or by failure to submit a nomination to the respective legislative body to fill a vacancy within sixty days of receipt of notice that such vacancy exists, or within ten days of receipt of notice of rejection of a previously submitted nomination, shall be filled by the presiding officer or officers of the respective legislative body charged with advice and consent for the remainder of the unexpired term. (P.L. No. 7-29, § 5.)

§ 156. Same; removal of members. — Members of the board may be removed only by a three-fourths vote of all other voting members of the board before the expiration of their terms for incompetence, neglect of duty, or malfeasance. The trial division of the high court of the Trust Territory is given original jurisdiction over any appeal from any such removal from the board. (P.L. No. 7-29, § 6.)

§ 157. Same; organization; meetings; quorum; officers; executive committee; per diem. — (1) The board of regents shall meet and organize by the election of its officers in its annual meeting which shall be called on the third Monday of January each year. The board shall meet at such other times as the board shall so determine or as otherwise specified by law. The rector may call a special meeting of the board on his own initiative and shall call a special meeting of the board upon the petition of one-third of its members. The bylaws of the board shall provide that adequate written notice be given to all members of the board prior to the convening of any board meeting. The bylaws shall further provide that the board shall regularly publish the minutes of its meetings.

(2) A quorum shall consist of a majority of all voting members. All business shall be conducted by a majority of those present unless otherwise provided by law or the bylaws of the board.

(3) The first meeting of the board shall be called by the chairman of the Trust Territory board of education, who shall preside as temporary rector until a permanent rector is selected.

(4) At the first meeting of the board, and annually thereafter, members of the board shall appoint from their own body a rector, who shall preside at the meetings. At the same time they shall appoint from their own body a vice-rector to serve as the presiding officer of the board in the absence of the rector, and a secretary-treasurer of the board. In the absence of the rector or vice-rector at any meeting, the secretary-treasurer shall preside, and in the absence of all three, the board may appoint a pro tempore officer to preside. Any vacancies in the offices of rector, vice-rector, or secretary-treasurer shall be filled by the board for the unexpired term.
(5) The rector, or presiding officer, shall sign all instruments required to be executed by the board.

(6) The secretary-treasurer shall work closely with the budget and finance officer of the college in supervising the financial affairs of the college.

(7) At every regular annual meeting of the board, the members may appoint an executive committee for the transaction of business in the recess of the board, which shall consist of not less than three nor more than five members, to serve for a period of one year or until the next regular annual meeting.

(8) The members of the board shall receive per diem at standard Trust Territory government rates while on the business of the college. Those members who are employees of the Trust Territory government shall be granted administrative leave and receive their regular salaries while on the business of the college. Other members shall receive thirty dollars per day while on the business of the college. (P.L. No. 7-29, § 7; P.L. No. 7-130, § 1.)

§ 158. Same; powers. — The board of regents shall have general management and control over the affairs of the college, and to this end, shall have the power to:

(1) Adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

(2) Appoint and terminate such officers of the board as it deems necessary, or as required by law;

(3) Fix, in its discretion, the rates charged the students of the college for tuition, fees, and other necessary charges;

(4) Confer such degrees and grant such diplomas and certificates as colleges of like stature are usually authorized to confer or grant;

(5) Appoint, evaluate the performance of, and terminate the services of a chancellor;

(6) Establish policies and approve procedures for the appointment of all faculty members and the granting of tenure to any faculty member;

(7) Establish policies and approve procedures for the granting of full and partial scholarships or fellowships to students for educational purposes, and, in its discretion, approve methods by which individual students may work for the college in some suitable capacity and have such labor credited against their tuition;

(8) Establish annual lists of fields of study of national priority for post-secondary and graduate levels of training;

(9) Award all student loans and scholarship grants, unless the provisions of the loan or grant specifically require otherwise, for attendance of Micronesian students at post-secondary and graduate institutions within Micronesia or abroad, based upon the quality of the institution and the relevancy of the intended instruction to national development priorities of Micronesia;

(10) Acquire in any lawful manner any property, real, personal or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary to carry out its purposes; provided, that any real property granted to the college without cost by the Trust Territory government or any political subdivision thereof, or by any other legal entity capable of receiving and holding public land in the Trust Territory shall revert to said government, political subdivision, or legal entity upon the cessation of active use by the college;

(11) Enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate with any agency or instrumentality of the United States, or with any state, territory, or possession, or with any political subdivision thereof; or with any other foreign government, agency,
instrumentality, or political subdivision thereof; or with the Trust Territory government, or any agency, instrumentality, or political subdivision thereof; or with any person, firm, association or cooperative;

(12) Determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of law specifically applicable to the college;

(13) Borrow money from time to time; provided, that no debt of the college shall be secured by real property granted to the college without cost by the Trust Territory government or any political subdivision thereof, or by any legal entity capable of receiving and holding public land in the Trust Territory;

(14) Execute in accordance with its bylaws, all instruments necessary or appropriate in the exercise of its powers;

(15) Establish such policies, rules, regulations, and standards as it may deem necessary for the effective operation of the college, including the establishment or approval of rules, regulations, and standards governing the admission, discipline, and removal of students;

(16) Establish policies and approve procedures for the maintenance of such departments and courses of instruction and for the undertaking of such research projects and programs as it deems appropriate or as may be required by law;

(17) Provide for a program of workmen's compensation for employees of the college equal to or greater than that available to persons of similar employment with the Trust Territory government;

(18) Take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the duties conferred upon it by law; and

(19) Incorporate into the College of Micronesia such technical and research establishments, including the Micronesian mariculture demonstration center in Palau, as the board of regents might deem necessary or appropriate to ensure a quality program of instruction and research which is relevant to national development priorities of Micronesia; and to acquire personnel and all property, whether real or personal, tangible or intangible, of any such establishment as may be transferred to the College of Micronesia. (P.L. No. 7-29, § 8; P.L. No. 7-130, §§ 2 to 7.)

§ 159. Suits. — The college may sue and be sued in its corporate name; provided, that it shall be subject to suit only in the manner provided for suits against the Trust Territory government; provided further, that any liability incurred by the college shall not be a liability of the Trust Territory government or any subdivision thereof. The chancellor of the college, the secretary-treasurer of the board of regents, the rector of the board of regents, or, in the absence of the rector, the vice-rector of the board of regents are authorized to accept service or to be served on behalf of the college. (P.L. No. 7-29, § 9.)

§ 160. Funding. — The board of regents may receive, manage, and invest moneys or other property, real, personal, or mixed, which may be appropriated, granted, given, bequeathed, devised, endowed, or in any manner received from any source for the purposes of the college's improvement or adornment, or for the aid of students or faculty, and in general may act as trustee on behalf of the college. (P.L. No. 7-29, § 10.)

§ 161. Budget constraints; overspending. — The college shall have a budget for each fiscal year which reflects the amounts of money available for the operation of the college. Any person who overobligates or overexpends the funds available and budgeted for any purpose or department of the college shall be personally liable for the resulting deficiency. (P.L. No. 7-29, § 11.)
§ 162. Chancellor; departmental organization. — There shall be a chancellor of the College of Micronesia who shall be appointed by the board of regents to serve a term of two years. Said two-year term may be renewed at the discretion of the board of regents. No applicant shall be selected as chancellor unless he possesses a graduate-level degree from an accredited university. In addition, the first chancellor appointed shall have had a minimum of two years' experience as a president or dean of an accredited college or university or equivalent experience as determined by the board. The office of the chancellor shall be located in Ponape District. The chancellor shall be the chief administrative officer of the college, and responsible for carrying into operation the goals, objectives, and policies established by the board of regents. For this purpose, the college shall have such departments and divisions and district level supporting staff as the chancellor of the college shall deem best for instruction in such areas as he shall designate or as shall be required by law or specified by the board of regents. The immediate government of the several schools and departments of the college shall be entrusted to their respective faculties under the close supervision of the chancellor of the college and such directors, deans, department heads, and other officers as he shall designate. (P.L. No. 7-29, § 12; P.L. No. 7-130, § 8.)

§ 163. Duties and bond of the College of Micronesia budget and finance officer. — The College of Micronesia budget and finance officer shall be the chief fiscal, accounting, and budget officer of the College of Micronesia. As such, he shall receive and disburse all funds of the college including all its subdivisions. Before entering into his duties, he shall execute, at the expense of the college, a good and sufficient bond in the sum of not less than twenty thousand dollars or such greater sum as may be established by the board. Said bond shall be with one or more sufficient sureties authorized to do business in the Trust Territory, shall be approved as to form by the High Commissioner, and shall be filed with the Attorney General. The budget and finance officer shall be selected by the chancellor with the approval of the board, and will at all times be under the direct supervision of the chancellor. He shall serve at the discretion of both the chancellor and the board of regents. (P.L. No. 7-29, § 13.)

§ 164. Accounts; reports. — The chancellor shall be jointly responsible with the College of Micronesia budget and finance officer to insure that proper and complete books of accounts are kept reflecting all income, expenditures, assets and money of the college, including appropriations, gifts, property, tuition, fees, and other funds. The board of regents shall publish not later than forty-five days after the close of each fiscal year a complete report showing the activities of the college during the fiscal year, the present condition of the college, the financial status of the college, and such other matters as the board shall deem appropriate. In addition to any other audits provided for by law, the board shall select either the Trust Territory auditor or an independent auditor selected by the board who shall inspect and audit all accounts of the college at least annually, and report thereon to the Congress of Micronesia. (P.L. No. 7-29, § 14; P.L. No. 7-130, § 9.)

§ 165. Modification of personnel system; retention of outside legal counsel; contracts for maintenance and construction; establishment of finance and accounting department and purchasing system. — The board of regents may, by appropriate majority resolution directed to the High Commissioner, do the following:

(1) Establish or modify its own personnel system and policies independent of the Trust Territory public service system, the Trust Territory personnel board, and the Trust Territory department of personnel; provided, that until
such personnel system and policies are established or modified, the college shall be subject to the provisions of Title 61 and applicable public employment regulations promulgated thereunder; provided further, that any such modified personnel system shall honor any existing employment contract of any employee of the college with the Trust Territory government for the duration of that contract;

(2) Retain outside legal counsel in lieu of the Attorney General; provided, that until such action is taken by the board, the Attorney General will continue to provide legal assistance to the college;

(3) Contract for outside maintenance, repair, and construction work in lieu of using the services of the department of public works or other Trust Territory departments or services; provided, that until such action is taken by the board, the department of public works will continue to provide such services to the college; and

(4) Establish a finance and accounting department and purchase supplies equipment, and materials through its own purchasing department in lieu of using the services of the Trust Territory department of finance; provided, that until such action is taken by the board, the Trust Territory department of finance will continue to provide such services to the college. (P.L. No. 7-29, § 15; P.L. No. 7-130, § 16.)

§ 166. Evaluation of college. — (1) The chancellor of the college shall, prior to the conclusion of each school year, cause an independent survey to be conducted among students and faculty of the college evaluating the quality of administration, the quality of course instruction, the effectiveness of the faculty, and such other matters as the chancellor may deem appropriate, and he shall transmit a copy of the results of the survey to the rector of the college, the Congress of Micronesia, and the chairman of the Trust Territory board of education or its successor within thirty days from the time the survey is conducted.

(2) Commencing in 1980, and every five years thereafter, the chairman of the Trust Territory board of education shall contract for an independent and comprehensive evaluation to be made of all aspects of the administration, education, and research activities of the college, and a report of the evaluation shall be transmitted by the chairman to the rector of the college, the High Commissioner, and the Congress of Micronesia within ninety days of the conclusion of the evaluation. (P.L. No. 7-29, § 16; P.L. No. 7-130, § 10.)

§ 167. Continuance of district government assistance functions. — Public utilities services shall be provided by the respective district governments to the college without cost to the college. Housing and maintenance services now available to the college, or their equivalents, shall continue to be made available to the college without costs. (P.L. No. 7-130, § 13.)

§ 168. Exemption from taxation. — The college, its property, revenues, and income are exempt from taxation by the Trust Territory government or its political subdivisions. (P.L. No. 7-130, § 14.)
§ 201. Short title. — This chapter shall be known and may be cited as the "Trust Territory Special Education Act of 1977." (P.L. No. 7-55, § 1.)

§ 202. Statement of policy. — The Congress of Micronesia, recognizing the obligation of the Trust Territory government under section 9 of title 1 of the Trust Territory Code that "free elementary education shall be provided throughout the Trust Territory" and further recognizing the obligation of the Trust Territory government to provide educational opportunities to all children which will enable them to lead fulfilling and productive lives, hereby declares that it is the policy of the Trust Territory government and the purpose of this act to provide means for educating handicapped children and that insofar as is practicable, handicapped children shall receive necessary supplementary services in regular classrooms. To this end, the services of special education personnel shall be utilized within the regular programs offered by the department of education both in rendering services directly to children and in providing consultative services to regular classroom teachers. (P.L. No. 7-55, § 2.)

§ 203. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) "Director" means the director of education.

(2) "Handicapped children" includes each person under the age of twenty-one years who, because of visual, auditory, language, behavioral, physical, or other health problems or any other conditions as determined by the director of education, upon consultation with the director of health services and the special education coordinator, cannot function in a normal school environment without assistance.

(3) "Special education" means instructional or other services necessary to assist the handicapped children in taking advantage of or responding to educational programs and opportunities. (P.L. No. 7-55, § 3.)

§ 204. Administration. — (1) There is hereby established in the department of education an office of special education which shall be headed by a coordinator of special education, who shall be qualified by education, training, and experience to take responsibility for and give direction to the programs of the Trust Territory relating to the education of the handicapped.

(2) The director of education and the Micronesian board of education shall establish and make such studies, surveys, evaluations, policies, and rules and regulations as are necessary to carry out the provisions of this chapter.

(3) The director of education, acting through the coordinator of special education, shall submit to the Congress of Micronesia and to the High Commissioner the special education annual program plan and the fund status and performance report at such time as they are submitted to the United States Office of Education as required by United States P.L. 94-142. (P.L. No. 7-55, § 4; P.L. No. 7-113, § 1.)
§ 205. District responsibility. — On or before June 1 of each year, each district shall report to the director of education the extent to which it is providing the special education for handicapped children necessary to implement the act. The report shall detail the means which the district uses to provide for the appropriate special education of each handicapped child. (P.L. No. 7-55, § 5.)

§ 206. Establishment of procedure to ensure efforts. — The director of education shall establish, in cooperation with the director of health services and the districts, a procedure to ensure the ongoing education, identification, diagnosis, and instruction of handicapped children. (P.L. No. 7-55, § 6.)

§ 207. Funding. — There is hereby authorized an annual appropriation from the general fund of the Congress of Micronesia as may be necessary to carry out the provisions of this act. The director of education shall administer the expenditure of the funds appropriated pursuant to this act for the purposes set forth herein. (P.L. No. 7-55, § 7; P.L. No. 7-113, § 2.)
Title 42.

[Reserved.]
Title 43.

Elections.

2. Candidates, §§ 102 to 106.
3. Commissioner, §§ 151 to 154.
5. Voter Registration, §§ 251 to 258.
6. Procedure, §§ 301 to 455.

CHAPTER 1.

GENERAL PROVISIONS.

Sec. 1. Franchise. - Every citizen of the Trust Territory shall be entitled to vote in every election conducted under the provisions of this title if that citizen fulfills all the following requirements:
(1) Is eighteen years of age or older;
(2) Has fulfilled the residence requirements for registration under this title;
(3) Is not currently under a judgment of mental incompetency or insanity;
(4) Is not currently under parole, probation, or sentence for any felony for which he has been convicted by any court of the Trust Territory or any court within the jurisdiction of the United States; and
(5) Is registered to vote under the provisions of this title. (Code 1966, § 50; Code 1970, tit. 43, § 1.)


§ 2. Elections to be by secret ballot. — All elections for members of Congress of Micronesia and all other elections held in accordance with the provisions of this title shall be by secret ballot. (Code 1966, § 50; Code 1970, tit. 43, § 2.)

§ 3. When general elections held. — General elections for members of the Congress of Micronesia shall be held biennially in each even numbered year on the first Tuesday following the first Monday in November in accordance with the provisions of this title; provided, that in the event of a natural disaster or other Act of God, the effect of which precludes holding the election on the foregoing date, the High Commissioner, with the approval of the Secretary of the Interior, may proclaim a later election in the affected election district or districts. (Code 1966, § 51; Code 1970, tit. 43, § 3.)
§ 4. Special elections to fill vacancies. — Whenever, prior to six months before the date of the next general election, a vacancy occurs in the Congress of Micronesia, the High Commissioner shall call a special election to fill such vacancy. The call of the High Commissioner shall specify the date of the special election, the deadline for registration of electors for such special election, and the period during which the nomination of candidates for such special election may take place. In case of a vacancy occurring within six months of the next general election, no special election shall be held and the district administrator of the district wherein such vacancy arises may fill such vacancy by appointment. In all other respects, special elections to fill vacancies in the Congress of Micronesia shall be held in accordance with the provisions of this title. (Code 1970, tit. 43, § 4.)

§ 5. Conduct and supervision of district and municipal elections. — Any provision of any district or municipal charter, law, or ordinance to the contrary notwithstanding, the election commissioner shall have overall authority and responsibility for the conduct of all elections, the registration of all voters, the tabulation of all votes, and the announcement of the official results of all district and municipal elections in accordance with all provisions of the applicable district law, charter provisions, or municipal ordinance governing the election which are not inconsistent with the provisions of this section; provided, that if there is no applicable district law, charter provisions or municipal ordinance governing any district or municipal election or to the extent that such law, charter, provisions, or ordinance does not fully provide for the conduct of such election, the registration of voters, the tabulation of votes, or the announcement of official results, the election commissioner shall formulate regulations to govern such election which shall be substantially similar to the provisions of this title with due recognition for local conditions. Such regulations shall have the force and effect of law. (Code 1970, tit. 43, § 5.)

Title not applicable to municipal election. — This title was clearly designed to provide for the election of the Congress of Micronesia, and does not apply to municipal election. Benavente v. Ada, 6 TTR 45 (1972).

§ 6. Expenses. — All expenses, including expenses attributable to registration of voters pursuant to section 253 of this title, for elections conducted in accordance with the provisions of this title in any administrative district shall be borne by the Trust Territory government. (Code 1966, § 89; Code 1970, tit. 43, § 6.)

§ 7. Use of government broadcast facilities by candidates. — (1) Government broadcast facilities may be made available to candidates within any administrative district, except on the day of election, pursuant to the discretion of the election commissioner. The election commissioner shall afford each candidate equal opportunity in the use of government broadcast facilities. If the election commissioner cannot provide equal opportunities to the candidates in the use of government broadcast facilities, then no candidate shall be allowed their use whatsoever. Each candidate shall advise the election commissioner not later than twenty-four hours prior to his intended use of government broadcast facilities. Failure to notify the election commissioner of the proposed use of the above-described facilities within the prescribed time limit may disqualify the candidate from the use of these government facilities.

(2) No government facilities other than broadcast facilities may be made available to candidates. (Code 1966, § 75; Code 1970, tit. 43, § 7; P.L. No. 6-104, § 1.)
§ 8. Affidavits to be sworn. — The affidavits required pursuant to this title shall be sworn to before any officer or person authorized by law to administer oaths. (Code 1966, § 83; Code 1970, tit. 43, § 8.)

§ 9. Prohibited acts. — Any person who violates any of the provisions of this title or any rules or regulations promulgated pursuant thereto, for which a penalty is not otherwise provided, who votes or attempts to vote more than one time or interferes with the orderly process of the election, shall be punished by a fine not to exceed five hundred dollars, or imprisonment for not more than one year, or both. (Code 1966, § 90; Code 1970, tit. 43, § 9; P.L. No. 4C-26, § 3.)

§ 10. Intimidating or bribing voter. — Every person who shall, directly or indirectly, in any manner (1) intimidate or threaten a voter in order to induce or compel him to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person at any election or (2) bribe or attempt to bribe any voter in giving his vote, or to deter him from giving it, shall be fined not more than one thousand dollars, or imprisoned for not more than one year, or both. Each intimidation, threat or bribe shall constitute a separate offense. (P.L. No. 4C-26, § 1.)
§ 102. Persons disqualified from membership in district legislature. — (1) The following shall be disqualified to be a member of any district legislature:
(a) All judges;
(b) All policemen;
(c) All employees of either the Trust Territory or District Administration who hold positions as assistant department heads or higher; and
(d) All employees of the Congress of Micronesia or district legislatures.
(2) Any of the individuals named in subsection (1) of this section shall be accorded leave without pay or annual leave, under regulations which may be issued by the director of public affairs in consultation with the director of personnel, for the purpose of seeking election to the district legislature, and if any such person is elected, he shall resign from his employment prior to the date upon which his term or office commences. (Code 1966, § 47(e); Code 1970, tit. 43, § 102; P.L. No. 4C-41, § 1.)

§ 103. Nomination by petition. — Nomination of candidates may be made by petition initiated by a candidate or any five citizens registered to vote under the provisions of this title and authorized by the candidate so to initiate a petition. Forms of nominating petitions shall be prescribed by the High Commissioner and shall include a representation that the candidate meets the qualification for office which shall be stated therein. When a signature is indicated by an "X" or other mark, or is written in the Japanese language, such signature must be identified in English and accompanied by the signature, in English, of one witness. Nominating petitions shall be filed with the election commissioner or his appointee or appointees under subsection (6) of section 202 of this title. (Code 1966, § 70; Code 1970, tit. 43, § 103.)

§ 104. Nomination by political parties. — (1) Political parties having at least fifty members who are registered to vote under the provisions of this title in the administrative district in which the political party is seeking registration and which are registered as such with the election commissioner at least seven days before the termination date set for filing nomination, may nominate candidates for office; provided, however, that no political party shall nominate more than one candidate for any one political office.
(2) Political parties may withdraw the names of their nominees in the same manner that a candidate may withdraw his name under section 304 of this title.
(3) Nominations of political parties shall be submitted to the election commissioner in writing and attested by at least two officers of the party. (Code 1966, § 70; Code 1970, tit. 43, § 104.)

§ 105. Placing candidate's name on ballot. — The election commissioner shall examine the nomination papers of all candidates and political parties and investigate all candidates to ensure that all the qualifications of office have been met. If a prospective candidate has not met the qualifications of office as specified in section 101 of this title, if seeking membership in the Congress of
Micronesia, or in any other law or ordinance of the Trust Territory, pertaining to qualifications for such office sought, then the name of the candidate shall not be placed on the ballot. All signatures on the nomination papers shall be verified. All nomination papers shall be reviewed by the election commissioner and if not in order, the nomination papers shall be rejected. (Code 1966, § 70; Code 1970, tit. 43, § 105; P.L. No. 6-104, § 3.)

Editor's Note. Section 101, referred to above, has been omitted as obsolete.

§ 106. Time of filing papers; fee. — Nomination papers shall be filed as follows:

(1) Filing shall be not more than one hundred eighty days nor less than sixty days prior to the day for holding the election except as provided in section 305 of this title.

(2) There shall be deposited with each nomination for Congress a fee of ten dollars. The election commissioner shall pay over all such nomination fees to the treasurer of the Trust Territory as a local revenue general realization, available for appropriation by the Congress of Micronesia.

(3) Upon the receipt at the office of the election commissioner or appointee or appointees of a nomination of a candidate, the day, hour and minute when it was received shall be indorsed thereon. (Code 1966, § 70; Code 1970, tit. 43, § 106; P.L. No. 6-104, § 4.)
§ 151. Appointment; designation as chief election official. — (1) The district administrator of each administrative district is hereby appointed as the election commissioner of that district.

(2) The election commissioner shall be the chief election officer of the administrative district wherein he resides, with such powers and duties relating to the registration of voters and the conduct of the election as prescribed in this title. (Code 1966, § 52; Code 1970, tit. 43, § 151.)

§ 152. Powers and duties. — Without additional compensation, the election commissioner shall have the overall supervision and administration of the election and shall perform such duties as are prescribed by law, which shall include, but not be limited to the following:

(1) To appoint all members of the several boards of election as provided for in this title;

(2) To prescribe and promulgate rules, regulations, and instructions, including rules, regulations and instructions for absentee ballots, for the conduct of the election;

(3) To determine, and prescribe forms of ballots and the forms of all blanks, cards of instructions, pollbooks, tally sheets, and all forms and blanks required by the provisions of this title for use by candidates, boards, committees, and voters and supply the same to boards of election;

(4) To require such reports from the several boards as may be required by law or regulation or as he may deem necessary;

(5) To review and examine voting irregularities or violation of any election laws in accordance with the provisions of chapter 6 of this title;

(6) To establish voting precincts within each election district and designate appropriate polling places within each voting precinct, upon recommendations of the members of the board of election of the particular election district;

(7) To receive nomination petitions and list of all candidates for election in alphabetical order on the ballots for each election district;

(8) To register or cause to be registered all the voters in his administrative district and to maintain the general district register as provided in this title; and

(9) To prepare from the general district register a registered voter’s list for each voting precinct prior to any election. (Code 1966, § 52; Code 1970, tit. 43, § 152.)

§ 153. Official register; maintenance; form; public inspection. — The election commissioner of each administrative district shall register or cause to be registered all voters in his administrative district in the general district register. The register shall consist of one or more volumes for each election district with a general alphabetical index of the voters. The general district register shall be divided into as many parts as there are election precincts in the election districts in the administrative district and shall have an index of precincts. The general district register shall be maintained by the election commissioner and shall, at all times during business hours, be open to public
inspection, and shall be a public record. The register shall be ruled and printed in such forms as the election commissioner of each administrative district may direct. The complete general district register shall be published and made available for public inspection at least sixty days prior to any election. (Code 1966, § 55; Code 1970, tit. 43, § 153; P.L. No. 6-104, § 5.)

§ 154. Same; striking names of disqualified voters. — (1) The election commissioner shall ascertain, not less than six months before each election, from the department of public health, or any informing department, information of the death, adjudication of insanity or feeble-mindedness, loss of citizenship, or any other disqualification to vote, of any person registered to vote in his district or who he has reason to believe may be registered to vote therein. He shall thereupon make such investigation as he may deem necessary to prove or disprove such information, giving the person concerned, if available, notice and an opportunity to be heard. If after such investigation he finds that such person is dead, incompetent, has lost his citizenship, or is disqualified for any reason to vote, he shall strike or direct that the name of such person be stricken from the official registry.

(2) The election commissioner shall make and keep an index of all information furnished to him under any requirements of law concerning any of the matters mentioned in this section and shall provide any person authorized to receive affidavits on application for registration with any information the latter may need to ascertain whether or not any applicant is in any manner disqualified to vote.

(3) Any person whose name is stricken from the register of voters under this title may appeal in the manner provided by subchapter IV, chapter 6 of this title. (Code 1966, § 62; Code 1970, tit. 43, § 154.)
§ 201. Created; appointment, terms and qualifications of members. — The election commissioner shall appoint a board of election for each election district on or before November 1 of each election year whose members shall serve until resignation or until their successors are appointed. The members shall be citizens of the Trust Territory registered to vote under the provisions of this title and be of such numbers as are necessary to have at least one board member present at each polling place. No board member shall participate in an election campaign during his appointment. (Code 1966, § 53; Code 1970, tit. 43, § 201.)

§ 202. Powers and duties. — Each board of election member shall have the powers and duties as follows:
   (1) To perform all duties prescribed by laws;
   (2) To supervise and manage each polling place;
   (3) To receive, preserve and maintain ballot boxes, locks, maps, cards of instructions and other supplies and equipment necessary to conduct the election;
   (4) To give such instruction deemed necessary for the orderly conduct of the election;
   (5) To provide for the issuance of all notices and publications concerning the election;
   (6) To review and examine the sufficiency and validity of nominating petitions and other documents where the election commissioner designates the board to act in his stead;
   (7) To receive and transmit all ballot boxes, locked, and sealed, to the election commissioner;
   (8) To receive, investigate and decide complaints concerning election irregularities and determine the residence qualifications of voters, subject to review according to section 407 of this title;
   (9) To recommend to the election commissioner designation of appropriate polling places within each voting precinct or election district as may be deemed suitable and convenient to the public;
   (10) To perform such other duties as are prescribed by law or rules issued by the election commissioner; and
   (11) To register electors. (Code 1966, § 54; Code 1970, tit. 43, § 202.)
CHAPTER 5.

VOTER REGISTRATION.

§ 251. Eligibility to register; place of registering and voting. — (1) Every person who has reached the age of eighteen years, or who will have reached the age of eighteen years on or before the date of the next election, and who has resided in the Trust Territory for nine months and in the representative district of registration three months preceding the date of registration and who, except for the requirement of registration, is otherwise entitled to vote may register to vote in the administrative district in which he resides.

(2) The election commissioner shall designate such place or places within each election district wherein registration of voters may be made.

(3) No person shall register to vote or vote as an elector of any other precinct than that in which he resides; provided, that where there is a mistake in placing the name of the voters on the list of voters of a precinct in which he does not actually reside, such voter shall nevertheless be allowed to vote therein, if otherwise qualified; and the member of the board of election of the particular election district and precinct where such voter has voted shall notify the election commissioner of the error in order that the name of such voter may be placed on the next succeeding list of voters of the precinct where he actually resides.

(4) If any person resides in more than one precinct, he may choose which precinct as an elector of which he will register, but he shall register as an elector of one precinct only. (Code 1966, § 56; Code 1970, tit. 43, § 251.)

§ 252. Required in order to vote. — No person shall be entitled to vote in any election for members of the Congress of Micronesia, or to be listed upon any general district register, or upon any precinct list, who fails to register with the formalities and subject to the restrictions and qualifications required by this title. (Code 1966, § 57; Code 1970, tit. 43, § 252.)

§ 253. Application for registration; affidavit. — Any person qualified to and desiring to register as a voter in any election district, may present himself at any time during business hours to any of the members of the election board (herein empowered and authorized to administer oaths and take acknowledgments) or persons authorized by law to administer oaths, then and there to be examined under oath as to his qualification as an elector. Each applicant shall make and subscribe to an application in substantially the following form:
AFFIDAVIT ON APPLICATION
FOR REGISTRATION

Trust Territory

District

1. My full name is ____________________________________________.
2. I was born at ____________________________________ on the ________
day of ___________ in the year ___________.
3. My age is _______.
4. I live at _____________________________________________.
5. My occupation is ________________________________________.
6. I am a citizen and resident of the Trust Territory.
7. I was naturalized as a citizen of the Trust Territory at ______________
----------------------------------------------------- District on the __________ day of __________, 19_________.
8. I have resided in the Trust Territory not less than nine months, and in
Representative District No. _______ not less than three months,
immediately preceding this date on which I now offer to register, to wit,
the __________ date of _____________, 19_________.
9. I am not currently under parole, probation, or sentence for any felony for
which I have been convicted by any court of the Trust Territory or any
court within the jurisdiction of the United States.
10. I am not currently under a judgment of mental incompetency or insanity.
11. I solemnly swear that the foregoing statements are true, so help me God.

__________________________________________________________

Subscribed to and sworn to before me this __________ day of ___________,

The applicant shall strike out allegations that are inapplicable, and shall
swear to the truth of the allegations in his application. In any case where the
person who administers the oath shall so desire or believe the same to be
expedient, he may demand that the applicant produce a witness or witnesses
to further substantiate the allegations of his application. (Code 1966, § 58;
Code 1970, tit. 43, § 253.)

§ 254. Submission of affidavit to examiner of qualifications. — Every
affidavit on application for registration shall be submitted to the persons
authorized to examine the qualifications of electors in section 253 of this
chapter, not less than ninety days before an election. (Code 1966, § 59; Code
1970, tit. 43, § 254; P.L. No. 6-104, § 6.)

§ 255. Entry of a voter's name in the general district register; filing of
affidavits. — (1) If the person authorized to receive an affidavit of application
for registration is satisfied that the applicant is entitled to be registered as a
voter, he shall number the affidavit consecutively as approved by him, and
shall transmit the affidavit to the election commissioner. The election
commissioner shall thereupon enter or cause to be entered in the general
district register the following facts:
(a) Number of affidavit;
(b) Date of registration;
(c) Name of applicant in full;
(d) Occupation of applicant;
(e) Age of applicant;
(f) If naturalized, the date of such naturalization;
(g) Residence of applicant; and,
(h) Any other information which the election commissioner may deem
necessary.
(2) The election commissioner shall also forthwith enter or cause to be entered the name so registered in its proper place in the general alphabetical index, together with a reference to the page on which the registration appears. A voter having once been registered shall not be required to register again for any succeeding election, except in case of change of name or residence as specified in section 256 of this chapter or intervening disqualification as specified in section 154 of this title; provided, that in the event the voting records are destroyed or lost, the election commissioner may require the re-registration of voters.

(3) The election commissioner shall file the accepted affidavits in consecutive numbers, and keep the same in some convenient place so as to be open to public inspection and examination. (Code 1966, § 60; Code 1970, tit. 43, § 255.)

§ 256. Reregistration. — Any voter who changes his residence from one voting precinct to another, or who changes his name, after registration in any general district register, may register again in such general district register under the proper voting precinct or the proper name and the election commissioner or his authorized representative shall cancel the former registration by drawing one or more lines through the name of such voter as previously registered and enter or cause to be entered his own signature and the date of such cancellation with ink on the same line; provided, that no such registration shall be allowed on account of any change of residence or name made within ninety days before an election. (Code 1966, § 61; Code 1970, tit. 43, § 257; P.L. No. 6-104, § 7.)

§ 257. Voters at previous elections deemed registered. — Notwithstanding any requirements of registration provided by this title, all voters who registered and voted in the first election of the members of the Congress of Micronesia held before, on or after January 19, 1965, shall not be required to register again except where re-registration has become necessitated because of change of name or residency and except where disqualifications enumerated by section 154 of this title have intervened; provided, that in the event voting records have been destroyed or lost, the election commissioner may require re-registration of voters. (Code 1966, § 63; Code 1970, tit. 43, § 257.)

§ 258. Exception to requirement. — No registration in person shall be required of a full time student at any institution of learning, but such person shall make and subscribe to an affidavit substantially similar to the form set forth in section 253 of this chapter and as the election commissioner may prescribe, to establish fully such person's right to vote. Any duly qualified elector may challenge the acceptance of the voted ballot at the time of casting of the ballot under the provisions provided by law. (Code 1966, § 82; Code 1970, tit. 43, § 258.)
§ 301. Official ballots required; specimen ballots; imitating. — (1) All elections held in accordance with the provisions of this title shall be held by official ballot only. An official ballot is a written or printed, or partly written and partly printed, paper, designated as an official ballot and containing the names of persons to be voted for and the office to be filled, and issued by the election commissioner of each administrative district. The election commissioner shall have printed two exact copies of each official ballot which is to be used in the general election, for each voting place, such copies to have printed thereon, in large bold letters, and with ink of a color plainly contrasting to the color of the paper used, the word “Specimen.” Two copies of each such specimen ballots shall be forwarded to the members of the board of election at the same time with the official ballots and the member or members of the election board shall post one of each such specimen ballots on either side of the entrance of the voting place or other places plainly in sight for the general public.

(2) Any person who knowingly, wilfully, and unlawfully prints, copies, imitates, or distributes, or causes to be printed, copied, imitated, or distributed any official ballot or any document that is so substantially similar in style or content to the official ballot as to cause the likelihood of confusion with the
Section 302. Contents. — A ballot shall contain the names of the persons and the offices to be voted for, the administrative district, the election district in which the election is being held, and the term or terms of the respective offices being voted for. The election commissioner shall append to the name of any candidate nominated by a political party the name of that political party on the printed ballots. (Code 1966, § 65; Code 1970, tit. 43, § 302.)

Section 303. Printing and distributing. — (1) The ballots shall be printed by order of the election commissioner at government expense. The election commissioner shall deliver an adequate amount of ballots to each election precinct.

(2) At least ten days before the election the election commissioner shall print a specimen ballot and shall forthwith submit copies of the same to the members of the several boards of election and to the several candidates at their addresses as given on their nomination papers, and the members of the boards shall post a copy of the same in a conspicuous place in their office or a public place. (Code 1966, § 68; Code 1970, tit. 43, § 303; P.L. No. 6-104, § 8.)

Section 304. Withdrawal of candidates. — (1) Any candidate may withdraw before an election by giving notice in writing to the member or members of the board of election or to the election commissioner, whichever is more practical, in the election district or administrative district in which such candidate was seeking nomination or election. If a candidate withdraws or dies after the printing of the ballots, the election commissioner shall cause the name of the candidate so withdrawing or the name of any candidate who may have died to be stricken from the ballots and, in that regard, may require the services of the election board of the district or precinct in which any person was a candidate and shall notify in writing such election board of the withdrawal or death, whereupon notice thereof shall, before the opening of the polls on election day, be posted at the polling place.

(2) If a candidate withdraws his name later than twelve days before an election and the ballots are in the process of or have been printed and it becomes necessary in the opinion of the election commissioner or the election board for a reprinting of the ballots or a striking out of a candidate's name by a reprint block-out, all expenses thereof, except in case of a withdrawal necessitated for medical cause and so certified by a physician, shall be a charge against the withdrawing candidate and shall be paid by him within sixty days after such withdrawal to the election commissioner. Moneys so received shall be deposited into the Trust Territory treasury, as a local revenue general realization, available for appropriation by the Congress of Micronesia.

(3) Any person who shall, directly or indirectly, physically threaten or intimidate any candidate so as to cause or attempt to cause the candidate to withdraw from an election shall upon conviction be fined not more than two thousand dollars, or imprisoned for not more than five years, or both. (Code 1966, § 66; Code 1970, tit. 43, § 304; P.L. No. 4C-26, § 2.)

Section 305. Substitute candidates. — In the case of the death, withdrawal or disqualification of candidates after the deadline for filing nominations, substitute candidates may be nominated prior to ten days before the date of an election. A person nominated as a substitute for a candidate nominated by petition must be nominated by petition in the same manner as the candidate who has died, withdrawn, or been disqualified. A substitute candidate nominated by a political party must be nominated by the same political party which nominated the candidate for whom he is a substitute. The election
commissioner in the case of any substitute candidate filling a vacancy caused by death, withdrawal, or disqualification of a candidate shall cause the name of any substitute candidate to be placed upon the proper ballots by reprinting, over-printing or through the use of stamps or such other means as the election commissioner may deem satisfactory for the purpose and may require the services of members of the election board who may be in the election district or precinct in which such a person is a candidate. The election board shall post a notice at the polling place of the name and office sought by any such substitute candidate. (Code 1966, § 67; Code 1970, tit. 43, § 305.)

§ 306. Packaging; sealing; record of distribution. — When printed, the ballots shall be fastened together in blocks of one hundred each, in such manner that each ballot may be detached and removed separately. They shall be forwarded by the election commissioner to the member or members of the election board in sealed packages, which shall not be opened until the opening of the polls. A record of the number of ballots sent to each election board member shall be kept by the election commissioner. (Code 1966, § 69; Code 1970, tit. 43, § 306.)

Subchapter II.

Absentee Voters.

§ 351. "Voter" and "ballot" defined. — (1) Any registered voter qualified to vote at any general or special election shall be entitled and enabled to vote by absentee ballot if:

(a) He is confined to his home or hospital by reason of such illness or physical disability as will prevent him from attending the polls; or

(b) He is prevented from voting by reason of being at sea or absent from the administrative district in which he is registered.

(2) An absentee ballot is an official ballot which is authorized by this title to be voted outside of any designated polling place or prior to the date of the election. (Code 1966, § 79; Code 1970, tit. 43, § 351; P.L. No. 6-104, § 9.)

§ 352. Confined persons. — Any registered voter qualified to vote at any general or special election who is confined to his home or hospital by reason of such illness or physical disability as will prevent him from attending the polls, shall be entitled to vote in such manner as may be prescribed by rules and regulations which shall be promulgated by the election commissioner. Such rules and regulations shall provide for voting by such persons in such manner as to insure secrecy of ballot and to preclude tampering with the ballots of such voters and other election frauds; provided, that any voter who by reason of physical disability is unable to mark his ballots shall be authorized to receive assistance in the marking thereof. Such rules and regulations may require affidavits, certificates, and other written statements under oath. (Code 1966, § 80; Code 1970, tit. 43, § 352.)

§ 353. Request for ballot. — (1) Any registered voter qualified to vote in any election may request and cast an absentee ballot with the election commissioner; provided, that he meets the requirements as set forth in section 351.

(2) Any registered voter qualified to vote by absentee ballot may, not more than ninety days nor less than twenty days before the election, request the election commissioner in writing for an absentee ballot to be voted at the election. The request shall include information stating the voter's voting
precinct, election district, reasons for being absent, address to which he wishes his ballot forwarded and the establishment of his right to a ballot. (Code 1966, § 81; Code 1970, tit. 43, § 353; P.L. No. 6-104, § 10.)

§ 354. Marking and return of ballot; voting at polls. — (1) The election commissioner or the board of election, as the case may be, shall, at least twenty days prior to an election, provide to any person who may be entitled to vote by absentee ballot, and who requests the same, an official ballot, a ballot envelope, an affidavit prescribed by the high commissioner, and a covering reply envelope. The absentee voter shall mark the ballot in the usual manner provided by law and in such manner that no person can see or know how the ballot is marked except as provided in section 352 of this chapter. The absentee voter shall then deposit the ballot in the ballot envelope and securely seal the same. The absentee voter shall then complete and execute the affidavit. The ballot envelope and the affidavit shall then be enclosed and sealed in the covering reply envelope and shall be mailed or delivered to reach the election commissioner of his administrative district issuing the absentee ballot not later than the established closing hour of business on the fourth day before the election, except as provided in section 352 of this chapter.

(2) It shall be unlawful for any person having voted an absentee ballot to cast a ballot at the polls on election day. (Code 1966, § 84; Code 1970, tit. 43, § 354; P.L. No. 6-104, § 11.)

§ 355. Disposition of ballots. — (1) Upon the receipt of the envelope marked “Absentee Ballot Enclosed” within the period prescribed in section 354 of this chapter from any person voting under the provisions of this chapter, the election commissioner, or his appointee, shall open it, remove the ballot envelope, and examine the statement as to its proper execution, the person’s qualification to register as an elector, and to vote. If the election commissioner determines that the person is qualified to vote by absentee ballot, the ballot envelope shall be deposited unopened in a container retained for the purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the election commissioner, or his appointee, and the words “This container holds absentee ballots and must be opened only pursuant to law.” The election commissioner or his appointees shall safely keep each container in his office until the day of election and at such time he shall publicly open the container, extract and segregate the ballot envelopes and deliver such envelopes to the counting and tabulation committee.

(2) In case the statement is found to be insufficient or in case the signatures do not correspond, or in case the voter has not complied with the requirements of section 354 of this chapter, or is not a duly qualified elector or the ballot envelope is open or has been opened and resealed, the ballot envelope shall not be opened and the election commissioner or his appointees shall mark across its face “Rejected,” giving the reason therefor, and shall preserve the same in the manner provided by law.

(3) If the ballot is received after the time fixed in section 354 of this chapter, the ballot envelope shall be indorsed by the election commissioner or his appointees with the day and hour of receipt and it shall be safely kept unopened by the election commissioner or his appointees for the period of time required for the preservation of ballots used at such election, and shall then, without being opened, be destroyed in accordance with applicable law.

(4) If upon receiving the ballot envelope from the election commissioner or his appointees it is found that the voter has already voted, the election inspectors shall immediately cancel the ballot envelope and write “Rejected” across its face, giving the reason therefor and shall preserve the same in the manner provided by law. (Code 1966, § 85; Code 1970, tit. 43, § 355.)

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§ 356. **Voting at another polling place.** — (1) A voter shall have the right to vote on election day at a polling place other than the polling place at which he is legally registered to vote if the following conditions are met:

(a) The voter is present within his administrative district on the day of election;

(b) He is lawfully registered to vote in his representative or election district; and

(c) He notifies the election commissioner in writing at least seven days before the election that he will not be voting in his proper voting place and that he requests to vote at a specific voting place.

(2) Upon receipt of a voter’s request for a change in polling place, and no later than five days from such receipt if request is made seven days before the election, the election commissioner shall immediately assign and notify the voter by any means of communication, including the use of radio, as to the place where the voter may vote. Upon such notification, the voter shall be permitted to vote only at that polling place.

(3) The election commissioner shall cause a mark to be placed next to the name of the voter in that part of the general district register for the election precinct or the polling place where the voter would normally cast his ballot. This mark shall indicate that the voter will be casting his ballot at another polling place and that he is prohibited from voting in that election at his usual polling place. The election commissioner shall provide the proper ballot at the newly designated polling place for each voter who complies with the provisions of this section. (P.L. No. 6-104, § 12; P.L. No. 7-9, § 1.)

**Subchapter III.**

*Conduct of Elections.*

§ 401. **Supervision of polling places.** — The election commissioner shall ensure that polling places are supervised by the election board and such other officials as the election commissioner shall deem necessary, who must be present at the designated polling places during the election. Public schools and other public places shall be utilized insofar as practicable as polling places. Rent shall not be charged or paid for the use thereof. (Code 1966, § 72(a); Code 1970, tit. 43, § 401.)

§ 402. **Equipping and supplying polling places.** — Each polling place shall be provided with necessary ballot boxes, locks, official ballots, cards of instructions, pencils, registered voters lists, papers, and all other necessary supplies. (Code 1966, § 72(b); Code 1970, tit. 43, § 402.)

§ 403. **Opening and closing of polls.** — At exactly seven o’clock a.m. of the day of the election, a member of the election board shall proclaim aloud at each place of election that the polls are open, and shall be kept open until seven o’clock p.m., of the same day, after which time the polls shall be closed; provided, that if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote; provided further, that if all registered voters appearing on a registered voter’s list for any polling place have voted, that polling place may close irrespective of the time of day. (Code 1966, § 72(c); Code 1970, tit. 43, § 403.)
§ 404. Checking of register. — Any person appearing in the polling place shall report his name, in full and his address to the election officials. An election official shall clearly and audibly announce them. Another election official shall then check the register of voters as to whether or not the person appearing is a registered voter, and if so, shall announce the name and address appearing in the register. At this point a challenge may be interposed on the grounds that the ballot is subject to challenge under law or rules or regulations issued by the election commissioner. Voting shall then proceed in accordance with procedures prescribed by the election commissioner; however, all voting shall be by secret ballot. (Code 1966, § 72(d); Code 1970, tit. 43, § 404.)

§ 405. Campaigning and alcoholic beverages at polling places. — No campaigning shall be conducted within one hundred feet of a ballot box on election day and no alcoholic beverages shall be sold or otherwise provided to any person in the Trust Territory during election day while the polls are open. No candidate shall be allowed within one hundred feet of any ballot box except for the purpose of casting his ballot. There shall be no campaigning over any district broadcast station on election day. (Code 1966, § 72(e); Code 1970, tit. 43, § 405.)

§ 406. Poll watchers. — Each candidate shall be entitled to have not more than two poll watchers at each polling place. (Code 1966, § 72(f); Code 1970, tit. 43, § 406.)

§ 407. Election irregularities. — Any person may file an oral or written complaint of any election irregularity with a member of the election board present at the polling place. The board member shall give an individual against whom the complaint is made time to present witnesses and explanation, if any, but in no event shall such time be granted so as to prevent the election board from making a decision prior to the time for the closing of the polls. The complainant or the individual against whom the complaint is made may appeal the decision to the election commissioner or his designated representative. The election commissioner, or his said representative shall, as soon as possible, examine the finding of the election board and may hear witnesses, if he deems necessary. The election commissioner or his said representative shall make his decision prior to the time of the closing of the polls, and the aggrieved party may appeal the decision in accordance with section 453, subchapter IV of this chapter. In the event the decision of the election commissioner or his designated representative cannot be obtained as heretofore provided, the aggrieved party may appeal the decision of the election board in accordance with section 453, subchapter IV of this chapter. (Code 1966, § 72(g); Code 1970, tit. 43, § 407.)

Quo warranto proceeding ineffective for contesting election to congress. — Quo warranto proceeding is ineffective to contest election for members of Congress of Micronesia, since congress is sole judge of elections and qualifications of its members. Liberal Party v. Election Comm'r, 3 TTR 293 (1967).

Courts have jurisdiction over election contests only as granted by legislation. — None of the courts of the Trust Territory have jurisdiction over contests for election of members of the Congress of Micronesia except to extent and under circumstances that such jurisdiction is expressly granted by legislation. Liberal Party v. Election Comm'r, 3 TTR 293 (1967).

Contestant has burden of proof in election contests. — In action to contest election results, where it is alleged illegal votes were cast and it is not possible for either party to prove how alleged illegal votes affected result, the contestant, having burden of proof, must fail. Liberal Party v. Election Comm'r, 3 TTR 293 (1967).
§ 408. Disposition of ballot boxes after completion of voting. — After all voting is completed, all ballot boxes shall be secured and locked. The locked boxes and all other supplies provided to the polling places by the election commissioner shall be collected by election officials and delivered to the election commissioner or his duly authorized representative by the safest and most expeditious means available and be certified to the election commissioner that the ballots so delivered were cast in accordance with the provisions of this title. (Code 1966, § 72(h); Code 1970, tit. 43, § 408.)

§ 409. Counting of ballots; announcement of unofficial results. — The election commissioner shall establish a counting and tabulation committee composed of not less than five members. The said committee shall publicly count and tally all votes cast and determine the acceptability thereof. Such counting of ballots cast in any election district shall begin after all the polls in such election district are closed and shall continue until all votes cast shall have been counted. Each candidate or his authorized representative shall be entitled to be present at the tabulation of the votes. Upon the completion of the counting and tabulation of all votes cast in the election district, public announcement of the unofficial results shall be made. (Code 1966, § 73; Code 1970, tit. 43, § 409.)

§ 410. Certification of election results. — Upon completion of the counting and tabulation of election results, the election commissioner shall certify the results and submit the results as certified to the High Commissioner. The High Commissioner shall declare as the winning candidates for the Congress of Micronesia from each election district the candidates receiving the plurality of votes cast in each election. (Code 1966, § 74; Code 1970, tit. 43, § 410.)

§ 411. Resolution of ties. — After all votes have been tabulated and certified to the election commissioner, if two or more candidates shall have received an equal number of votes, such tie shall be resolved by the election commissioner by lot in the presence of the tied candidates, or their designated representatives should such candidates desire to be present or represented. (Code 1966, § 77; Code 1970, tit. 43, § 411.)

§ 412. Local counting and tabulating committees. — In precincts or other areas where the election commissioner deems it impracticable that ballot boxes be delivered to a central place for counting and tabulating, the election commissioner shall appoint a local committee to count, tabulate, certify and report votes in such manner and according to such rules and regulations as the election commissioner shall establish. (Code 1966, § 78; Code 1970, tit. 43, § 412.)

§ 413. Rejected ballots. — All ballots which have been declared invalid due to defacement or other irregularity shall be sorted and a notation placed upon them indicating that they are rejected ballots. Upon completion of the counting of the ballots, the rejected ballots shall be placed in the ballot box and returned by the counting and tabulating committee to the election commissioner with the validly cast ballots. (P.L. No. 6-104, § 13.)

§ 414. Imperfectly marked ballots void. — Two or more markings in one voting square or a mark made partly within and partly without a voting square or space does not make a ballot void. (P.L. No. 6-104, § 13.)

§ 415. Spoiled ballot. — Any voter who spoils a ballot may return it to a member of the election board and receive another in its place. He shall be given
§ 416. Rejection of ballot for technical error. — At any election a ballot shall not be rejected for any technical error which does not render it impossible to determine the voter's choice, even though the ballot is soiled or partially defaced. (P.L. No. 6-104, § 13.)

§ 417. Rejection of invalid portions. — If for any reason a ballot is imperfectly marked or if it is impossible to determine the voter's choice for any office, his ballot shall not be counted for that office, but the rest of his ballot, if properly marked, shall be counted. (P.L. No. 6-104, § 13.)

§ 418. Write-in votes. — Any name written upon a ballot shall be counted as a vote for the person whose name is so written for the office under which it is written. (P.L. No. 6-104, § 13.)

Subchapter IV.

Recounts and Appeals.

§ 451. Petition for recount. — A petition for recount may be filed by any candidate in an election who believes that there was fraud or error committed in the casting, canvassing or return of the votes cast at said election. The petition shall be filed with the election commissioner or the board of election of the election district in which the recount is requested. Such petition shall contain a statement sworn to before a notary public or other person authorized to administer oaths that the petitioner has reason to believe and does believe that the records or copies of records made by the board of election of such district are erroneous, specifying wherein he deems such records or copies thereof to be in error, or that votes were cast by persons not entitled to vote therein, and that he believes that a recount of the ballots cast in the district will affect the election of one or more candidates voted for at such election. The petition may not be filed later than two weeks after the election at which the votes were cast unless such filing is prevented by circumstances beyond the control of the petitioner. (Code 1966, § 76(a); Code 1970, tit. 43, § 451.)

§ 452. Recommendation by board of election. — If a petition for recount is filed with a board of election, that board shall recommend to the election commissioner within three days from the receipt of the petition whether the recount shall take place. (Code 1966, § 76(b); Code 1970, tit. 43, § 452.)

§ 453. Denial of petition; appeal of denial to district court. — (1) If the election commissioner decides not to approve the petition and grant the recount, he shall record the reasons for such decision. The aggrieved candidate may, within five days after receipt of the decision of the election commissioner, appeal his case to the district court. The district court shall review the appeal promptly and render a decision. If the decision is in favor of recount, the election commissioner shall be so notified and shall proceed as provided in sections 454 and 455 of this chapter.

(2) Appeals may be had in the manner prescribed in subsection (1) of this section from any decision of the election commissioner concerning a ruling of an election board with respect to a challenge affecting the acceptability of a vote or votes. A petition hereunder for appeal shall contain the information specified in section 451 of this chapter for a petition for a recount. A decision
of the district court in favor of the petitioner may have the effect of disallowing the challenged votes but shall not halt or delay balloting or counting and tabulating. (Code 1966, § 76(c) and (d); Code 1970, tit. 43, § 453.)

Election contests are responsibility of legislative branch and are generally beyond control of judiciary. — Election contests are essentially a responsibility of the legislative branch of government under the theory of separation of powers and are generally beyond the control of the judiciary except to the extent that responsibility therefor has been expressly given the judiciary by legislation. Basilius v. Election Comm'r, 5 TTR 290 (1970).

§ 454. Approval of petition; notice of recount. — Regardless of whether a petition for recount is first filed with a board of election or with the election commissioner, if the election commissioner determines that there is a substantial question of fraud or error and that there is a substantial possibility that the outcome of the election would be affected by a recount, he shall cause notice of the recount to be given in a manner decided by him. (Code 1966, § 76(b); Code 1970, tit. 43, § 454.)

§ 455. Recount by counting and tabulating committee. — The recount shall be held by the counting and tabulating committee within ten days after the decision of the election commissioner and shall be public. The counting and tabulating committee shall make certificates of such determination under oath showing the result of the election and what persons were declared elected to fill office, one of which shall be filed with the High Commissioner, one with the election commissioner, one with each board of election concerned, and one with the person filing the petition for recount. The person receiving the greatest number of votes shall be deemed to have been elected, but if two or more candidates shall receive an equal number of votes for the office, the tie vote shall be resolved in accordance with section 411, subchapter III of this chapter. (Code 1966, § 76(b); Code 1970, tit. 43, § 455.)

Trial division of high court has jurisdiction only to order recount in election contest. — Under sections 451 through 455 of this Code the trial division of the high court may order a recount in a contested election; however, the court does not have jurisdiction to order anything else. Basilius v. Election Comm'r, 5 TTR 290 (1970).
Title 44.
[Reserved.]

Titles 45-83.
[See Volume 2]