



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

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May be 2d Secretarial Order  
prepared by Coleman's  
Ad hoc  
Committee 09/01/75

ORDER NO.

Subject: Recognition  
~~Establishment~~ of Governmental Entities under  
Locally-Ratified Constitutions in the Trust  
Territory of the Pacific Islands

9/5/75

Sec. 1. Purpose. The purpose of this Order is to provide the maximum permissible amount of self-government, consistent with the responsibilities of the Secretary under Executive Order 11021, for the Federated States of Micronesia, the Marshall Islands, and Palau, pursuant to their respective constitutions as and when framed, adopted, and ratified, pending termination of the 1947 Trusteeship Agreement under which the United States of America undertook to act as Administering Authority for the Trust Territory of the Pacific Islands.

Sec. 2. Delegation of Authority. Until the termination of the Trusteeship Agreement and subject to the limitations contained in this Order and in existing treaties, laws, and regulations of the United States generally applicable in the Trust Territory of the Pacific Islands, executive, legislative, and judicial functions of the Government of the Trust Territory of the Pacific Islands are, except as otherwise provided herein, hereby delegated to the three political subdivisions of the Trust Territory known as the Federated States of Micronesia, the Marshall Islands, and Palau.

Sec. 3. Retained Functions. The following functions are retained by the United States:

a. Administrative. The High Commissioner of the Trust Territory of the Pacific Islands, under the general supervisory authority of the Secretary, shall continue to exercise all authority necessary to carry out the obligations and responsibilities of the United States under the 1947 Trusteeship Agreement, in order to insure that no actions are taken that would be inconsistent with the provisions of such Trusteeship Agreement, this Order, and with existing treaties, laws, regulations, and agreements generally applicable in the Trust Territory of the Pacific Islands, including, but not limited to:

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(1) Budget. All budget submissions from the Federated States of Micronesia, the Marshall Islands, and Palau for appropriations from the Congress of the United States shall be submitted to and through the High Commissioner in accordance with his rules and regulations in respect thereto. The High Commissioner shall make grants of financial assistance to the new governments and, as appropriate, to their political subdivisions in such amounts as may be appropriated and subject to such terms and conditions as he may impose.

(2) Auditing and Accounting. The High Commissioner, after audit, either by his own office or by the United States Government Comptroller for Guam and the Trust Territory of the Pacific Islands, shall have the authority to settle accounts or to require compliance with proper accounting principles and audit recommendations. Appeals may be taken to the Secretary.

(3) Grant-in-Aid Programs. All requests for participation in Federal grant-in-aid programs from the Federated States of Micronesia, the Marshall Islands, and Palau shall be made to and through the High Commissioner.

(4) Transfer of Functions. The High Commissioner shall arrange, by agreement with the chief executives of the Federated States of Micronesia, and its respective States, the Marshall Islands, and Palau, for the transfer, as expeditiously as possible, of executive functions, not required by this Order to be retained.

(5) Property.

(a) Personal and Real Property. All real and personal property currently used by the Government of the Trust Territory for governmental administrative purposes in the Federated States of Micronesia and its respective States, the Marshall Islands, and Palau, shall, to the extent not needed to carry out the purposes of this Order, be transferred on an equitable basis to the Federated States of Micronesia or its respective States, the Marshall Islands, or Palau, as the case may be. The decisions of the High Commissioner in this respect shall be final, subject only to an appeal to the Secretary.

(b) Public Domain. Secretarial Order 2969, as amended, regarding the transfer of public domain property, remains in effect, except that the transfers contemplated by the Order shall be completed in the

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Federated States of Micronesia, the Marshall Islands, and Palau, respectively, on or before June 1, 1979. In those instances where the legislature having jurisdiction has not designated an entity to receive public domain property under the provisions of Secretarial Order 2969, such land shall be transferred on or before August 1, 1979, to the state or district government where such land is located.

(c) Interest in Private Lands. All interests in private lands held by the Government of the Trust Territory of the Pacific Islands, upon which public facilities are located, shall be as of the effective date of this Order transferred to the district or state government where located.

(d) Continuity of Rights. All contracts, lease agreements, easements, permits, licenses, and other forms of rights, privileges and obligations granted, entered into or obtained by the Government of the Trust Territory, prior to the effective date of this Order and applicable to property conveyed hereby, shall remain in full force and effect until their natural or legal termination, unless otherwise agreed to in writing by all parties.

(6) Relations with other United States Government Agencies and Foreign Governments. Communications and relationships with agencies of the United States Government and with foreign governments and organizations shall be through the High Commissioner and the Secretary of the Interior, except in those specific cases in which different procedure is approved by the Secretary of the Interior. Communications with foreign governments and international organizations shall be transmitted by the Department of State to the foreign government or international organization concerned. This Order does not affect communications and relationships between Micronesians and the President's Personal Representative for Micronesian Status Negotiations.

(7) Telecommunications. Until termination of the Trusteeship Agreement, the High Commissioner shall continue to be vested with authority and responsibility for the operation and maintenance of telecommunications within the Trust Territory of the Pacific Islands in accordance with treaties, laws, and regulations of the United States applicable to the Trust Territory.

(8) Staffing. The High Commissioner shall have the authority to hire such professional and administrative

staff as may be necessary to carry out his duties and responsibilities and to organize the Office of the High Commissioner so as to enable him effectively to carry out those duties and responsibilities. Actions affecting Federal personnel are subject to the limitations contained in 205 DM 8.1C(6).

b. Other. The High Commissioner shall also carry out such other duties as the Secretary may from time to time prescribe.

#### Sec. 4. Legislative.

a. All laws of the Federated States of Micronesia, the Marshall Islands, or Palau shall be submitted to the High Commissioner within ten (10) days after being approved by the chief executive of the entity involved. If the High Commissioner decides to suspend such law, or part thereof, he shall promptly, but no later than twenty (20) days after receipt of such law, notify the chief executive of the jurisdiction for which the law was enacted of his reasons for suspending such law, or part thereof. The High Commissioner shall exercise this power only if he concludes that such law, or part thereof, is inconsistent with the provisions of this Order, the Trusteeship Agreement, or with existing treaties, laws, and regulations of the United States generally applicable in the Trust Territory of the Pacific Islands, or with the Bill of Rights as set forth in the Trust Territory Code. The decisions of the High Commissioner in this respect shall be final, subject only to an appeal to the Secretary.

b. No law shall take effect until the period during which the High Commissioner may suspend the law has expired unless the High Commissioner earlier notifies the chief executive of the jurisdiction in which the law was enacted that he does not intend to exercise his authority to suspend the law. A law or any part thereof so suspended shall be null and of no effect.

c. Laws in effect in each jurisdiction on the effective date of its constitution shall continue in effect until modified or repealed pursuant to the provisions of the constitution or laws enacted thereunder.

#### Sec. 5. Judicial.

a. Pending Cases. The present community and District Courts and the Trial and Appellate Divisions of the High

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Court of the Trust Territory of the Pacific Islands shall continue to function and operate in accordance with the present procedural and jurisdictional provisions of Trust Territory law until the Federated States of Micronesia, the Marshall Islands and Palau have established functioning Courts pursuant to the terms of their respective constitutions. The determination that such functioning courts exist shall be made in writing by the Chief Justice of the High Court of the Trust Territory of the Pacific Islands upon written request of the Chief judicial official officers of the respective jurisdictions. A denial of the request may be appealed to the Secretary.

Once such a determination has been made for a jurisdiction, all cases, except for suits against the Trust Territory of the Pacific Islands Government or the High Commissioner, currently pending but not in active trial before the Community Courts, the District Courts, and the Trial Division of the High Court shall be transferred to the functioning courts of such jurisdiction, provided that the legal rights of the parties in any case in controversy pending before a Community Court, a District Court, or the Trial or Appellate Division of the High Court shall in no way be impaired by this Order.

Determination as to whether a case is in "active trial" shall be made by the Judge before whom such case is pending.

b. Appellate Functions. As the functions of the Community Courts, the District Courts, and the Trial Division of the High Court have been phased out and transferred to the local courts pursuant to the provisions of Section 5a of this Order, the Appellate Division of the High Court shall retain jurisdiction by writ of certiorari to entertain appeals from the courts of last resort of the respective jurisdictions of the Federated States of Micronesia, the Marshall Islands, and Palau.

The ruling<sup>s</sup> of the High Court of the Trust Territory of the Pacific Islands upon all appeals shall be final, binding, and enforceable in accordance with <sup>its</sup> ~~their~~ terms. All appeals now pending or taken before the determination has been made pursuant to 5a of the Order that functioning courts exist in a jurisdiction shall be retained by and disposed of by the High Court.

c. Transfers. When functioning courts have been established and certified pursuant to Section 5a of this Order, the Chief Justice of the High Court of the Trust

territory of the Pacific Islands shall in his discretion transfer to such courts the facilities and personal property of existing courts of the Trust Territory of the Pacific Islands and funds then currently budgeted for their operation.

Sec. 6. Social Security. Until termination of the Trusteeship Agreement, the Social Security laws of the Trust Territory shall remain in full force and effect.

Sec. 7. Effective Date. This Order becomes effective, as to each of them, upon the date when each of the respective jurisdictions, namely, the Federated States of Micronesia, the Marshall Islands, and Palau, have commenced a constitutional government, pursuant to their respective lawfully adopted constitutions.

Sec. 8. Marshall Islands. The Act of the Nitijela of the Marshall Islands District "To make transitional provisions for the purpose of enabling the Government of the Marshall Islands under the Constitution of the Marshall Islands to be conducted in conformity with the Trusteeship Agreement during the period of transition to full self-government" is confirmed. The confirmation of this Act in no way constitutes approval or disapproval of the Constitution of the Marshall Islands or the interim adjustments made thereto by the Act.

Sec. 9. Prior Orders. Except for the limitations on taxing authority contained in Section 2 of Part III of Secretarial Order No. 2918, as amended, Secretarial Orders No. 2918, as amended, "Government of the Trust Territory of the Pacific Islands," and No. 3027, "Interim Transition to Governments based on Locally Developed Constitutions-Trust Territory of the Pacific Islands," are superseded within each jurisdiction on the effective date of the respective constitution as certified by the High Commissioner.

SECRETARY OF THE INTERIOR

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