

**TITLE 21**  
**TELECOMMUNICATIONS**

**CHAPTERS**

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**CHAPTER 1**  
**General Provisions**

**SECTIONS**

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**§ 101. Short title.**

This chapter may be cited as the "Federated States of Micronesia Radio Communication Act of 1991".

**Source:** PL 7-37 § 1, modified.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

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**Editor's note:** The phrase ". . . hereinafter referred to as the Act" after "1991" has been omitted.

**§ 102. Promulgation of regulations.**

For the purpose of regulating, to the extent provided by this chapter, communication by radio so as to make available, so far as possible, to the people of the Federated States of Micronesia such communication services required for the purpose of conducting personal business, promoting safety of life and property, providing public service, and allowing for the efficient and economic use of the radio frequency spectrum, the Secretary of the Department of Transportation and Communication shall, in accordance with the requirements of chapter 1 of title 17 of this code, promulgate regulations, 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 Federated States of Micronesia.

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**Source:** TT Code 1966 § 1200; TT Code 1970, 35 TTC 1; COM PL 4C-48 § 7(6); TT Code 1980, 35 TTC 1; PL 7-37 § 2, modified.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

### **§ 103. Scope of regulations.**

- (1) The regulations promulgated pursuant to section 102 of this chapter shall apply to:
  - (a) Foreign and interstate radio communications;
  - (b) Radio communications which interfere with, or have the capacity to interfere with, foreign and interstate radio communications; and
  - (c) Radio communications relating to National defense and public safety.
- (2) Radio communications subject to regulation shall include, but not be limited to, the following uses and services:
  - (a) Public safety and government uses;
  - (b) Maritime, land, and aeronautical mobile radio services;
  - (c) Fixed radio services;
  - (d) Amateur services;
  - (e) Citizens radio;
  - (f) Broadcast radio services;
  - (g) Other uses or services which the Secretary deems necessary to carry out the purposes of this chapter.
- (3) The regulations promulgated pursuant to section 102 of this chapter may apply to any matter pertaining to radio communication or transmission of energy by radio in the Federated States of Micronesia including, but not limited to, frequency authorization, restrictions on use of radio frequencies, licensing and examination of commercial and amateur radio operators, licensing radio stations, assessment of reasonable fees for licensed users, and such other matters as may be necessary to carry out the purposes of this chapter. The Secretary shall designate and restrict three citizen band radio channels for only emergency, disaster, and government use.

**Source:** TT Code 1966 § 1201; TT Code 1970, 35 TTC 2; TT Code 1980, 35 TTC 2; PL 7-37 § 4.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

### **§ 104. Definitions.**

For the purposes of this chapter and subsequent regulations, the following definitions shall apply unless the context otherwise requires:

- (1) "Amateur service" means a service of self-training, intercommunication, 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.
- (2) "Amateur station" means a station in the amateur service.
- (3) "Broadcasting service" means a radio communication 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.

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- (4) "Broadcasting station" means a station in the broadcasting service.
- (5) "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.
- (6) "Corporation" includes any corporation, joint-stock company, or association.
- (7) "Fixed service" means a service of radio communication between specified fixed points.
- (8) "Fixed station" means a station in the fixed service and which may, as a secondary service, transmit to mobile stations on its normal frequencies.
- (9) "Foreign communication" or "foreign transmission" means radio communication or transmission of energy by radio from or to any place in the Federated States of Micronesia to or from a foreign country, or between a station in the Federated States of Micronesia and a mobile station located outside the Federated States of Micronesia.
- (10) "Interstate communication" or "interstate transmission" means radio communication or transmission of energy by radio from any place in one State in the Federated States of Micronesia to another State in the Federated States of Micronesia.
- (11) "Licensee" means the holder of a radio station license granted or continued in force by the Government of the Federated States of Micronesia.
- (12) "Maritime mobile service" means a mobile service between ship stations and the coast stations or between ships' stations.
- (13) "Person" includes an individual, partnership, association, joint-stock company, trust, or corporation.
- (14) "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.
- (15) "Ship station" means a mobile station in the maritime mobile service located on board a vessel which is not permanently moored.
- (16) "Transmission of energy by radio" or "radio transmission of energy" includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

**Source:** TT Code 1966 § 1202; TT Code 1970, 35 TTC 3; TT Code 1980, 35 TTC 3; PL 7-37 § 5.

### **§ 105. Unauthorized publication of communications prohibited.**

(1) No person receiving or assisting in receiving, or transmitting or assisting in transmitting, any foreign or interstate 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 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.

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(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 foreign or interstate 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.

**Source:** TT Code 1966 § 1203; TT Code 1970, 35 TTC 4; TT Code 1980, 35 TTC 4; PL 7-37 § 6.

**Cross-reference:** The statutory provisions on Admiralty and Maritime are found in title 19 of this code.

**Editor's note:** Subsections (1) and (2) appear in earlier editions of the code as a single subsection.

### **§ 106. War emergency provisions.**

(1) During the continuance of a war in which the Federated States of Micronesia is engaged, the President of the Federated States of Micronesia 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 over any licensee subject to the radio regulations of the Government of the Federated States of Micronesia. He may give these directions at and for such times as he may determine, and may modify, change, or annul them.

(2) 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.

(3) Upon proclamation by the President of the Federated States of Micronesia 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 Federated States of Micronesia, the President of the Federated States of Micronesia, 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 kilohertz and one hundred thousand megahertz, 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 Federated States of Micronesia under such regulations as he may prescribe upon just compensation to the owners.

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**Source:** TT Code 1966 § 1204(a), (b); TT Code 1970, 35 TTC 5(1), (2); TT Code 1980, 35 TTC 5(1), (2); PL 7-37 § 7.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

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Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

### **§ 107. War emergency provisions—Penalties for violations.**

Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President of the Federated States of Micronesia's authority under the preceding section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under the preceding section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000, 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 \$5,000, except that any person who commits such an offense with intent to injure the Federated States of Micronesia, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000, or by imprisonment for not more than 20 years, or both.

**Source:** TT Code 1966 § 1204(c); TT Code 1970, 35 TTC 5(3); TT Code 1980, 35 TTC 5(3); PL 7-37 § 8, modified.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 108. General penalty for violations.**

Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing prohibited or declared to be unlawful, or willfully or knowingly omits or fails to do any act, matter, or thing required to be done, or willfully and knowingly causes or suffers such omission or failure required by any regulation made or imposed by the Secretary of the Department of Transportation and Communication, 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 Federated States of Micronesia is or

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may hereafter become a party, shall upon conviction thereof be punished for such offense by a fine of not more than \$10,000, or by imprisonment for a term not exceeding one year, or both.

**Source:** TT Code 1966 § 1205; TT Code 1970, 35 TTC 6; TT Code 1980, 35 TTC 6; PL 7-37 § 9.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 109. Impoundment of unauthorized equipment.**

(1) No person shall possess or use any radio transmission equipment which is not in compliance with this chapter or the regulations promulgated thereto.

(2) The Secretary of the Department of Transportation and Communication, or his designee, on reasonable belief, may declare any radio transmission equipment as not in compliance with this chapter or the regulations promulgated thereto. Upon declaring radio equipment as not in compliance, the Secretary or his designee shall give a written notice to the owner or possessor of the noncomplying equipment and therein state the factors regarding why the equipment is not in compliance. The notice shall also include the provisions of this section.

(3) In the notice the Secretary or his designee may prohibit further use of the noncomplying equipment, may state conditions regarding continued use of the noncomplying equipment, and may direct the owner or possessor to have the equipment brought into compliance within 30 or more days. The owner or possessor of radio equipment designated by the Secretary or his designee as not in compliance may, pursuant to section 108 of title 17 of this code, petition the Secretary for a hearing on and reconsideration of the finding of noncompliance.

(4) Noncomplying equipment used when prohibited, used in violation of the conditions stated in the notice, or not brought into compliance within the time frame stated in the notice, may be taken and impounded by the Secretary, his designee, or any duly authorized officer of the law. At the time of removal, the impounding authority shall leave a notice of impoundment with the possessor or owner of the noncomplying equipment or, if unavailable, at the place from which the equipment was taken. The notice of impoundment shall include information about the custodian, the location and identification of the equipment, and the basis for the impoundment of the noncomplying equipment.

(5) An impoundment made pursuant to this section may continue until the Secretary or his designee is given reasonable assurances by the owner or possessor that the equipment will be brought into compliance. The Secretary or his designee may send noncomplying equipment directly to a repair shop; PROVIDED, however, that the owner or possessor has executed a written agreement to pay for the cost of bringing the equipment into compliance.

(6) Impoundments made pursuant to this section shall in no way be deemed a seizure.

(7) Copies of the notices required by this section shall be retained by the Secretary or his designee for at least five years. Noncomplying equipment must be returned within ten days after a complaint, if proper notice was not given. Nothing herein, however, shall prevent the equipment from again being taken and impounded upon proper notice.

(8) The owner or possessor of impounded radio equipment may petition the Secretary for an administrative hearing and reconsideration of the decision to impound. Upon a negative result from the administrative hearing, the owner or possessor may appeal by bringing an action in the Trial Division of the Supreme Court of the Federated States of Micronesia.

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(9) An owner or possessor of radio equipment regulated under this chapter shall be deemed to have consented to the inspection at reasonable hours of his or her equipment for compliance with this chapter or the regulations promulgated thereto. The Secretary or his designee, upon a reasonable belief that radio equipment is not in compliance, shall be permitted access to inspect the equipment during reasonable hours. Refusal to permit reasonable entry for inspection of the equipment shall constitute adequate probable cause for a search warrant.

(10) The impoundments permitted by this section shall not preclude any other penalties provided in this chapter.

**Source:** PL 7-99 § 1.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. Chapter 1 of title 17 of this code is on FSM Administrative Procedures. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.



**CHAPTER 2**  
**FSM Telecommunications Corporation**

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**§ 201. Short title.**

This chapter may be cited as the "Federated States of Micronesia Telecommunications Corporation Act of 1981".

**Source:** PL 2-10 § 1.

**§ 202. Establishment of Corporation.**

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The Telecommunications Corporation of the Federated States of Micronesia is hereby established as a public corporation under the laws of the Federated States of Micronesia. It may hereinafter be referred to as "the Corporation".

**Source:** PL 2-10 § 2.

### **§ 203. Powers and responsibilities of the Corporation.**

The Corporation has the following powers and responsibilities:

- (1) to operate as the sole provider of all telecommunications services, except radio and television broadcasting, within the Federated States of Micronesia and between points in the Federated States of Micronesia and points outside thereof;
- (2) to operate and manage such services on the basis of commercially accepted practices, treating all users of telecommunications services on equitable terms in accordance with its published tariffs, and requiring all users to pay for the services provided;
- (3) to plan for the expansion and improvement of telecommunications facilities and services;
- (4) to the extent practicable, to expand telecommunications services to areas and communities in the Federated States of Micronesia that are presently unserved or poorly served and to improve the quality, reliability, and variety of services available to all users in a manner consistent with commercial reasonableness and with promoting economic development, the advancement of education and health care, and the preservation of the cultural identity of the people of the Federated States of Micronesia;
- (5) to improve the telecommunications skills and promote the telecommunications training of Micronesian citizens who are employees of the Corporation;
- (6) to establish, publish, and implement a structure of tariffs and rates for telecommunications services calculated to ensure that, to the extent practicable, adequate and equitable charges are imposed for services and that the tariff structure promotes the increased use of telecommunications services;
- (7) to invest all surplus revenues of the Corporation in the expansion and improvement of telecommunications facilities and services;
- (8) to incur indebtedness for the purpose of expanding and improving telecommunications facilities, to the extent and on such terms as are deemed commercially reasonable by the Corporation;
- (9) to provide on a reimbursable basis emergency telecommunications services to governments, individuals, and entities in the Federated States of Micronesia; and
- (10) to represent the Federated States of Micronesia with regard to telecommunications matters in such international organizations and fora in which the Federated States of Micronesia is represented, subject to the policy guidance of the Government of the Federated States of Micronesia.

**Source:** PL 2-10 § 3.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

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### **§ 204. Other powers of the Corporation.**

To the extent that such services do not unreasonably impair the ability of the Corporation to provide and maintain its national and international telecommunications services, the Corporation is authorized:

- (1) to provide on a commercially reasonable basis such services relating to telecommunications as may be requested by governments, individuals, and entities; and
- (2) to establish and operate on a commercial basis, or on a reimbursable basis if so requested by the Government of the Federated States of Micronesia, radio and television broadcast stations, or to provide radio and television programming, in a manner consistent with promoting economic development, the advancement of education and health care, and the preservation of the cultural identity of the people of the Federated States of Micronesia, as identified by the National Government.

**Source:** PL 2-10 § 4.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 205. Legal capacity of the Corporation.**

In performing the functions authorized under this chapter or other law of the Federated States of Micronesia, the Corporation shall have the capacity to exercise all powers normally exercised by a corporation, including, but not limited to, the following:

- (1) to adopt, alter, and use a corporate seal;
- (2) to adopt and amend bylaws governing the conduct of its business and the exercise of its powers;
- (3) to sue and be sued in its corporate name;
- (4) 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 dispose of such property;
- (5) to acquire and take over in any lawful manner the business, property, assets, and liabilities of any entity, including the Government of the Trust Territory of the Pacific Islands relating to communications;
- (6) to borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of communications facilities;
- (7) to retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it may deem appropriate; and

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(8) to do all such other things as may be deemed incidental to or conducive to the attainment of the responsibilities of the Corporation.

**Source:** PL 2-10 § 5.

### **§ 206. Telecommunications Revolving Fund.**

(1) There is hereby created and established the Telecommunications Revolving Fund, hereinafter referred to as the "Fund," separate from the General Fund of the Federated States of Micronesia and all other funds.

(2) The purpose of the fund is to establish an ongoing revolving fund to allow appropriations for and revenues from the operations of the Corporation to be used for the operations of the Corporation and for capital investment or acquisition by the Corporation.

(3) All future appropriations for the operations of the Corporation as well as revenues received from the operations of the Corporation and any other moneys raised or received by the Corporation, shall be deposited in the Fund. Any unexpended moneys in this Fund shall not revert to the General Fund nor lapse at the end of the fiscal year.

(4) The Fund shall be administered by the Board of Directors of the Corporation.

**Source:** PL 3-27 § 1.

### **§ 207. Debts and obligations of the Corporation.**

Unless otherwise expressly provided by law, the debts and obligations of the Corporation shall not be debts or obligations of the Government of the Federated States of Micronesia, nor shall the Government of the Federated States of Micronesia be responsible for any such debts or obligations.

**Source:** PL 2-10 § 6; PL 3-27 § 3 (part).

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 208. Tax liability.**

The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments except the following:

- (1) import taxes or assessments on any of its property, operations, or activities; and
- (2) gross revenue tax.

Nothing herein shall be deemed to exempt employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation; and the Corporation shall be liable for employers' contributions to the Social Security System of the Federated States of Micronesia in the manner provided by law.

**Source:** PL 2-10 § 7; PL 3-27 § 3 (part); PL 11-26 § 1; PL 17-3 § 1.

**Cross-reference:** The statutory provisions on Taxation and Customs are found in title 54 of this code. The statutory provisions on Social Security and Prior Service Benefits are found in title 53 of this code.

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**Case annotation:** For tax purposes, the FSM Telecommunications Corp. is deemed part of the national government thereby making it exempt from a state use tax. *FSM Telecomm. Corp. v. Department of Treasury*, 9 FSM R. 292, 294 (Pon. 1999).

Because a Congressional statute set up Telecom to serve the public interest and foster economic development, because Telecom may seek appropriations from Congress and, to the extent approved by the President, grants from sources outside of the FSM, because Telecom's board of directors must submit an annual report reflecting its activities, including financial statements, to the government, and because Telecom has no independent shareholders and is fully owned by the national government, Telecom is deemed, for taxation purposes, to be a part of the national government, and its efforts to carry out its mission should not be hindered by any state's efforts to tax its business activities. *FSM Telecomm. Corp. v. Department of Treasury*, 9 FSM R. 380, 385 (Pon. 2000).

By making the taxing powers allocated between the national and state governments of Micronesia exclusive and distinct and allocating the exclusive power to tax income and imports, the Constitution's framers sought to avoid vertical multiple taxation and ensure a consistent fiscal policy for Micronesia. *FSM Telecomm. Corp. v. Department of Treasury*, 9 FSM R. 380, 387-89 (Pon. 2000).

### **§ 209. Board of Directors—Establishment.**

The affairs of the Corporation shall be managed and its corporate powers exercised by a Board of Directors, hereinafter referred to as "the Board."

**Source:** PL 2-10 § 8(1); PL 3-27 § 3 (part).

### **§ 210. Board of Directors—Composition.**

The Board shall be composed of five voting members. One member shall be appointed by the President of the Federated States of Micronesia with the advice and consent of the Congress. The Governor of each State of the Federated States of Micronesia shall appoint one member of the Board with the advice and consent of the respective State legislature. The chief executive officer of the Corporation shall serve *ex officio* as a member of the Board but he shall have no right to vote.

**Source:** PL 2-10 § 8(2); PL 3-27 § 3 (part); PL 5-104 § 1.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

### **§ 211. Board of Directors—Organizational meeting.**

(1) On September 1, 1981, and annually thereafter during the month of September, October, or November on such dates as are set by the Board, the Board shall meet to select its officers and to conduct such other business as it shall deem advisable.

(2) At the first such meeting, the appointed members of the Board shall determine by lot the length of their initial terms, with three members serving initial terms of one year, two serving initial terms of two years, and two serving initial terms of three years.

(3) The President of the Federated States of Micronesia may, by Executive order, set the first organizational meeting for another date not later than December 31, 1981, when he has determined that a majority of the Board has not been appointed or confirmed prior to September 1, 1981.

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**Source:** PL 2-10 § 8(4); PL 3-27 § 3 (part); PL 4-45 § 1.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

### **§ 212. Board of Directors—Terms of office.**

Terms of office shall be for a period of three years. However, the rights and powers of a member whose term has expired shall remain in effect until the first meeting of the Board following the appointment of that member's successor; except that no member shall remain in office in this manner for longer than one year after the end of his term.

**Source:** PL 2-10 § 8(4); PL 3-27 § 3 (part); PL 14-54 § 1.

### **§ 213. Board of Directors—Vacancies.**

Every vacancy on the Board shall be filled for the unexpired portion of the term in the same manner as originally filled. Upon determination that a vacancy exists, the chairman or, in his absence, the presiding officer of the Board shall issue a notice of vacancy to all members of the Board and the parties responsible for filling the vacancy.

**Source:** PL 2-10 § 8(5); PL 3-27 § 3 (part); PL 14-54 § 2.

### **§ 214. Board of Directors—Removal.**

(1) Members of the Board may be removed from the Board for failure to attend three consecutive meetings of the Board.

(2) A member may be removed by a two-thirds majority vote of all other members of the Board for neglect of duty or malfeasance in office. Notification of intent to call for removal pursuant to this section shall be made at least 30 days in advance, by means which shall be described in the bylaws of the Corporation, and shall include a summary of the basis of the charges against the member and identification of the witnesses to be called and evidence to be used.

(3) The Supreme Court of the Federated States of Micronesia shall have jurisdiction to hear claims of wrongful removal.

**Source:** PL 2-10 § 8(6); PL 3-27 § 3 (part).

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

### **§ 215. Board of Directors—Officers.**

The Board shall elect from among its members a chairman, vice chairman, and secretary-treasurer. The chairman shall ordinarily preside at Board meetings. In his absence the vice chairman shall preside. The bylaws shall provide for determination of the presiding officer in the absence of these officers.

**Source:** PL 2-10 § 8(7); PL 3-27 § 3 (part).

### **§ 216. Board of Directors—Regular meetings.**

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Regular meetings shall be held not less than twice per calendar year, at such times and place or places as shall be determined by the bylaws.

**Source:** PL 2-10 § 8(8); PL 3-15 § 1; PL 3-27 § 3 (part).

### **§ 217. Board of Directors—Special meetings.**

Special meetings shall be called by the chairman on his own initiative, or by petition of one-third of the members, pursuant to notice as shall be provided in the bylaws.

**Source:** PL 2-10 § 8(9); PL 3-27 § 3 (part).

### **§ 218. Board of Directors—Quorum.**

A quorum of all regular business of the Board shall be five members.

**Source:** PL 2-10 § 8(10); PL 3-27 § 3 (part).

### **§ 219. Board of Directors—Executive committee—Establishment; Meetings.**

There shall be an executive committee of the Board composed of the chairman, vice chairman, and secretary-treasurer, or their individually designated substitutes chosen from among the membership of the Board. The executive committee shall meet with the chief executive officer at least once per calendar quarter at such times and places as shall be determined by the bylaws.

**Source:** PL 2-10 § 8(11); PL 3-27 § 3 (part).

### **§ 220. Board of Directors—Executive committee—Powers.**

The executive committee shall be empowered to conduct all business of the Board, except that the executive committee shall not have the authority to terminate the services of the chief executive officer, to retain the services of a new chief executive officer, to alter the senior levels of the administrative structure of the Corporation, to approve the budget of the Corporation, or to increase the indebtedness of the Corporation beyond such limits as are provided in the bylaws, without the concurrence of the Board.

**Source:** PL 2-10 § 8(11); PL 3-27 § 3 (part).

### **§ 221. Board of Directors—Record of meetings.**

The secretary-treasurer, or in his absence another member designated by the bylaws, shall keep full and accurate minutes of all meetings.

**Source:** PL 2-10 § 8(12); PL 3-27 § 3 (part).

### **§ 222. Board of Directors—Compensation of directors.**

Directors who are employees of the National Government or a State government of the Federated States of Micronesia shall receive no additional compensation for their service as members of the Board. The compensation of members who are not Government employees shall be as determined by the Board. All members of the Board shall be entitled to compensation for

travel and per diem at established Federated States of Micronesia Government rates when serving the Corporation.

**Source:** PL 2-10 § 8(13); PL 3-27 § 3 (part).

**§ 223. Management.**

There shall be a chief executive officer of the Corporation, whose compensation, title, and term of office shall be determined by the Board. The chief executive officer shall be responsible for the management of the operations of the Corporation, and shall, in accordance with the policies established by the Board, retain, direct, and terminate the services of employees. Subject to the Board's approval, the chief executive officer shall select and train a citizen of the Federated States of Micronesia to take over the responsibilities of the chief executive officer as soon as feasible.

**Source:** PL 2-10 § 9; PL 3-15 § 2; PL 3-27 § 3 (part).

**§ 224. Budget and finance officer.**

The chief executive officer shall appoint, with the concurrence of the Board, a budget and finance officer, for such term as shall be provided in the bylaws of the Corporation. He shall receive and disburse all funds of the Corporation. The Board may require that he shall execute, at the expense of the Corporation, a good and sufficient bond with sureties authorized to do business in the Federated States of Micronesia. The budget and finance officer shall serve at all times under the direct supervision of the chief executive officer.

**Source:** PL 2-10 § 10; PL 3-27 § 3 (part).

**§ 225. Budget preparation.**

The budget and finance officer shall prepare in advance of each fiscal year, under the supervision of the chief executive officer, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Government of the Federated States of Micronesia. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

**Source:** PL 2-10 § 11; PL 3-27 § 3 (part).

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code.

**§ 226. Supplemental budget requests.**

To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized to seek appropriations from the Congress of the Federated States of Micronesia and, to the extent approved by the President of the Federated States of Micronesia, grants from sources outside of the Federated States of Micronesia, of such funds as are necessary to



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supplement revenues to provide for the operations, maintenance, and expansion of the telecommunications system of the Federated States of Micronesia.

**Source:** PL 2-10 § 12; PL 3-27 § 3 (part).

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

### **§ 227. Accounts and records.**

(1) The Board and the chief executive officer shall be jointly responsible to ensure that the budget and finance officer prepares proper and complete books of account reflecting all income, expenses, assets, liabilities, capital, and retained earnings of the Corporation. Accounting for the Corporation shall be on the accrual basis so as to enable periodic determination of profit and loss from operations and the full cost of providing services. Expenses shall include depreciation on fixed assets and amortization of long term debt.

(2) The Board, not later than 90 days after the close of each governmental fiscal year, shall submit to the President, the Congress, and the Governor and legislature of each State a complete report, including financial statements, showing the activities of the Corporation during the fiscal year, the present condition of the Corporation, and such other matters as the Board shall deem appropriate. The financial statements shall include at least a balance sheet, operating statements, statement of changes in financial position, and analysis of changes in retained earnings.

(3) The Public Auditor shall audit the financial statements and books of account of the Corporation no less frequently than annually.

**Source:** PL 2-10 § 13; PL 3-27 §§ 2, 3 (part).

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code. The statutory provisions on the Public Auditor are found in chapter 5 of title 55 (Government Finance and Contracts) of this code.

### **§ 228. Public consultation.**

The Board and the executive committee shall periodically consult with, and seek the advice of, interested members of the public in each respective State of the Federated States of Micronesia regarding the operation of telecommunications services. The Board and the executive committee shall endeavor to ensure that such consultations are done with persons broadly representative of the actual and potential users of the telecommunications system, including representatives of the medical and educational professions, civil aviation, maritime commerce, broadcasting, law enforcement, and business.

**Source:** PL 2-10 § 14; PL 3-27 § 3 (part).

### **§ 229. Transition—Commencement of service.**

The Corporation shall commence provision of services in the Federated States of Micronesia at such time as it has acquired title to or control over the telecommunications equipment and other related property of any entity including the Trust Territory of the Pacific

Islands which is located in the Federated States of Micronesia, or as may otherwise be agreed between the Government of the Federated States of Micronesia and the Government of Trust Territory of the Pacific Islands. The Corporation shall determine the manner and terms upon which it shall assume its responsibilities under this chapter, in accordance with applicable law.

**Source:** PL 2-10 § 15(1); PL 3-27 § 3 (part).

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

**§ 230. Transition—Employees.**

The Corporation shall undertake to employ the employees of the Trust Territory Government and the State governments who are employed in good standing in telecommunications services at the time that the Corporation commences operation of telecommunications services. Nothing herein shall require the Corporation to hire such employees at positions commensurate with their former responsibilities, or at the rate of wages previously received; however, each such employee shall be able to carry forward rights to accrued sick leave, but not annual leave or other benefits.

**Source:** PL 2-10 § 15(2); PL 3-15 § 3; PL 3-27 § 3 (part).

**§ 231. Liens and debts.**

(1) The Board of Directors is hereby empowered to secure its debts by the granting of a first lien on specified assets of the Corporation. A first lien shall have priority over all other liens against such assets whether derived by contract, statute, common law or custom.

(2) A first lien shall be perfected by the filing of the lien documentation with the Assistant Clerk or Clerk of the Supreme Court of the Federated States of Micronesia in the State in which the asset is located.

(3) All subsequent creditors and lien holders shall be conclusively deemed to have constructive notice of such lien upon filing as set forth in subsection (2) of this section.

(4) The assets which may be pledged to secure debts of the Corporation include all revenue of the Corporation, all personal property and fixtures and real property to the extent permitted by the laws of the Federated States of Micronesia and the State in which the real property is located.

(5) The Corporation shall not assume any debt that will be repaid later than 365 days from the date of execution, or agree to a lien or other security interest in the assets of the Corporation as security for a debt, without the approval by resolution of the Congress.

**Source:** PL 5-7 § 1.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

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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/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.