October 17, 2016

The Honorable Wesley W. Simina  
Speaker  
Nineteenth Congress of the Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear Speaker Simina:

I am pleased to transmit the following Congressional Act, which I have approved to become Public Law NO. 19-126:

Congressional Act No. 19-128, “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.”

Sincerely,

[Signature]

Peter M. Christian  
President

Enclosures:

xc:  Chief Justice, FSM Supreme Court  
Secretary, Department of Justice  
Secretary, Department of Finance and Administration  
Legislative Counsel, CFSM  
Library, CFSM  
FSM PIO
October 10, 2016

His Excellency Peter M. Christian
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Christian:

I have the honor to transmit herewith Congressional Act No. 19-128, "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.", which was passed by the Nineteenth Congress of the Federated States of Micronesia, Fifth Regular Session, 2016, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

Liwiana Ramon Ioanis
Chief Clerk, Congress of the Federated States of Micronesia

Enclosures
SECOND READING: OCTOBER 06, 2016
FIRST READING: OCTOBER 05, 2016
WITHDRAWN – OCTOBER 05, 2016
REFERRED TO: COMMITTEE ON WAYS AND MEANS

DATE: JULY 28, 2016

INTRODUCED BY SENATOR: WELESEY W. SIMANA

AN ACT

PUBLIC LAW NO. 19-126

SEPTEMBER 19 – OCTOBER 08, 2016
FIFTH REGULAR SESSION
FEDERATED STATES OF MICRONESIA
NINETEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA

ACT NO. 19-128

(CONGRESSIONAL BILL NO. 19-184)
ACT NO. 19-128

(CONGRESSIONAL BILL NO. 19-184)

We hereby certify that on October 6 the foregoing act passed Second and Final Reading of the Nineteenth Congress of the Federated States of Micronesia, Fifth Regular Session, 2016, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.

Wesley W. Simina
Speaker
Congress of the Federated States of Micronesia

Liwiana Ramon Ioanis
Chief Clerk
Congress of the Federated States of Micronesia
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 Code of the Federated States of Micronesia is done to reinsert chapter 13 that was unintentionally omitted from the 2014 F.S.M.C. (Annotated). This chapter 13 is identical to the omitted chapter originally enacted in Public Law No. 10-76 and no changes of any kind are included.

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

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

"Section 1301. Administrative disposition.

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

(a) order the accused to take mitigating or
remedial actions; and

(b) sanction the accused, including levying fines.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) claims for towage;

(4) claims relating to salvage;

(5) claims for pilotage;

(6) claims for general average;

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

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

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

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

(1) claims for damage done to a vessel;

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

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

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

"Section 1305. Nautical assessors.

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

(2) Nautical assessors shall be appointed on the
basis of their expert knowledge and experience and may
be engaged prior to or during trial for as long as their expertise is required.

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

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

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

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

"Section 1306. Investigation of violations.

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

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

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

(4) If a foreign vessel is involved, the
Secretary shall, through diplomatic channels, notify
the maritime authority of the vessel's flag state.

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

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

"Section 1307. Procedure for prosecution of national
offenses.

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

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

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

(3) Every information shall contain such
particulars as will fairly inform the defendant of the
substance of the offense with which he is charged.

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

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

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

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

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

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

(7) Every summons to a defendant and every other
document which is required to be served on a defendant
may be served by an authorized officer or by the
Principal Officer who shall be the Principal Surveyor, Principal Shipping Officer, or any other person so designated by the Secretary.

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

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

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

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

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

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

(a) stop, board and search any vessel, or the owner, master or any crew member of any vessel that he
or she reasonably suspects to have committed any offense under this title;

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

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

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

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

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

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

(11) (a) Pending the date of the hearing set forth
in the summons, upon application, the Court may by order
detain the vessel until the final adjudication of the
matter contained in the information.

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

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

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

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

(13) (a) Any number of informations for any
offenses against a defendant may be tried together.
(b) If the Court believes that it is desirable or expedient in the interest of justice to do so, it may order that the defendant be tried on one or more of such informations separately.

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

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

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

"Section 1308. Detention of a vessel.

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

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

(b) such written notice shall state with particularity the grounds for detention and the provision of the law under which the detention order has
been issued, and that the vessel owner or master has the
right to a prompt hearing before the Secretary regarding
probable cause for the detention.

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

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

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

"Section 1309. Forfeiture of a vessel.

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

(2) Upon seizure or detention under this section,
civil proceedings for forfeiture shall be initiated
forthwith by the Office of the Attorney General, and
written notice shall be served on the owner or master,
PROVIDED HOWEVER, in the case of a foreign vessel or
foreign small craft, notice of the forfeiture
proceedings and the grounds therefor shall be given to
the maritime authority of the flag state through
diplomatic channels.

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

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

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

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

"Section 1311. Obstruction of persons. Every person who, without lawful excuse (proof of which is on him or her), hinders or obstructs a person in the performance, execution or carrying out of any duty conferred or imposed on that person by this title commits a national offense, and where no other penalty is provided for in this title, shall be punishable by a fine not exceeding $200,000 or by imprisonment not exceeding 2 years, or both; PROVIDED that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or threatens any such officer with bodily injury, the
offense is punishable by a fine of not less than
$500,000 or imprisonment for not more than ten years,
or both."

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

"Section 1312. Civil offenses.

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

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

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

"Section 1313. Recovery of fines.

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

(2) If a fine is not paid within the period of
time stipulated by the Court, the Court may order that
the vessel be sold and the proceeds of the sale be
used to pay the fine."

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

"Section 1314. Time limits on commencement of
proceedings.

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

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

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

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

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

(b) the defendant vessel or vessel owner is
outside the jurisdiction of the Federated States of
Micronesia.
(5) Claims arising out of the Shipping Articles must be commenced within 12 months from the date of the termination of the Shipping Articles or the date on which the seaman is discharged, whichever is earlier.

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

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

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

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

(7) All other claims must be commenced within 3 years of the date on which the incident giving rise to
the claim occurred."

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

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

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

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

(3) The defense available under subsection (2)
is not available to a person who has sufficient
knowledge of the requirements of the contravened
provision for which he or she is being prosecuted, or
who possessed or who had reasonable access in any
event, to the requirements of the contravened
provision independently of the procedure required
under subsection (1).

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

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

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

"Section 1316. Continuity of documents.

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

(2) Any certificate, license, instrument or
document which was valid and current immediately prior
to the effective date of the National Maritime Act,
1996, shall remain in force for a period of 12 months or until it expires, whichever is earlier."

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

10/17, 2016

Peter M. Christian
President
Federated States of Micronesia