

ALTERNATIVE SECTION 402.

Section 402. (a) The District Court shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties and laws of the United States, it shall have jurisdiction without regard of the sum or value of the matter in controversy; and it shall have such additional jurisdiction as is conferred upon it by other Sections of this Agreement.

(b) The District Court shall have jurisdiction of all causes in the Northern Mariana Islands not described in Subsection (a), jurisdiction over which has not been transferred by the legislature to another court established by the Constitution or laws of the Northern Mariana Islands. [In causes brought in the District Court solely on the basis of this Subsection, the District Court shall be considered a court of the Northern Mariana Islands for purposes of the application of the United States Constitution.]

(c) The District Court shall have such appellate jurisdiction as the legislature shall determine. [When the District Court sits as an appellate court, it shall consist of three judges, at least one of whom shall be a judge of a court of record of the Northern Mariana Islands.]

TITLE II

United States Citizenship and Nationality

Section 201. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who have taken no affirmative steps to preserve or acquire foreign nationality, are declared to be citizens of the United States, except as otherwise provided in Section 202:

(a) All persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date reside or are domiciled in the Northern Mariana Islands or in any area in or under the jurisdiction of the United States;

(b) All persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, have registered to vote in district elections in the Mariana Islands District prior to January 1, 197[5]; and

(c) All persons domiciled in the Northern Mariana Islands on the day preceding the effective day of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, do not on that day owe allegiance to any foreign state, and who on that date have been domiciled continuously in the Northern Mariana Islands since at least January 1, 197[4].

Section 202. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 201 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any federal court or any court of record in the Commonwealth in the form as follows:

"I being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

Section 203. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States, shall be citizens of the United States.

NOTES

1. Provisions in both drafts granting the federal court for the Northern Marianas and the local courts authority to naturalize persons as citizens of the United States, CA § 305, Cov. § 204, have tentatively been moved to Title V (Applicability of United States Constitution and Laws).

2. Provisions in both drafts defining "domicile," CA § 306, Cov. § 205, have been eliminated as unnecessary.

3. The provision in the MPSC draft dealing with residence in the Northern Marianas for naturalization purposes, CA § 304, has been moved to Title V (Applicability of United States Constitution and Laws). There is no comparable provision in the U. S. draft.

4. Brackets have been placed around the years in Subsections (b) and (c) of Section 201 above because the principals may wish to reconsider the dates in light of the extended period now anticipated before termination of the Trusteeship Agreement.

TITLE III

Constitution of the Northern Mariana Islands

Section 301. The people of the Northern Mariana Islands shall frame and approve a Constitution in accordance with this Agreement. The people of the Northern Mariana Islands shall retain the right to initiate and to approve amendments to their Constitution in accordance with the procedures to be provided therein.

Section 302. The United States shall approve the original provisions of the Constitution as provided in Section 1102(d) of this Agreement. Thereafter the United States shall have no authority to approve or disapprove the original provisions of the Constitution or amendments to the Constitution, except that the federal courts shall be competent to determine whether the Constitution and the amendments thereto are consistent with this Agreement and with those provisions of the Constitution of the United States and federal laws applicable within the Northern Mariana Islands.

Section 303. (a) [The Constitution shall establish the manner in which the people of the Northern Mariana Islands will govern themselves with respect to local affairs.] The Constitution shall provide for a republican form of

government with separate executive, legislative, and judicial branches, and shall contain a bill of rights.

(b) The executive power of the Northern Mariana Islands shall be vested in a popularly elected governor and such other officials as the Constitution or laws of the Northern Mariana Islands may provide.

(c) The legislative power of the Northern Mariana Islands shall be vested in a popularly elected legislature, and shall extend to all rightful subjects of legislation.

[Nothing in this Agreement or in the provisions of the United States Constitution or federal laws applicable within the Northern Mariana Islands shall prevent the Constitution from providing for a distribution of the membership of the legislature on a basis which takes into account matters such as geographical or historical interests as well as population, provided such distribution is ratified by the people of the Northern Mariana Islands by their approval of the Constitution or amendments thereto.]

(d) The judicial power of the Northern Mariana Islands shall be vested in such courts as the Constitution or laws of the Northern Mariana Islands may provide. The operation of the courts of the Northern Mariana Islands shall be compatible with the federal judicial system of the United States.

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NOTES

1. There is no Title comparable to this one in the MPSC draft, which dealt with the local Constitution in Title I along with other aspects of the political relationship. Article III of the U. S. draft was concerned with the local Constitution. However, Article III of the U. S. draft also contained provisions dealing with the approval of the Constitution, Cov. §§ 302-304, comparable to CA § 1202. Provisions relating to approval of the Constitution have tentatively been moved to Title XI (Approvals, Effective Dates and Definitions).

2. The portion of Cov. § 308 providing that the local legislative power "may not be exercised in a manner inconsistent" with the Agreement and applicable federal law has been eliminated because it is unnecessary in light of the general supremacy clause to be placed in Title I (Political Relationship).

3. Provisions have been added to Title XI to provide for the coming into effect of all portions of the local Constitution not inconsistent with the Trusteeship Agreement, after the approval of the Constitution and this Agreement.

4. Provisions in both drafts relating to the control of the local government over the jurisdiction and operation of the local courts, CA § 507, Cov. § 309 (first sentence) have been superceded by Section 303(d) above.

5. The provision in Cov. § 507 requiring the local executive branch to execute the laws of the United States has been dropped.

6. The sentence in brackets in Section 303(a) above has been proposed by MPSC representatives, and will be considered by U. S. representatives.

7. The sentence in brackets in Section 303(c) above is an attempt to deal with the reapportionment issue, with respect to which there are substantive differences between the principals.

8. The provision in Section 303(c) above describing the legislative power of the Commonwealth is based on the phrase in the Virgin Islands Organic Act and replaces different phrases in CA § 205(a) and Cov. § 308.

TITLE IV

United States Judicial Authority

U. S. Version

Section 401. The United States will provide for the Northern Mariana Islands a District Court which shall be a court of record.

MPSC Version

Section 401. (a) The United States shall establish for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands."

(b) The President shall nominate and, by and with the advice and consent of the Senate, appoint a district judge for the District Court for the Northern Mariana Islands, who shall hold office for a term of eight years, and until a successor is chosen and qualified, unless sooner removed by the President for cause, provided however that

if the President appoints an incumbent judge of the District Court of Guam to be the judge of the District Court for the Northern Mariana Islands, his term as such judge shall not extend beyond that as judge of the District Court of Guam.

Section 402. The District Court shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties and laws of the United States it shall have jurisdiction without regard of the sum or value of the matter in controversy; it shall have original jurisdiction in all other causes in the Northern Mariana Islands, jurisdiction over which has not been transferred by the legislature to another court established by the Constitution or laws of the Northern Mariana Islands; it shall have such additional jurisdiction as is conferred on it by other Sections of this Agreement; and it shall have such appellate jurisdiction as the legislature shall determine. [When the District Court sits as an appellate court, it shall consist of three judges, at least one of whom shall be a judge of a court of record of the Northern Mariana Islands.]

Section 403. (a) For purposes of review by the Supreme Court of the United States of judgments and decrees of courts of the United States, and for purposes of the original jurisdiction of the district courts of the United States based on diversity of citizenship, the Northern Mariana Islands shall be treated as if it were a State of the Union.

(b) The laws of the United States which govern the relations between the courts of the United States and the courts of the several States with respect to appeals, certiorari, removal of causes, issuance of writs of habeas corpus and other matters or proceedings shall govern the relations between the courts of the United States and the courts established by the Northern Mariana Islands as if the Northern Mariana Islands were a State of the Union.

NOTES

1. This version differs from the MPSC draft in that the District Court would not be a constitutional court of the United States, with a life-tenure judge. Accordingly, the provisions of law relating to district courts of the United States (for example, rules of procedure, method and place of appeals) will not be determined by this Agreement, but will have to await implementing legislation.

2. The substantive difference to be resolved by the principals with respect to Section 401 above is whether there will be a separate federal court for the Northern Mariana Islands or whether just the services of such a court (from Guam, or a new court, or otherwise) will be made available.

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3. Section 402 above grants the District Court federal question jurisdiction without regard to the amount in controversy, like the District Court in Guam and unlike the MPSC draft, CA § 502(a).

4. The bracketed sentence in Section 402 above is a preliminary attempt to deal with the composition of the District Court when it sits as an appellate court and has not been approved by representatives of either party.