

AN ACT

To amend title 19 of the Code of the Federated States of Micronesia (Annotated), by inserting a new chapter 13 entitled "Administrative and Legal Procedures" that was unintentionally omitted from the 2014 F.S.M.C. (Annotated), and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Purpose. The amendment to title 19 of the 2014
2 Code of the Federated States of Micronesia is done to reinsert
3 chapter 13 that was unintentionally omitted from the 2014
4 F.S.M.C. (Annotated). This chapter 13 is identical to the
5 omitted chapter originally enacted in Public Law No. 10-76 and
6 no changes of any kind are included.

7 Section 2. Title 19 of the Code of the Federated States of
8 Micronesia (Annotated), is hereby amended by inserting a new
9 chapter 13 entitled: "Administrative and Legal Procedures".

10 Section 3. Title 19 of the Code of the Federated States of
11 Micronesia (Annotated), is hereby amended by adding a new
12 section 1301 to chapter 13, to read as follows:

13 "Section 1301. Administrative disposition.

14 (1) Notwithstanding the provisions of sections
15 1303 and 1304, where the Secretary believes there has
16 been a violation of any provision of this title which
17 is not punishable by imprisonment, the Secretary may:

18 (a) order the accused to take mitigating or

1 remedial actions; and

2 (b) sanction the accused, including levying
3 fines.

4 (2) The order or the sanction shall constitute
5 notice to the accused of the offense for purposes of
6 administrative disposition under this section.

7 (3) Compliance with the order and payment of the
8 fine shall constitute complete satisfaction of the
9 charges. Payment of fines must be made within 7 days
10 of the notice.

11 (4) Where those affected by the actions of the
12 Secretary under subsection (1) wish to contest those
13 actions, they may:

14 (a) seek a hearing in accordance with the
15 procedures of title 17 of the Code of the Federated
16 States of Micronesia; or

17 (b) seek a judicial hearing in the
18 appropriate court without having to exhaust
19 administrative remedies.

20 (5) All fines collected shall be deposited into
21 the General Fund of the Federated States of
22 Micronesia."

23 Section 4. Title 19 of the Code of the Federated States of
24 Micronesia (Annotated), is hereby amended by adding a new
25 section 1302 to chapter 13, to read as follows:

1 "Section 1302. Mediation and arbitration.

2 (1) Where two or more parties seek resolution of
3 a dispute arising under the provisions of this title,
4 they may agree to mediation or arbitration conducted
5 by the Secretary, or a mediator or arbitrator
6 appointed by the Secretary.

7 (2) Any decision made in arbitration shall be
8 binding upon the parties and final."

9 Section 5. Title 19 of the Code of the Federated States of
10 Micronesia (Annotated), is hereby amended by adding a new
11 section 1303 to chapter 13, to read as follows:

12 "Section 1303. Jurisdiction of Supreme Court in rem.
13 The Supreme Court shall have jurisdiction in rem over
14 all vessels irrespective of their flag and all
15 maritime claims wherever arising with respect to:

16 (1) disputes relating to the ownership of,
17 possession of or title to a vessel or a share in a
18 vessel;

19 (2) mortgages, including foreign mortgages and
20 other charges in the nature of a mortgage;

21 (3) claims for towage;

22 (4) claims relating to salvage;

23 (5) claims for pilotage;

24 (6) claims for general average;

25 (7) claims for wages of masters and crew;

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- 1 (8) claims for disbursements made by masters,
2 shippers, charterers or agents on behalf of a vessel;
3 (9) claims for damage done by a vessel;
4 (10) personal injury claims arising from the
5 operation of a vessel for which the vessel's owner,
6 operator or charterer is liable;
7 (11) claims for loss of or damage to goods carried
8 by a vessel;
9 (12) claims arising from contracts for the
10 carriage of goods by a vessel;
11 (13) claims arising from agreements for the use or
12 hire of a vessel;
13 (14) claims for the construction, repair,
14 alteration or equipping of a vessel;
15 (15) claims for goods, materials or services
16 supplied to a vessel;
17 (16) claims for unpaid insurance premiums or calls
18 from protection and indemnity associations;
19 (17) port, harbor, navigational aids dues and
20 similar charges;
21 (18) claims for marine pollution damage;
22 (19) claims for damages arising from the operation
23 of a vessel for which the owner, operator or charterer
24 is liable;
25 (20) claims for the enforcement of arbitral awards

1 in respect of maritime claims; and

2 (21) claims for the enforcement of local and
3 foreign admiralty judgments in rem."

4 Section 6. Title 19 of the Code of the Federated States of
5 Micronesia (Annotated), is hereby amended by adding a new
6 section 1304 to chapter 13, to read as follows:

7 "Section 1304. Jurisdiction of Supreme Court in
8 personam. The Supreme Court shall have jurisdiction
9 in personam with respect to:

10 (1) claims for damage done to a vessel;

11 (2) claims to limit liability under any
12 international maritime convention to which the
13 Federated States of Micronesia is a party allowing for
14 limitation of liability in relation to vessels; and

15 (3) ancillary matters of admiralty and maritime
16 jurisdiction associated with matters in respect of
17 which the Court's jurisdiction is invoked."

18 Section 7. Title 19 of the Code of the Federated States of
19 Micronesia (Annotated), is hereby amended by adding a new
20 section 1305 to chapter 13, to read as follows:

21 "Section 1305. Nautical assessors.

22 (1) The Court may appoint nautical assessors to
23 advise it on all maritime matters.

24 (2) Nautical assessors shall be appointed on the
25 basis of their expert knowledge and experience and may

1 be engaged prior to or during trial for as long as
2 their expertise is required.

3 (3) Nautical assessors shall not be called by
4 the parties to give evidence, shall not be sworn and
5 shall not be cross-examined.

6 (4) Nautical assessors may be paid compensation
7 for their services.

8 (5) The advice of nautical assessors shall be
9 treated as highly persuasive, but it is for the Court
10 to assess its worth and decide on all matters of fact
11 and law."

12 Section 8. Title 19 of the Code of the Federated States of
13 Micronesia (Annotated), is hereby amended by adding a new
14 section 1306 to chapter 13, to read as follows:

15 "Section 1306. Investigation of violations.

16 (1) Upon receipt of evidence that a violation
17 has occurred, the Secretary shall cause an
18 investigation to be conducted.

19 (2) The Secretary may issue subpoenas requiring
20 the attendance of witnesses and the production of
21 documents.

22 (3) The Secretary may inspect any vessel in any
23 port under the jurisdiction of the Federated States of
24 Micronesia.

25 (4) If a foreign vessel is involved, the

1 Secretary shall, through diplomatic channels, notify
 2 the maritime authority of the vessel's flag state.

3 (5) Upon completion of the investigation, the
 4 Secretary shall take appropriate action."

5 Section 9. Title 19 of the Code of the Federated States of
 6 Micronesia (Annotated), is hereby amended by adding a new
 7 section 1307 to chapter 13, to read as follows:

8 "Section 1307. Procedure for prosecution of national
 9 offenses.

10 (1) (a) All proceedings brought against a person
 11 for an offense under this title shall be commenced by
 12 filing an information, in writing, in the name of the
 13 Secretary with the Supreme Court.

14 (2) (a) Subject to subsection (b) every
 15 information in respect of an offense shall be filed
 16 within 12 months from the date on which the offense is
 17 alleged to have been committed or when the alleged
 18 offense may reasonably have been discovered.

19 (b) Where any vessel or any person has
 20 committed an offense under this title and departed
 21 from the jurisdiction before an information could be
 22 filed, the time period referred to in subsection (a)
 23 shall commence running on the date on which the vessel
 24 or person returns to the jurisdiction.

25 (3) Every information shall contain such

1 particulars as will fairly inform the defendant of the
2 substance of the offense with which he is charged.

3 (4) As soon as practicable after an information
4 is sworn, it shall be filed with the Court.

5 (5) Where an information has been filed, the
6 Clerk of the Court may issue a summons to the
7 defendant.

8 (6) (a) Every summons to a defendant and any
9 other document which is required to be served on a
10 defendant shall be served on him by being delivered to
11 him or her personally or by being brought to his
12 notice if he or she refuses to accept it.

13 (b) Where a summons is to be served on the
14 master of a vessel it may be served on the officer
15 apparently in charge if the master is not on board the
16 vessel.

17 (c) Where the summons is to be served on
18 the owner of a vessel it may be served on the vessel's
19 agent.

20 (d) Service on the persons referred to in
21 subsections (b) or (c) shall be deemed to be service
22 on the defendant master and owner of the vessel.

23 (7) Every summons to a defendant and every other
24 document which is required to be served on a defendant
25 may be served by an authorized officer or by the

1 Principal Officer who shall be the Principal Surveyor,
 2 Principal Shipping Officer, or any other person so
 3 designated by the Secretary.

4 (8) (a) The service of any document may be proved
 5 by affidavit made by the person who served the document
 6 showing the fact, as well as the time, place and mode of
 7 service.

8 (b) The affidavit of service made by the
 9 person who served the document shall be deemed to be
 10 correct unless or until the contrary is proved.

11 (9) When an information has been filed and a
 12 summons has been issued and served, a Principal Officer
 13 who has reasonable grounds to believe that the defendant
 14 will not appear before the Court on the date set out in
 15 the summons, may apply to the Court for a warrant to
 16 arrest the defendant if:

17 (a) a warrant is necessary to compel the
 18 attendance of the defendant; or

19 (b) a warrant is desirable because of the
 20 gravity of the alleged offense and the circumstances of
 21 the case.

22 (10) A Principal Officer or his delegate for the
 23 purposes of enforcing this title may, without warrant:

24 (a) stop, board and search any vessel, or the
 25 owner, master or any crew member of any vessel that he

1 or she reasonably suspects to have committed any offense
2 under this title;

3 (b) require the master or any crew member to
4 inform him or her about any incident occurring aboard or
5 involving the vessel;

6 (c) make any inspection or examination of
7 anything aboard the vessel;

8 (d) require to be produced, any certificate,
9 document, logbook or other record required to be kept by
10 this title or regulations, or that concern the operation
11 of the vessel or employment of the crew and examine and
12 take copies thereof;

13 (e) seize any logbooks, charts, documents,
14 equipment, material, and take or require to be taken any
15 samples which he or she has reasonable grounds to
16 believe show or tend to show, with or without other
17 evidence, the commission of an offense against this
18 title;

19 (f) seize anything which he or she has
20 reasonable grounds to believe might be used as evidence
21 in any proceedings under this title; or

22 (g) arrest any person whom he or she has
23 reasonable grounds to believe has committed an offense
24 against this title.

25 (11) (a) Pending the date of the hearing set forth

1 in the summons, upon application, the Court may by order
2 detain the vessel until the final adjudication of the
3 matter contained in the information.

4 (b) Notwithstanding subsection (a), the Court
5 may by order release the vessel from such detention upon
6 the posting of a bond with the Court in an amount not
7 exceeding the value of the vessel or the maximum fine
8 prescribed in relation to the offense or the total of
9 all the offenses if more than one are contained in the
10 information.

11 (12) (a) Where the defendant does not speak or
12 understand the English language, a crew member or other
13 qualified person may be used as an interpreter.

14 (b) Where an interpreter was used when the
15 information was filed and the summons served, and the
16 evidence collected from the vessel or persons on board
17 the vessel, that same interpreter may be summoned to
18 appear in Court at the trial of the named defendant.

19 (c) Where certificates required to be carried
20 on board the vessel are not in the English language, the
21 defendant shall obtain English translations of those
22 certificates from the authority or organization which
23 issued them.

24 (13) (a) Any number of informations for any
25 offenses against a defendant may be tried together.

1 (b) If the Court believes that it is
2 desirable or expedient in the interest of justice to do
3 so, it may order that the defendant be tried on one or
4 more of such informations separately.

5 (c) The informations which are not then tried
6 shall be proceeded upon in all respect as if they had
7 been presented separately.

8 (14) Any number of defendants may be tried
9 together, provided that the Court may, at any time,
10 order separate trials if satisfied that the interests of
11 justice so require."

12 Section 10. Title 19 of the Code of the Federated States of
13 Micronesia (Annotated), is hereby amended by adding a new section
14 1308 to chapter 13, to read as follows:

15 "Section 1308. Detention of a vessel.

16 (1) Where the Secretary finds that reasonable
17 grounds exist under this title for the detention of a
18 vessel, the Secretary shall issue a detention order and
19 may detain the vessel without warrant, PROVIDED HOWEVER:

20 (a) written notice shall be served to the
21 person on board in charge of the vessel, together with a
22 copy of the detention order; and

23 (b) such written notice shall state with
24 particularity the grounds for detention and the
25 provision of the law under which the detention order has

1 been issued, and that the vessel owner or master has the
 2 right to a prompt hearing before the Secretary regarding
 3 probable cause for the detention.

4 (2) An owner or master whose vessel has been
 5 detained may petition the Secretary under title 17 of
 6 the Code of the Federated States of Micronesia for a
 7 hearing to review the detention order.

8 (3) Where a foreign vessel is detained, the
 9 Secretary, through diplomatic channels, shall notify the
 10 maritime authority of the vessel's flag state, including
 11 the reason for detention."

12 Section 11. Title 19 of the Code of the Federated States of
 13 Micronesia (Annotated), is hereby amended by adding a new section
 14 1309 to chapter 13, to read as follows:

15 "Section 1309. Forfeiture of a vessel.

16 (1) Where a vessel is subject to forfeiture under
 17 this title, upon the issuance of a warrant by the
 18 Supreme Court, an authorized officer may seize and
 19 detain the vessel.

20 (2) Upon seizure or detention under this section,
 21 civil proceedings for forfeiture shall be initiated
 22 forthwith by the Office of the Attorney General, and
 23 written notice shall be served on the owner or master,
 24 PROVIDED HOWEVER, in the case of a foreign vessel or
 25 foreign small craft, notice of the forfeiture

1 proceedings and the grounds therefor shall be given to
2 the maritime authority of the flag state through
3 diplomatic channels.

4 (3) After trial, if the Supreme Court finds by a
5 preponderance of the evidence that proof has been made
6 of a violation of this title for which forfeiture of a
7 vessel or small craft is allowed, the Court may issue an
8 order that the owner has forfeited all rights of
9 ownership of the vessel or small craft, and all property
10 rights in the vessel or small craft have vested in the
11 Government together with all equipment, cargo and
12 stores.

13 (4) Upon forfeiture of a vessel or small craft
14 under subsection (3), the Government may register the
15 vessel under this title by filing the order with the
16 Registrar, and the Registrar shall enter in the Register
17 the name and particulars of the vessel or small craft,
18 listing the Government as the registered owner.

19 (5) An order issued by the Supreme Court under
20 subsection (3) shall be deemed evidence of good title to
21 the vessel or small craft free of all encumbrances, and
22 the Government shall have the right to sell the vessel
23 or small craft with clear title."

24 Section 12. Title 19 of the Code of the Federated States of
25 Micronesia (Annotated), is hereby amended by adding a new section

1 1310 to chapter 13, to read as follows:

2 "Section 1310. Foreign vessels. Notwithstanding any
3 other provision of law in this title, if a violation is
4 committed by a foreign vessel or foreign small craft, or
5 its owner or master, the Secretary, after consultation
6 with the Attorney General and the Department of External
7 Affairs, may refer the matter through diplomatic
8 channels to the nation of registry for appropriate
9 action."

10 Section 13. Title 19 of the Code of the Federated States of
11 Micronesia (Annotated), is hereby amended by adding a new section
12 1311 to chapter 13, to read as follows:

13 "Section 1311. Obstruction of persons. Every person
14 who, without lawful excuse (proof of which is on him or
15 her), hinders or obstructs a person in the performance,
16 execution or carrying out of any duty conferred or
17 imposed on that person by this title commits a national
18 offense, and where no other penalty is provided for in
19 this title, shall be punishable by a fine not exceeding
20 \$200,000 or by imprisonment not exceeding 2 years, or
21 both; PROVIDED that if in the commission of any such
22 offense the person uses a dangerous weapon, engages in
23 conduct that causes bodily injury to any officer
24 authorized to enforce the provisions of this title, or
25 threatens any such officer with bodily injury, the

1 offense is punishable by a fine of not less than
2 \$500,000 or imprisonment for not more than ten years,
3 or both."

4 Section 14. Title 19 of the Code of the Federated States
5 of Micronesia (Annotated), is hereby amended by adding a new
6 section 1312 to chapter 13, to read as follows:

7 "Section 1312. Civil offenses.

8 (1) Every person who does any act, or makes any
9 omission, in contravention of any provision of this
10 title or regulations hereunder commits a civil offense.

11 (2) When any provision of this title is
12 contravened and no specific violation is prescribed
13 and no pecuniary penalty provided for, any person
14 contravening any provision commits a civil offense and
15 shall be liable to a fine not exceeding \$1,000."

16 Section 15. Title 19 of the Code of the Federated States
17 of Micronesia (Annotated), is hereby amended by adding a new
18 section 1313 to chapter 13, to read as follows:

19 "Section 1313. Recovery of fines.

20 (1) If an owner or master of a vessel has been
21 convicted of any offense under this title and where
22 the Court orders payment of a fine or if a vessel has
23 been found liable in proceedings in rem, the vessel
24 may be detained until the fine has been paid.

25 (2) If a fine is not paid within the period of

1 time stipulated by the Court, the Court may order that
 2 the vessel be sold and the proceeds of the sale be
 3 used to pay the fine."

4 Section 16. Title 19 of the Code of the Federated States
 5 of Micronesia (Annotated), is hereby amended by adding a new
 6 section 1314 to chapter 13, to read as follows:

7 "Section 1314. Time limits on commencement of
 8 proceedings.

9 (1) An action must be commenced within the time
 10 period specified or the right to bring such action is
 11 extinguished.

12 (2) An action is commenced by the filing of a
 13 complaint or information with the Supreme Court.

14 (3) The time limit within which claims shall be
 15 brought shall commence from the time when the right of
 16 action accrues or when it reasonably may have been
 17 discovered.

18 (4) The time limits set forth in this section
 19 shall not run during any time when:

20 (a) the seaman is incapacitated, or
 21 is involuntarily outside the jurisdiction of the
 22 Federated States of Micronesia; or

23 (b) the defendant vessel or vessel owner is
 24 outside the jurisdiction of the Federated States of
 25 Micronesia.

1 (5) Claims arising out of the Shipping Articles
2 must be commenced within 12 months from the date of
3 the termination of the Shipping Articles or the date
4 on which the seaman is discharged, whichever is
5 earlier.

6 (6) (a) Claims arising out of the death or
7 permanent disability of a seaman caused by wrongful
8 act, neglect, or default on the high seas must be
9 commenced within two years from the date the vessel
10 returns to the seaman's proper return port or to the
11 vessel's port of registry, whichever is later.

12 (b) Claims of owners against the master for
13 acts committed during the performance of the master's
14 duties must be commenced within 2 years from the date
15 on which the last act giving rise to the claim
16 occurred.

17 (c) Claims for the recovery of damages as a
18 result of a collision between two or more vessels must
19 be commenced within 2 years from the date of the
20 collision.

21 (d) All other tort claims must be commenced
22 within 2 years of the date on which the act giving
23 rise to the claim occurred.

24 (7) All other claims must be commenced within 3
25 years of the date on which the incident giving rise to

1 the claim occurred."

2 Section 17. Title 19 of the Code of the Federated States
3 of Micronesia (Annotated), is hereby amended by adding a new
4 section 1315 to chapter 13, to read as follows:

5 "Section 1315. Access to and inspection of adopted
6 regulations.

7 (1) Where a convention or rule or regulation, or
8 a provision thereof, has been adopted and incorporated
9 by reference in regulations made under this title, the
10 adopted convention, rule or regulation, or provision
11 thereof, as the case may be, shall be available for
12 inspection and copying at the Office of the Attorney
13 General by any person likely to be affected by it.

14 (2) Subject to subsection (1), no person shall
15 be prosecuted or convicted for contravening an adopted
16 regulation if that regulation is not available for
17 inspection or copying as required by subsection (1),
18 and it is a defense to such a prosecution to show that
19 the contravened regulation was not so available as
20 required.

21 (3) The defense available under subsection (2)
22 is not available to a person who has sufficient
23 knowledge of the requirements of the contravened
24 provision for which he or she is being prosecuted, or
25 who possessed or who had reasonable access in any

1 event, to the requirements of the contravened
2 provision independently of the procedure required
3 under subsection (1).

4 (4) When a person requests copies of an adopted
5 regulation under subsection (1) the Attorney General
6 may charge a reasonable fee for any copying services
7 provided, commensurate to that charged generally in
8 the public service.

9 (5) For the purposes of this section, and for
10 greater certainty, 'adopted regulation' means any
11 code, treaty, convention, statute, rule, by-law,
12 resolution, form, ordinance, order or regulation
13 adopted and incorporated by reference under this
14 title."

15 Section 18. Title 19 of the Code of the Federated States
16 of Micronesia (Annotated) is hereby amended by adding a new
17 section 1316 to chapter 13, to read as follows:

18 "Section 1316. Continuity of documents.

19 (1) The regulations promulgated under the
20 National Maritime Act of 1993 shall continue in force
21 as if made under this title until repealed by the
22 Secretary.

23 (2) Any certificate, license, instrument or
24 document which was valid and current immediately prior
25 to the effective date of the National Maritime Act,

1 1996, shall remain in force for a period of 12 months
2 or until it expires, whichever is earlier."

3 Section 19. This act shall become law upon approval by the
4 President of the Federated States of Micronesia or upon its
5 becoming law without such approval.

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October 17 , 2016

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/s/ Peter M. Christian
Peter M. Christian
President
Federated States of Micronesia

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