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CHAPTER 1

Process

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SUBCHAPTER I

Issuance, Service, and Return

§ 111. 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 18 years of age.

(3) 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.

Source: TT Code 1966 § 249(a), (c); TT Code 1970, 6 TTC 1; TT Code 1980, 6 TTC 1.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

§ 112. 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.

Source: TT Code 1966 § 250; TT Code 1970, 6 TTC 2; TT Code 1980, 6 TTC 2.

§ 113. 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.

Source: TT Code 1966 § 251; TT Code 1970, 6 TTC 3; TT Code 1980, 6 TTC 3.

Case annotations: Statutes governing procedures or decision-making approaches for Trust Territory courts might not apply to constitutional courts. *Semens v. Continental Airlines, Inc. (II)*, 2 FSM R. 200, 204 (Pon. 1986).

SUBCHAPTER II

Fees and Costs

§ 121. Fees.

Each chief of police, policeman, or other 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 50 dollars, and two cents for every dollar collected over 50 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 12 hours of service.

Source: TT Code 1966 §§ 256, 249(b); TT Code 1970, 6 TTC 31; TT Code 1980, 6 TTC 31.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

Editor's note: The word "other" in the first sentence of this section was contained in the 1966 edition of the Trust Territory Code, but was omitted from the 1970 and 1980 editions.

§ 122. Prepayment for service.

Except when the process is issued on behalf of the Trust Territory or an officer or agency thereof, or under section 1014 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.

Source: TT Code 1966 § 257; TT Code 1970, 6 TTC 32; TT Code 1980, 6 TTC 32.

Editor's note: The 1970 edition of the Trust Territory Code refers to "section 704, Chapter 29 of this title." The 1980 edition refers to "section 704 of this title." Both references are incorrect. The 1966 edition refers to § 262 of that edition, which was codified in the 1970 and 1980 editions as 6 TTC 404. This section is codified as section 1014 of this title.

§ 123. 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.

Source: TT Code 1966 § 258; TT Code 1970, 6 TTC 33; TT Code 1980, 6 TTC 33.

SUBCHAPTER III

Foreign Service of Process

§ 131. 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 or 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, or
 - (b) products, materials, or things processed, serviced, or manufactured by the defendant anywhere were used or consumed within the Trust Territory; and
- (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 chapter 16 of this title, if the other party to the marital relationship continues to reside in the Trust Territory.

Source: COM PL 7-24 § 1; TT Code 1980, 6 TTC 41; PL 4-114 § 1.

Errata: 6 F.S.M.C. 131(9) corrected to read "act or omission." PL 4-114 § 1 (emphasis added). See errata in first cumulative supplement.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

§ 132. 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.

Source: COM PL 7-24 § 2; TT Code 1980, 6 TTC 42.

§ 133. 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.

Source: COM PL 7-24 § 3; TT Code 1980, 6 TTC 43.

§ 134. Default.

No default shall be entered until the expiration of at least 30 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.

Source: COM PL 7-24 § 4; TT Code 1980, 6 TTC 44.

§ 135. 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.

Source: COM PL 7-24, § 5; TT Code 1980, 6 TTC 45.

§ 136. 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.

Source: COM PL 7-24 § 6; TT Code 1980, 6 TTC 46.