

Title 50 – Current (with amendments) as of Feb 2005

Chapter 1: Immigration Act

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§ 101. Short title.

This chapter is known and may be cited as the “Immigration Act.”

§ 102. Entry permits — Required.

No noncitizen, vessel, or aircraft, unless specifically exempted by applicable law or regulations, shall enter or otherwise remain in the Federated States of Micronesia without having been issued an appropriate entry permit except for officials, employees, and contractual personnel of foreign governments and governmental regional or international organizations, and their spouses, dependents and household members, to the extent the President or his designee determines such exemptions are granted by law or international treaty obligations of the Federated States of Micronesia. Entry permits to visit or otherwise remain in the Federated States of Micronesia shall be issued by the President in accordance with laws and regulations to be promulgated or issued pursuant to this chapter.

Source: TT Code 1966, § 667; TT Code 1970, 53 TTC 53(1), (2); TT Code 1980, 53 TTC 53(1), (2); PL 1_79 § 2; PL 1_130 § 2; PL 5_105 § 1.

§ 103. Entry permits — Types.

- (1) A permit is not required for a person visiting for 30 days or less. For a visit in excess of 30 days a permit may be issued for an additional period

not to exceed 60 days; except that, with respect to citizens and nationals of the United States of America, for the effective period of the Compact of Free Association, and with respect to citizens and nationals of the Republic of the Marshall Islands and the Republic of Palau, a permit may be issued for the duration of the visit which shall not exceed 365 days.

(2) A visitor's permit for any lawful purpose, including performance of necessary services on a short-term contractual basis, may be issued for a period of specified duration reflecting the time necessary to accomplish the purpose.

(3) A student permit shall be issued for a specified duration reflecting a student's enrollment in a school or educational program.

(4) A foreign government official's permit may be issued to any official, employee, or contractual personnel of a foreign government or governmental regional or international organization who wishes to enter the Federated States of Micronesia for purposes of official governmental activities and who is not entitled to enter the Federated States of Micronesia without a permit under section 102 of this chapter.

(5) Notwithstanding any provision of subsections (1) and (2) of this section, a person entering the Federated States of Micronesia for the purpose of engaging in wholesale or retail sales of goods or services, or for the purpose of taking orders for the purchase of goods or services, without establishing a place of habitation or a place of business within the Federated States of Micronesia, shall be issued a salesperson's permit; PROVIDED, however, that this subsection shall not apply to any person who has a foreign investor's permit pursuant to subsection (7) of this section.

(6) An alien worker's permit shall be issued to a noncitizen entering the Federated States of Micronesia upon compliance with all National laws relating to private or governmental employment for the period in which the employment of the alien worker is authorized by contract. The permit shall be renewed upon extension or renewal of the alien's lawful employment status.

(7) A foreign investor's entry permit shall be issued for a specified duration and may be renewed upon renewal or extension of such foreign investor's business permit.

(8) A researcher's entry permit shall be issued for research in the fields of endeavor that the President deems in the best interest of and for the well-being of the citizens of the Federated States of Micronesia; provided that the President receives from the researcher's intended place of stay

prior permission for his entry. The President may attach thereto such conditions or restrictions as he deems necessary.

- (9) A missionary's permit shall be issued to a duly ordained, licensed, and certified minister or clergyman.
- (10) An entry permit shall be issued to a lawful spouse of a citizen.
- (a) A spouse permit may be revoked or denied, in accordance with the provisions of this chapter, upon a finding that (i) the parties are divorced, the parties are irreconcilably separated, or the citizen spouse is deceased; and (ii) the revocation or denial is in the best interests of the Federated States of Micronesia.
- (b) Except in extraordinary circumstances, no action to revoke or deny a spouse permit on the grounds of the death of the citizen-spouse shall be taken for a period of six months from the date of death of the citizen spouse.

Source: PL 12-65

(11) A dependent's entry permit may be issued to an unmarried child, under the age of 18, of a citizen or a noncitizen spouse subject to the conditions in subsection (10) of this section.

(12) A spouse or unmarried child under the age of 18 of any noncitizen principal listed in this section except subsection (11) may be issued an entry permit for the duration of the principal's entry permit and may be renewed upon renewal of the principal's entry permit.

Source: TT Code 1966, § 667 (part); TT Code 1970, 53 TTC 53(2), (3), 54; COM PL 5_8 § 1; TT Code 1980, 53 TTC 53(2), (3), 54; PL 1_79 §§ 2, 3; PL 1_130 § 3; PL 2_7 § 1; PL 4-109 § 7; PL 5_54 § 2; PL 5_105 § 2; PL 10-14, § 1.

§ 104. Entry permits — Duration; Habitual residence; Change of status.

(1) Unless otherwise specified, all entry permits are limited to one year maximum period, with provision for renewal; except that, entry permits may be issued for a period not to exceed 5 years for citizens and nationals of the United States of America who, immediately prior to issuance of the permit, have resided continuously in the Federated States of Micronesia for at least 5 years.

(2) Habitual residence:

(a) A noncitizen who remains in the Federated States of Micronesia as a visitor under section 103(1) of this chapter for one year or more shall be classified as a habitual resident.

(b) A habitual resident may be present in the Federated States of Micronesia only for 30 day visits as permitted by section 103(1) of this chapter or for a longer period of time as permitted by section 103(2), (3), (4), (5), (6), (7), (8), (9), (10), (11) or (12) of this chapter.

(3) Change of Status

(a) The immigration status of a non citizen entering the Federated States of Micronesia as a visitor under section 103(1) or 103(2) of this chapter may not be changed during his stay in the Federated States of Micronesia. The immigration status of any noncitizen entering or residing in the Federated States of Micronesia under any other provision of this chapter may not be changed during his stay in the Federated States of Micronesia except in accordance with this title.

(b) For a non citizen to change status, he shall be required to apply for a permit reflecting his changed status and pay a fee, except that citizens and nationals of the United States of America, for the duration of the Compact of Free Association, and citizens and nationals of the Republic of the Marshall Islands or the Republic of Palau shall not be required to pay a fee to change immigration status.

(c) The amount of the fee required by subsection (b) of this section, which shall not be less than \$1,000, and the circumstances under which a change in immigration status may be granted shall be set forth in regulations issued pursuant to section 1-02(1) of title 17 of the Code of the Federated States of Micronesia. Payment of such fee is required in addition to, and not as a substitute for, any requirements of the desired new status.

(4) Waiver. The provisions of this section shall not be waived by the President or his designee.

Source: TT Code 1966, § 667 (part); TT Code 1970, 53 TTC 53(3); PL 5_8 § 1; PL 1_130 § 3(11), (12); PL 2_7 § 1; PL 5_105 § 3; PL 7_23 § 1; PL 12-65.

§ 105. Entry permits — Applications.

Application for a permit to enter the Federated States of Micronesia shall be made to the President and in such form and manner as he may prescribe from time to time.

Source: TT Code 1966, § 669; TT Code 1970, 53 TTC 55; TT Code 1980, 53 TTC 55; PL 1_79 § 4; PL 1_130 § 4.

§ 106. Entry permits — Delegation of authority.

The President may delegate his authority to issue entry permits and to permit entry into the Federated States of Micronesia of persons, vessels, and aircraft under the provisions of this chapter and regulations promulgated thereto.

Source: TT Code 1966, § 665; TT Code 1970, 53 TTC 52; COM PL 4C_48 § 7(12); TT Code 1980, 53 TTC 52; PL 1_79 § 5; PL 1_130 § 5.

§ 107. Entry permits — Standards of exclusion and deportation.

(1) The President may deny entry without a permit, deny renewal of entry without a permit, deny an entry permit, revoke or deny renewal of an entry permit, or deport any noncitizen for any of the following reasons:

- (a) the willful furnishing of false, incomplete, or misleading material information in an application for a permit; or
- (b) the advocacy of the unlawful overthrow of the Government of the Federated States of Micronesia; or
- (c) commission of or attempt or preparation to commit an act of treason or armed insurrection against the Government of the Federated States of Micronesia or conspiring with or abetting or aiding another to commit such an act; or
- (d) performing or attempting to perform duties or otherwise acting so as to serve the interests of another government to the detriment of the Government of the Federated States of Micronesia; or
- (e) deliberate unauthorized disclosure of confidential Government information; or
- (f) entry made on a counterfeit or false permit; or
- (g) serious mental irresponsibility evidenced by having been adjudged insane or mentally irresponsible, or incompetent, or being a chronic alcoholic, or having been treated for serious mental or neurological disorders or for chronic alcoholism; or
- (h) addiction to the use of narcotic drugs; or
- (i) carrying a serious communicable disease; or
- (j) conviction of a felony or a crime involving moral turpitude as defined by the laws of the place where conviction took place; or

(k) a finding by the President that the entry of the applicant or his presence in the Federated States of Micronesia would not be in the best interest of the Government of the Federated States of Micronesia.

(2) The provisions of subsection (1) of this section shall apply to every person, except to the extent law or international treaty obligations of the Federated States of Micronesia provide otherwise.

Source: TT Code 1966, § 668; TT Code 1970, 53 TTC 56, 57; COM PL 5_8 §§ 2, 3; TT Code 1980, 53 TTC 56, 57; PL 1_79 § 6; PL 1_130 § 6; PL 5_105 § 4.

§ 108. Immigration inspection of vessels and aircraft.

Incoming vessels shall be boarded by the officials authorized by the President who shall examine the Federated States of Micronesia documents of each passenger and if the passenger is eligible to enter the Federated States of Micronesia, shall affix to the passport or the Federated States of Micronesia entry permit an official stamp or other writing showing the date and place of entry. The same procedure shall be followed for passengers arriving on aircraft, except inspection shall take place after passengers have disembarked and prior to their departure from airport terminals.

Source: TT Code 1966, § 673; COM PL 3_30 § 1; TT Code 1970, 53 TTC 60; TT Code 1980, 53 TTC 60; PL 1_79 § 7; PL 1_130 § 7.

§ 109. Carrier responsibility; Denial of entry.

(1) It shall be the responsibility of each and every carrier which is engaged in the transportation of persons into the Federated States of Micronesia to ensure that such persons hold the proper documents to effect lawful entry.

(2) Persons arriving at a Federated States of Micronesia port who fail to present the required entry documents shall be denied entry and shall be returned to the aircraft or not be allowed to disembark from the vessel.

Source: PL 1_130 § 12.

§ 110. Noncitizen registration.

The President shall by regulation provide for annual registration of noncitizens residing in the Federated States of Micronesia, except for those noncitizens who are exempted from registration by law or international treaty obligations of the Federated States of Micronesia as determined by the President or his designee.

Source: PL 1_130 § 16; PL 5_105 § 5.

§ 111. Regulations.

The President may, from time to time, issue regulations not inconsistent with law to implement this chapter.

Source: PL 1_79 § 12; PL 1_130 § 13.

§ 112. Fees.

In addition to any other fee required by the provisions of this chapter, each application for an entry permit or an entry permit renewal shall be accompanied by the payment of a fee. The President shall, by executive order or regulation, establish the amount of such fee and may establish different fees for application or renewal.

Source: PL 10_14 § 2; PL 12-65.

§ 113. Entry Permit Revolving Fund.

- (1) There is created and established the Entry Permit Revolving Fund separate from the General Fund of the Federated States of Micronesia and all other funds.
- (2) The purpose of the Entry Permit Revolving Fund is to establish an ongoing revolving fund to allow appropriations for, and revenues from, the issuance and renewal of entry permits to be used for entry permit issuance and renewal, when so designated by the Congress of the Federated States of Micronesia, and for training FSM citizens to assume positions in the FSM workforce currently held by noncitizen workers.
- (3) All future appropriations for, and revenues received from, the issuance and renewal of entry permits and from the payment of any fee required under this chapter or chapter 1 of title 51 of the Code of the Federated States of Micronesia shall be deposited in the Entry Permit Revolving Fund. Any unexpended monies in the Entry Permit Revolving Fund shall not revert to the General Fund nor lapse at the end of the fiscal year.
- (4) The Entry Permit Revolving Fund shall be administered by the Chief of the Division of Immigration, under the supervision of the Secretary of the Department of Justice. The Chief shall, not later than 30 days after the close of each governmental fiscal year, submit to the Secretary a complete report of the activities and condition of the Entry Permit Revolving Fund for the fiscal year just closed. The Secretary shall, within

30 days of receipt of the report from the Chief, forward the report to the President and the Congress of the Federated States of Micronesia.

(5) The Public Auditor shall audit the Entry Permit Revolving Fund at such times as the Public Auditor deems appropriate.

Source: PL 10_14 § 3; as amended by PL 10-35 § 1; PL 12-65.

§ 114. Penalties.

(1) Any person who, not being a citizen of the Federated States of Micronesia, unlawfully enters or attempts to enter the Federated States of Micronesia or having lawfully entered, remains willfully and unlawfully after expiration or revocation of his entry authorization, or who violates by act or omission any provision of this chapter or regulations issued pursuant thereto, upon conviction thereof shall be imprisoned for a period of not more than two years, or fined not more than \$10,000, or both.

(2) In lieu of subsection (1) of this section or in addition thereto, any person who unlawfully enters the Federated States of Micronesia or having lawfully entered, willfully and unlawfully remains after expiration or revocation of his entry permit shall be subject to deportation after hearing upon application by the President or his designee to any competent court in the Federated States of Micronesia.

(3) Any carrier violating the provisions of section 109 shall be fined \$500 per person for persons not allowed to disembark or returned to an aircraft.

(4) Any person who fails to comply with subsection (5) of section 103 of this chapter shall lack standing to bring an action in the Supreme Court of the Federated States of Micronesia for accounts due on sales made or contracts entered into during the period of noncompliance.

(5) Notwithstanding subsections (1) and (2) of this section, the President or his designee may issue a citation and collect a fee in such amount provided by regulations against any person who violates any provision of this chapter or regulations issued thereunder. The provisions of subsections (1) and (2) of this section shall apply if the defendant chooses to challenge the citation issued or the fee charged.

Source: TT Code 1966, § 680; TT Code 1970, 53 TTC 62; TT Code 1980, 53 TTC 62; PL 1_79 § 13; PL 1_130 § 4; PL 5_54 § 3; PL 5_105 § 6, modified; renumbered by PL 10-14 § 4; PL 11-21 § 1.

§ 115. Aircraft and sea vessel responsibilities for overtime.

Any aircraft or sea vessel landing at any airport or calling at any port in the Federated States of Micronesia shall be responsible for paying to the treasurer of the Federated States of Micronesia an amount equal to the actual costs to the National Government for overtime accrued by the officials responsible for carrying out the purposes of this title and chapter 2 of title 54 whenever such officials are required to carry out their official duties relating to the aircraft or sea vessel at a time outside of the official's ordinary working hours. The Secretary of Finance shall determine the amount payable by the aircraft or sea vessel under this section and shall submit invoices to the aircraft or sea vessel for payment of such amounts on a monthly basis; PROVIDED, however, in the case an aircraft or sea vessel's arrival is for one time only or is likely to occur at infrequent intervals the invoice shall be made as soon as possible after the arrival of the vessel or aircraft, including at the time of arrival itself as may be provided for by regulations. For purposes of this section, overtime means actual hours worked in excess of 40 actual hours per week worked by an official or employee of the National Government.

Source: PL 7_38 § 1; renumbered by PL 10-14 § 4.

§ 116. Hearing and appeal.

(1) Any person aggrieved by a decision of the Division of Immigration and Labor shall be entitled to a hearing, as set forth in the regulations issued pursuant to section 111 of this chapter. Unless otherwise required to preserve national security, hearings shall be conducted in accordance with the administrative procedures set forth in title 17 of the Code of the Federated States of Micronesia, except that hearings may be conducted on an expedited basis when provided for by regulation.

(2) Regulations implementing subsection (1) of this section shall provide for an informal hearing before the officer in charge of the local immigration office. Appeals from the decision of the officer in charge of the local immigration office shall be heard by a committee consisting of the Chief of Immigration or, in the event of a conflict of interest on the part of the Chief, his designee, the Secretary of the Department of Justice or his designee, and a representative of the Department of Foreign Affairs. The decisions of the appeal committee shall constitute final agency action for the purposes of Title 17 of the Code of the Federated States of Micronesia.

Source: PL 12-65.