

## CHAPTER 11

### Transitional Provisions

#### SECTIONS

- § 1101. **Appointment of initial Board.**
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**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor's note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

#### **§ 1101. Appointment of initial Board.**

(1) Upon the effective date of the Act codified in this subtitle the President shall make nominations for members of the Federated States of Micronesia Social Security Board which shall be subject to confirmation by the Congress. Notwithstanding section 701 of this subtitle the initial Board shall be appointed for the following terms: two members for a period of three years, two members for a period of two years, and one member for a period of one year. At the conclusion of the term of each Board member the vacancy will be filled in accordance with section 701 of this subtitle.

(2) Notwithstanding section 702 of this subtitle and subject to other provisions of this chapter, upon confirmation by the Congress of the initial Board nominations, the Federated States of Micronesia Social Security Board shall enter into an agreement in accordance with section 1102 of this chapter with the Trust Territory Social Security Board providing, *inter alia*, that the Trust Territory Social Security Administration shall, as the agent of the Federated States of Micronesia Social Security Board, undertake the proper and efficient operation of the Social Security System defined by this subtitle during the transitional period insofar as it pertains to persons covered under

this subtitle and until such time as the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board agree to implement section 1104 of this chapter and the Federated States of Micronesia Social Security Board exercises its prerogatives under sections 1103(4) and 1105 of this chapter.

**Source:** PL 2-74 § 601, 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 FSM Congress are found in title 3 of this code.

### **§ 1102. Agreement between FSM Social Security Board and TT Social Security Board.**

(1) In order to ensure the continuous efficient operation of the Federated States of Micronesia Social Security System, the Board of the Federated States of Micronesia Social Security System shall enter into an agreement with the Trust Territory Social Security Board providing that the Trust Territory Social Security Board shall undertake the investment and reinvestment of funds accruing to the Federated States of Micronesia Social Security System, and that the Trust Territory Social Security Administration shall undertake:

(a) the administration of the Federated States of Micronesia Social Security System, including, but not limited to:

- (i) collection of contributions,
- (ii) payment of benefits,
- (iii) maintenance of individual records,
- (iv) registration of employers and employees,
- (v) enforcement of compliance,
- (vi) adjudication of claims,
- (vii) review of eligibility of claims in payment,
- (viii) maintenance of separate accounts and preparation of financial statement, and
- (ix) preparation of budget;

(b) the provision of technical advice;

(c) the training of staff recruited by the Federated States of Micronesia Social Security Board;

(d) assistance in the establishment of an automatic data processing facility for the Federated States of Micronesia Social Security Administration; and

(e) other functions as may from time to time be required by mutual agreement between the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board.

(2) The term of the agreement shall be decided by the Board of the Federated States of Micronesia Social Security System and the Board of the Trust Territory Social Security System, taking into account the nature and

complexity of the functions which are to be performed and the period of training which is required so that these functions may be properly performed by the staff of the Federated States of Micronesia Social Security Board. By mutual agreement of the Board of the Federated States of Micronesia Social Security System and the Trust Territory Social Security Board, the term of the agreement may be extended or the provisions of the agreement modified.

(3) The agreement shall provide that the cost of administration of the Federated States of Micronesia Social Security System by the Trust Territory Social Security Administration shall be paid from the income of the Federated States of Micronesia Social Security System. This cost shall be estimated from the share of the budgeted cost of administration for the Trust Territory Social Security System which is allocable to the Federated States of Micronesia Social Security System. The cost of remuneration, travel, per diem and other expenditures on account of staff recruited by the Federated States of Micronesia Social Security Board shall be paid from the income of the Federated States of Micronesia Social Security System.

**Source:** PL 2-74 § 602.

**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor's note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

### **§ 1103. Apportionment of assets of the TT Social Security Retirement Fund.**

(1) As of the end of the first calendar quarter following the effective date of the act codified in this subtitle, the portion of the Trust Territory Social Security Retirement Fund and accrued items allocable to the Federated States of Micronesia Social Security System shall be determined.

(2) This determination shall be made by an actuary in accordance with generally accepted actuarial principles, and it shall be done in such a manner so as to ensure the equitable treatment of employees and beneficiaries of the Federated States of Micronesia Social Security System, other successor social security systems to the Trust Territory Social Security System, and the Trust Territory Social Security System. The allocation shall be based on the contributions of employees and persons in charge of retirement and disability insurance benefits.

(3) The actuary shall be appointed by the Trust Territory Social Security Board with the concurrence of the Federated States of Micronesia Social Security Board and the cost of the actuarial variation shall be paid by the Trust Territory Social Security System and allocated on a pro rata basis among the successor systems to the Trust Territory Social Security System.

(4) The portion of the invested assets of the Trust Territory Social Security System which is allocated to the Federated States of Micronesia Social Security System shall continue to be invested in a pool with the funds of the Trust Territory Social Security System and other successor social security systems until such time following the termination of the agreement described in section 1102 of this chapter that the Federated States of Micronesia Social Security Board as trustees on behalf of covered employees and beneficiaries deems it prudent and advisable and in the best interests of persons insured under the Federated States of Micronesia Social Security System to modify the investment policy which has been followed by the Trust Territory Social Security Board. Until this time, separate accounts of each national system's proportionate share of the total invested assets shall be maintained.

(5) At such time or times following the termination of the agreement described in section 1102 of this chapter as the Federated States of Micronesia Social Security Board wishes to realize all or a portion of its invested assets, the Board shall negotiate arrangements with the investment management firm as to how, in what form, and at what times the assets are to be realized and these arrangements shall be equitable to members of the Federated States of Micronesia Social Security System and other social security systems then participating in the pool.

(6) Notwithstanding subsection (5) of this section, a firm managing the pooled investments of the Federated States of Micronesia Social Security System, or other successor systems to the Trust Territory Social Security System, and of the Trust Territory Social Security System, shall be entitled to a period of six months following written notification of the intention of the Federated States of Micronesia Social Security Board to realize all or a portion of its invested assets before these assets or the cash equivalent of these assets must be delivered over to the Board.

**Source:** PL 2-74 § 603.

**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor's note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

#### **§ 1104. Collection and remittance of contributions—Payment of benefits.**

As of the end of a calendar quarter to be determined by agreement between the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board, following the termination of the agreement described in section 1102 of this chapter, contributions shall be paid directly to and benefits paid directly by the Federated States of Micronesia Social Security Administration. Until such time as this occurs, the Trust Territory Social Security System shall maintain a separate account and collect contributions, pay benefits, and invest the excess of contribution income over benefit payments and administrative expenses as an agent of the Federated States of Micronesia Social Security Board.

**Source:** PL 2-74 § 604, modified.

#### **§ 1105. Other administrative functions.**

Following the implementation of section 1104 of this chapter, and until such time as the Federated States of Micronesia Social Security Board determines that in addition to those functions described in section 1104 of this chapter, its Social Security Administration can effectively and efficiently assume all administrative functions associated with the operation of the Social Security System, including settlement and review of claims, enforcement of compliance, registration of employers and insured persons, and maintenance of individual records, the administration of the Trust Territory Social Security System shall continue to perform these functions as an agent of the Federated States of Micronesia Social Security Board.

**Source:** PL 2-74 § 605.

**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor's note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

### **§ 1106. Administration expenses.**

During the period the Administration of the Trust Territory Social Security System performs the functions described in sections 1104 and 1105 of this chapter as an agent of the Federated States of Micronesia Social Security Board, it shall be paid an administration fee which will be established by agreement between the Federated States of Micronesia Social Security Board and the Trust Territory Social Security Board.

**Source:** PL 2-74 § 606.

### **§ 1107. Physical assets.**

(1) As of the effective date of the act codified in this subtitle, ownership of the physical assets including property of the Trust Territory Social Security System in the Federated States of Micronesia shall be transferred to the Federated States of Micronesia Social Security Board. While the Trust Territory Social Security Administration is performing administrative operations as agents of the Federated States of Micronesia Social Security System in accordance with sections 1103, 1104, and 1105 of this chapter, it shall have the right of access to and use of these physical assets in order to properly carry out its administration of the Federated States of Micronesia Social Security System.

(2) At such time as the Trust Territory Social Security Administration ceases to have responsibility for any employees and beneficiaries under the Trust Territory Social Security System or any successor systems, and its affairs are wound up, the movable property of the Trust Territory Social Security Administration shall be distributed among the successor systems in the same proportions as the assets are apportioned under section 1103 of this chapter.

**Source:** PL 2-74 § 607.

**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor's note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

**§ 1108. Reciprocal agreements.**

In view of the considerable intercountry migration among those countries whose nationals were or are members of the Trust Territory Social Security System, the Federated States of Micronesia Social Security Board may endeavor to negotiate reciprocal agreements for social security coverage with the other successor systems to the Trust Territory Social Security System.

**Source:** PL 2-74 § 608.

**§ 1109. Saving of title 53 of the FSM Code for certain purposes.**

(1) The provisions of this section apply notwithstanding the repeal of title 53 of this code, the “Trust Territory Social Security Act,” by sections of this subtitle, but subject to any other provisions of this subtitle.

(2) The Trust Territory Social Security Board continues in existence, and the provisions of title 53 of this code relating to the Board continue in effect, so long as it is necessary:

(a) for the performance of the functions of the Board under this subtitle and any corresponding laws of the Republic of the Marshall Islands and the Republic of Palau; and

(b) thereafter for the purposes of the winding up of its affairs.

(3) Upon the certification by the Federated States of Micronesia Social Security Board, of the completion of the winding up of the affairs of the Trust Territory Social Security Board, the Trust Territory Social Security Board is dissolved.

(4) The provisions of title 53 of this code applying to or in relation to prior service credits and prior service benefits continue in effect.

**Source:** PL 2-74 § 609.

**Errata:** The word “continues in effect” in subsection (2) has been changed to “continue in effect” for grammatical consistency.

**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor’s note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

**§ 1110. Effective date.**

The Act codified in this subtitle shall become law upon its approval by the President of the Federated States of Micronesia or upon its becoming law without such approval, and the effective date of the Act codified in this subtitle shall be:

- (1) the date on which it becomes effective in accordance with Secretarial Order No. 3039; or
- (2) the date on which Secretarial Order No. 3039, section 7, ceases to prevent its becoming effective, whichever is the earlier date.

**Source:** PL 2-74 § 701.

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**Cross-reference:** The statutory provisions on the TT Social Security Act are found in subtitle I of this title.

**Editor's note:** Although most of the provisions of the TT Social Security Act have been repealed by implication by the FSM Social Security Act codified in this subtitle, the provisions of the Trust Territory Social Security Act are retained in subtitle I of this title since section 1109 of this chapter provides for saving of certain of its provisions for certain purposes.

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