

INTRODUCTION¹

A Brief History of the Trust Territory of the Pacific Islands

During the age of exploration, in the sixteenth century, Spanish explorers laid claim to the Marshall Islands. Following the Spanish-American War in 1898, Spain sold the Marshall Islands to Imperial Germany. Early in World War I, Japan captured the Marshall Islands from Germany, and in 1920, the League of Nations gave Japan a Mandate to administer the Marshall Islands. Japan administered the Marshall Islands until the outbreak of the Second World War when the United States captured the Marshall Islands from Japan. After the end of the War, the United Nations and the United States Congress approved a Trusteeship Agreement creating the Trust Territory of the Pacific Islands (incorporating the Marshall Islands) in 1947, entrusting the Micronesian Islands previously administered by the Japanese under the 1920 Mandate to the United States as Trustee.

Under the 1947 Trusteeship Agreement, the United States assumed certain obligations, the most significant of which was to foster the development of such political institutions as are suited to the trust territory and [to] promote the development of the inhabitants of the trust territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned.

From 1947 to 1951, administration of the Trust Territory was assigned to the Department of the United States Navy. In 1951, administration was transferred to the United States Department of Interior.

Under the Trusteeship Agreement, the United States had full power of administration, legislation, and adjudication over all territories and peoples in the Trust Territory. As a result, a de facto government was established governed by a High Commissioner appointed by the Secretary of Interior of the United States. However, since the mid-1970s, considerable authority was delegated to the various emerging Micronesian entities with respect to self-government, although the High Commissioner retained the right to suspend, in whole or in part, laws adopted by any of the district governments that conflicted with the authority provided for in the Trusteeship Agreement.

From its establishment in 1947 until the mid-1970's, the Trust Territory of the Pacific Islands was divided into six districts. The original districts were the Marshall Islands, the Northern Mariana Islands, Palau, Ponape, Truk, and Yap. Each district was encouraged by the United States, to establish their own elected legislatures to, among other things, enact laws governing their respective internal affairs. The district legislature for the Marshall Islands was established in 1950, and that body enacted many laws, a good portion of which were contained in the Marshall Islands Code of 1975.

Publication of the Marshall Islands Code of 1975 was authorized by District Law 22-7 and Resolution 17-15.

Prior to and concurrent with the publication of the Marshall Islands Code of 1975, and under administration of the Trust Territory of the Pacific Islands, editions of the Trust Territory Code (the governing statutory law applicable throughout the Trust Territory of the Pacific Islands) were

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published in 1952, 1959, 1966, 1970 (with supplements), and 1980. The 1970 edition was enacted as positive law by Public Law No. 3C-51 of the Congress of Micronesia. The 1980 edition was not enacted as positive law in the Trust Territory, Republic the of Marshall Islands or any other former district of the Trust Territory of the Pacific Islands since it was published during the period of time that each district forged ahead with the establishment of their own respective constitutional governments.

During the period from 1965-1978. the Congress of Micronesia was formed pursuant to order of the Secretary of the United States Department of Interior, consisting of representatives from the various Trust Territory districts and from the Office of Territories of the United States Department of Interior. One of the purposes of establishing the Congress of Micronesia was to unite all of the districts into one Micronesian-wide federation with which negotiations for the area's post-trusteeship status could be conducted. Another purpose for the Congress of Micronesia was to delegate legislative authority to a representative body to enact legislation applicable to the Trust Territory as a whole. However, the Congress of Micronesia was dissolved by order of the Secretary of Interior of the U nited States on October 2, 1978, with the powers of the Congress of Micronesia delegated to the respective legislatures of the various Trust Territory districts.

Establishment of a Constitutional Government and Independence for the Marshall Islands

By referendum, the Marshall Islands voted for establishment of a constitutional government based upon a constitution adopted by the Marshall Islands Constitutional Convention on December 21, 1978. Thus was ushered in the beginning of a new era in political independence for the newly created Republic of the Marshall Islands.

By way of plebiscite, the people of the Republic of the Marshall Islands voted for free association with the United States by approval of a Compact of Free Association between the Republic of the Marshall Islands and the United States of America. The effective date of the Compact of Free Association was October 21, 1986.

Compilation and Codification of the Marshall Islands Revised Code

This Marshall Islands Revised Code is the first compilation and codification of the laws of the Republic of the Marshall Islands since establishment of constitutional government in the Marshall Islands on May 1, 1979. Authority to revise the Marshall Islands Code was bestowed upon a Commissioner, appointed by the Speaker of the Nitijela with the concurrence of the Cabinet of the Government of the Marshall Islands. pursuant to Public Law 198 1-15. In the absence of such an appointment, the Legislative Counsel was designated as the Commissioner in that enabling statute. Since that statute was passed, responsibility for the revision of the Marshall Islands Code fell upon the Office of the Legislative Counsel since no Commissioner was ever appointed pursuant to the aforesaid statute.

Pursuant to Article XIII of the Constitution of the Marshall Islands. this Marshall Islands Revised Code represents a compilation and codification of statutory law as existed in the Trust Territory Code up to May I, 1979. to the extent not repealed or revoked by the district government of the Marshall Islands. To a great extent, this Marshall Islands Revised Code draws upon the

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provisions of the 1980 edition of the Trust Territory Code, which, as previously mentioned, was neither adopted as positive law of the Republic of the Marshall Islands nor the Trust Territory Government. Nevertheless, the 1980 edition of the Trust Territory Code represented the most current statement of the statutory law applicable to the Marshall Islands (subject to the effect of local Marshallese legislation as required by Article XIII of the Constitution of the Marshall Islands), at the time that the Constitution of the Marshall Islands took effect. It also represented the statutory law that was in wide use in the Marshall Islands and cited as authoritative law during that period of time. To that extent, the Office of Legislative Counsel has allowed many of the provisions of the 1980 edition of the Trust Territory Code to be reprinted in the Marshall Islands Revised Code as applicable statutory authority governing the Republic of the Marshall Islands, to the extent allowed under Article XIII of the Constitution of the Marshall Islands, and designated as new enactments.

Of course, numerous statutes have been enacted by the Nitijela before and since the establishment of the Constitutional government of the Marshall Islands and those provisions have been included in this Marshall Islands Revised Code as well.

This Marshall Islands Revised Code therefore represents a compilation of those provisions of the 1980 edition of the Trust Territory Code that were not revoked or repealed by the local Marshallese law, those District Laws that were enacted by the Marshall Islands District Government (including that portion of the Marshall Islands Code of 1975 that has not been repealed or revoked by subsequent legislation) up to establishment of a Constitutional government, and legislation enacted by the Nitijela thereafter.

Format and Citations

By choice, the format of the Marshall Islands Revised Code draws heavily upon the English System of compilation and codification. As a result, each Chapter of the Marshall Islands Revised Code represents a separate Act enacted by the Nitijela. To the extent that related subject areas could be grouped under a common title, effort was made to do so.

The commencement dates for each Act does not appear in all Chapters because these particular Acts are either re-codifications of the old Trust Territory Code provisions or District Laws of the Marshall Islands District under the Trust Territory system, whose commencement dates could not be determined.

The reference to “D.L.” in the Source section of a Chapter relates to a District Law promulgated by the District Legislature for the Marshall Islands under the Trust Territory system; the reference to “TTC” relates to the old editions of the Trust Territory Code; the reference to “COM P.L.” relates to a public law promulgated by the Congress of Micronesia which, as mentioned previously, existed under the Trust Territory system during the periods 1965-1978; and the reference to “P.L.” alone, relates to a public law promulgated by the Marshall Islands Nitijela following establishment of the Constitutional government of the Marshall Islands in 1979.

For purposes of citation, reference should be made to the Title, Chapter-and Section, thus: I MIRC, Chapter 4, Section 3; or alternatively, to the name of the Act and Section, thus: Civil Aviation Safety Act 1988, Section 5.

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Acknowledgments

The task of revising the Marshall Islands Revised Code was initially begun by Legislative Counsel, Douglas Premaratne and Assistant Legislative Counsel, Alik J. Alik. Individuals who provided countless hours in drafting and reviewing the drafts of the revision, providing helpful comments and suggestions in improving the Marshall Islands Revised Code, and bringing the project to completion include people too numerous to mention. However, special mention is required for Gregory C. Danz, Attorney General, for his assistance, and to Roy T. Chikamoto, Esq., of the law firm of Dandar, Manuia & Castroverde, of Honolulu, Hawaii, for his assistance in the preparation of the first complete draft of the Marshall Islands Revised Code and subsequent revisions, and his assistance in the publication of the final Revised Code.

December 7, 1988, Majuro, Republic of the Marshall Islands

Commissioner for the Revised Code

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[The “Introduction” from the initial version of the Revised Code (1988) was left intact as it contains valuable history of the Marshall Islands and also provides useful insight into the progress of the Code. The user is encouraged to read the Introduction and the Preface to this edition, in order to follow the development of the Code. This will allow the for smooth navigation through the Code.]