

Title 19 – Cultural Resources

TITLE 19 CULTURAL RESOURCES

Chapter 1 Historical and Cultural Preservation Act

Subchapter I General Provisions

- § 101. Short title.
- § 102. Purposes.
- § 103. Definitions.

§ 101. Short title.

This chapter may be cited as the “Historical and Cultural Preservation Act”.

Source
RPPL 1-48 § 1(a), modified.

§ 102. Purposes.

The Olbiil Era Kelulau hereby finds and determines the public policy of the Republic to be as follows:

- (a) The historical and cultural heritage of the people of Palau constitutes a precious national resource which should be preserved and fostered for the benefit of all.
- (b) Absent a thorough and workable plan of historical and cultural preservation and education, the history and culture of Palau are threatened with extinction.
- (c) A strong regulatory framework is necessary to assure that historical sites and historical and cultural properties located in Palau are protected from destruction.
- (d) A strong program of support for intangible cultural properties and activities is required to preserve Palauan culture and tradition in the face of inevitably increasing foreign contact and interaction.

Source
RPPL 1-48 § 1(b), modified.

Notes

RPPL 8-16 § 1 reads: Legislative Findings. The Olbiil Era Kelulau finds that the historical and cultural heritage of the people of Palau constitute a precious national resource that should be preserved for the benefit of all. The Historical and Cultural Preservation Act, a thorough and workable plan for historical preservation, assists in achieving this preservation goal. The Historical and Cultural Preservation Act allows for the promulgation of a regulatory framework to assure that historical sites and historical and cultural properties located in Palau are protected from destruction from both intentional and unintentional actions.

The Palau Lagoon Monument Act also addresses historical preservation. It states that “[a]ll ships, other vessels, and aircraft, and any and all parts and contents thereof, which formerly belonged to or were part

of the armed forces or commercial fleet of Spain, Germany, Japan, the United States or any other nation, which were sunk to or otherwise deposited on the bottom of the Palau Lagoon and its territorial waters, subject to applicable salvage laws, shall be and hereby are set apart as monuments which shall be collectively called the ‘Palau Lagoon Monument.’”

These Acts work together to provide penalties for the damage or destruction of a historical site, tangible cultural property, or a lagoon monument. Given the importance of historical sites, cultural property, and lagoon monuments to Palau’s own cultural preservation, and to the tourism and diving industries, the Olbiil Era Kelulau feels that the current penalties for the destruction or theft of historical sites or artifacts are inadequate. These sites and artifacts are priceless in terms of cultural significance and monetary value because of their irreplaceable nature. In order to demonstrate the Republic’s dedication to cultural preservation and to show that Palau will not tolerate the destruction and plundering of its heritage, the Olbiil Era Kelulau finds that it is necessary to increase the penalties associated with the removal, theft, damage, or destruction of historical sites, tangible cultural property, and lagoon monuments.

ROP v. Palau Museum, 6 ROP Intrm. 277, 279-80 (Tr. Div. 1995).

§ 103. Definitions.

Unless the context clearly requires otherwise, in this chapter:

- (a) “Board” means the Palau Historical and Cultural Advisory Board.
- (b) “Chief” means the administrative head of the Division of Cultural Affairs.
- (c) “Division” means the Division of Cultural Affairs.
- (d) “Historical site” means any location, site, structure, building, artifact, or landmark located in the Republic or its territorial waters which are of outstanding prehistoric, archaeological, or cultural significance.
- (e) “Intangible cultural property” means aspects and manifestations of traditional Palauan culture, including music, dances, art, skills employed in applied arts, storytelling and similar activities.
- (f) “Living national treasure” means an individual especially skilled or knowledgeable in the arts, customs, traditions, folklore or history of the Republic.
- (g) “Minister” means the Minister of Community and Cultural Affairs.
- (h) “Person” means an individual, firm, partnership, joint venture, corporation, estate, trust or other association, however organized.
- (i) “Site” means any location, structure, building or landmark in the Republic.
- (j) “Tangible cultural property” means those objects, living or non-living, which are manifestations of a part of traditional Palauan culture, and includes any buildings, objects of fine and applied art, archaeological specimens, and particular animals or plants or species of animals or plants.
- (k) “Artifact” means any object of archeological or historical significance produced or shaped by human craft.

Source

RPPL 1-48 § 2, as amended by RPPL 3-30 § 9(3), modified. RPPL 8-16 § 2 amends § (d) and adds § (k), modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 277-83 (Tr. Div. 1995).

Subchapter II

Palau Historical and Cultural Advisory Board

§ 111. Board creation; composition.

§ 112. Selection of chairman and vice-chairman; quorum.

§ 113. Meetings; technical assistance.

§ 114. Duties and responsibilities.

§ 111. Board creation; composition.

There is established a Palau Historical and Cultural Advisory Board consisting of sixteen (16) members appointed by the President, one member representing each state. Appointments shall be made for a term of three years, provided that prior membership on the Board shall not constitute disqualification for reappointment. Any vacancy on the Board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members of the Board shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. Members of the Board serve at the will of the President.

Source

RPPL 1-48 § 3(a), modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 279-80 (Tr. Div. 1995).

§ 112. Selection of chairman and vice-chairman; quorum.

The Board shall select from among its members a chairman and vice-chairman. Six (6) members of the Board shall constitute a quorum for carrying out the business of the Board.

Source

RPPL 1-48 § 3(b), modified.

§ 113. Meetings; technical assistance.

The Board shall hold regular meetings every six (6) months and shall hold special meetings when called by the chairman or the President. The Division of Cultural Affairs shall render all necessary technical assistance required by the Board in fulfilling its duties.

Source

RPPL 1-48 § 3(c), modified.

§ 114. Duties and responsibilities.

The Board shall:

(a) establish policies and criteria to be used by the Board in recommending registration of historical sites, tangible and intangible cultural properties, and living national treasures.

(b) solicit nominations from government officials and agencies and private citizens for registration of historical sites, tangible and intangible cultural properties, and living national treasures;

(c) by majority vote, approve nominations solicited under subsection (b) and report its decisions to the Division for the Division's action; and

(d) serve as an adviser to the President, the Minister and the Chief of the Division of Cultural Affairs in matters relating to the maintenance and preservation of historical sites, tangible cultural properties, and living national treasures.

Source

RPPL 1-48 § 4, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 279-80 (Tr. Div. 1995).

Subchapter III

Division of Cultural Affairs

§ 131. Division powers and duties.

§ 132. Chief to serve as Historical and Cultural Preservation Officer.

§ 133. Depository for certain specimens and objects.

§ 134. Control over historical sites and cultural property on public lands.

§ 131. Division powers and duties.

The Division shall:

(a) establish a comprehensive historical and cultural preservation program which shall include, but not be limited to, the development of an ongoing program of historical, architectural, archaeological, anthropological and cultural research and development, including surveys, excavations, scientific recording, interpretation and publications of the Republic's historical and cultural resources.

(b) establish, order and maintain a register of historical sites, a register of tangible cultural property and a register of living national treasures in which shall be entered and numbered the sites, properties or persons approved by the Board pursuant to subsection 114(c) of this chapter.

(c) acquire historical sites or tangible cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation in accordance with applicable law (but only if condemnation proceedings are permitted by action of the legislative body of the state in which the site or property is located), devise, or bequest; maintain, preserve, restore, administer, or transfer such sites or properties; and charge reasonable fees for the admission to or viewing of such sites or properties.

(d) develop a nationwide survey to identify documents and gather information on actual or potential historical sites, tangible or intangible cultural properties, and living national treasures, and furnish to the Board any such information, together with recommendations as to whether such sites, properties or persons should be included on the registers maintained by the Division.

- (e) prepare, review and revise a national historical and cultural preservation plan, including budget requirements, land use recommendations, and plans for the support, maintenance and sponsorship of living national treasures.
- (f) apply for and receive gifts, grants, technical assistance and other funding from public and private sources.
- (g) provide technical and financial assistance to the state governments and public and private agencies involved in historical preservation activities.
- (h) coordinate activities of the state and political subdivisions of the Republic in accordance with the national historical and cultural preservation plan.
- (i) stimulate public interest in historical and cultural preservation, including the development and implementation of interpretive programs for historical sites listed in the register of historical sites and property listed in the register of tangible cultural property, the exhibition of tangible cultural property, the promotion, exhibition and performance of intangible cultural property listed in the register of intangible cultural property, and the exhibition of performances and skills by persons listed in the register of living national treasures.
- (j) assist each state of the Republic in establishing a state board of historical and cultural preservation.
- (k) develop a written history of Palau, compiling and indexing information on the traditional laws of the Republic and their underlying principles.
- (l) employ professional and technical staff necessary to carry out the provisions of this chapter through the national public service system and within the limits of appropriations therefor.
- (m) enter into such contracts with public or private persons, entities or agencies as may be necessary to carry out the provisions of this chapter and within the limits of appropriations therefor.
- (n) where its functions overlap with those of the Palau Museum, work with the Museum and coordinate activities so as to avoid needless duplication of effort.
- (o) promulgate such rules and regulations as may be necessary to effectuate the provisions and purposes of this chapter in accordance with all applicable laws; provided that in issuing such rules and regulations, the Division shall place no restriction on any property which may result in inverse condemnation thereof.
- (p) assist the Foreign Investment Board, the Tourist Commission and private businesses, including hotels, that serve foreign visitors, investors, and tourists, in educating foreign visitors about Palau's cultural heritage.

Source

RPPL 1-48 § 5, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 279-80 (Tr. Div. 1995).

§ 132. Chief to serve as Historical and Cultural Preservation Officer.

The Chief shall serve as the Palau Historical and Cultural Preservation Officer. As such, he shall be responsible for the comprehensive historical and cultural preservation program and, subject to instruction and supervision of the Minister of State, be Palau's liaison officer for the conduct of relations with the United States Government and any other foreign entities with regard to matters of historical and cultural preservation.

Source

RPPL 1-48 § 6, modified.

§ 133. Depository for certain specimens and objects.

The Division shall serve as, or shall determine the depository for, all field notes, photographs, negatives, maps, artifacts, or other materials generated or recovered through historical and cultural preservation projects supported in whole or in part by the Republic or taking place on lands owned by the Republic. A specimen or object of natural, botanical, ethnological, architectural, historical, cultural, anthropological or archaeological value or interest, and any book, treatise, or pamphlet relating thereto in the possession of any ministry, bureau, division or other agency of the Republic, if and when the same is no longer needed for scientific investigation, study, or any other purpose, shall, at the request of the Palau Museum, be transferred and delivered by such ministry, bureau, division or other agency having possession thereof to the Palau Museum, or exchanged with the Museum, and whereupon, the title shall become vested in the Museum and shall be held by it; provided that the specimens and objects so transferred shall be made available at all reasonable times by the Museum for study and examination by such ministry, bureau, division or other agency and by qualified scholars.

Source

RPPL 1-48 § 7, modified.

§ 134. Control over historical sites and cultural property on public lands.

The national government reserves to itself the exclusive right and privilege of ownership and control over historical sites and tangible cultural property located on lands or under waters owned or controlled by the national government. Each state reserves to itself the exclusive right and privilege of ownership and control over historical sites and tangible cultural property located on lands or waters owned or controlled by the state. Control over all historical property located on lands owned by the national government shall be vested in the Division and the Division may issue permits for activities relating to the historical sites or tangible cultural property, and may establish restrictions and covenants controlling permitted activities for the purposes of historical and cultural preservation. No permit shall be issued by the Division without the prior **approval** of the legislative body of the state in which the property is located. The national government shall retain the right to, and control over, all historical sites and tangible cultural property located on land leased to others. In all cases where such a site or property is leased or conveyed, it shall be subject, by covenant or otherwise, to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Division may prescribe to accomplish the purpose of historical and cultural preservation.

Source

RPPL 1-48 § 8, modified.

Subchapter IV

Projects Affecting Historical Sites or Tangible Cultural Property

§ 151. National government project affecting historical site or tangible cultural property; review and concurrence by Division.

§ 152. Duty to report finding of historical site or tangible cultural property.

§ 153. National government investigation, recording, preservation, and salvage of historical site or tangible cultural property.

§ 154. Private project affecting historical sites or tangible cultural property; review and concurrence by Division; condemnation proceedings.

§ 155. Scope of permissible ordinary maintenance or repair of historical site or tangible cultural property.

§ 156. Division entry upon land for examination or survey.

§ 157. Penalties.

§ 151. National government project affecting historical site or tangible cultural property; review and concurrence by Division.

Before any agency or officer of the national government commences any project which may affect a registered historical site or tangible cultural property, or transfers any such site or property under its jurisdiction, the agency or officer shall advise the Division and allow the Division an opportunity to review the effect of the proposed project on such sites or properties. The proposed project shall not be commenced, or, in the event it has already begun, continued, or the proposed transfer made, until the Division has given its written concurrence. If the concurrence of the Division is not obtained within ninety (90) days after the filing of a request with the Division, the agency or officer seeking to proceed with such project or transfer may apply to the President, who may request the Board to report on who may take such action as he deems best in overruling or sustaining the Division. If the President fails to act within sixty (60) days of the application, the project or transfer shall be deemed approved.

Source

RPPL 1-48 § 9(a), modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 277-83 (Tr. Div. 1995).

§ 152. Duty to report finding of historical site or tangible cultural property.

The Republic and its political subdivisions, agencies and officers shall report to the Division the finding of any historical site or tangible cultural property during any project, and shall cooperate with the Division in the investigation, recording, preservation, and salvage of such site or property. The Division shall promulgate guidelines for identifying historical sites and tangible cultural property.

Source

RPPL 1-48 § 9(b), modified.

§ 153. National government investigation, recording, preservation, and salvage of historical site or tangible cultural property.

Whenever there is a project by any national government agency on lands which are owned or controlled by the Republic or its political subdivisions and which are historical sites or have historical property or value or upon or within which is located tangible cultural property, one-half of one percent of the appropriations for the project, or so much thereof as may be necessary, shall be expended for the investigation, recording, preservation, and salvage of such historical site or tangible cultural property. Nothing in this section shall be construed to limit the expenditure of more than one-half of one percent of the project appropriations for the purposes herein stated should an additional amount be necessary and mutually agreed to by the Division and the government agency planning the construction or improvement.

Source

RPPL 1-48 § 10, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 282 (Tr. Div. 1995).

§ 154. Private project affecting historical sites or tangible cultural property; review and concurrence by Division; condemnation proceedings.

Before any construction, alteration, disposition or improvement may be commenced by any person which will significantly affect a historical site or tangible property on the register of historical sites or register of tangible cultural property, the landowner shall notify the Division of the construction, alteration, disposition, or improvement and allow the Division the opportunity to review the effect of the proposed construction, alteration, disposition, or improvement. The proposed construction, alteration, disposition, or improvement shall not be commenced until the Division gives its concurrence. Within ninety (90) days after notification, the Division shall commence condemnation proceedings for the purchase of the historical site or tangible cultural property, permit the person to proceed with construction, alteration, or improvement, or undertake or permit the investigation, recording, preservation, and salvage of any historical information deemed necessary to preserve Palauan history or culture.

Source

RPPL 1-48 § 11(a), modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 279-80 (Tr. Div. 1995).

§ 155. Scope of permissible ordinary maintenance or repair of historical site or tangible cultural property.

Nothing in this subchapter shall be construed to prevent the ordinary maintenance or repair of any feature in or on a historical site or of any tangible cultural property that does not involve a change in design, material, or outer appearance or change in those characteristics which qualified the site or property for entry onto the register of historical sites or the register of tangible cultural property.

Source

RPPL 1-48 § 11(b), modified.

§ 156. Division entry upon land for examination or survey.

The Division may, in the performance of its official duties, enter upon private lands for examination or survey thereof, after giving written notice of the finding to the owner or occupant of such property at least five days prior to entry and after receiving the permission of the legislative body of the state in which the property is located. If entry is refused, the Division may make a complaint to the Trial Division of the Supreme Court. After a full hearing, with an opportunity for the owner or occupant to be heard, the court may thereupon issue a warrant, directed to any police officer, commanding him to take sufficient aid, and, being accompanied by a member of the Division between sunrise and sunset, allowing the member of the Division to examine or survey the historical site or tangible cultural property.

Source

RPPL 1-48 § 11(d), modified.

§ 157. Penalties.

Any person who violates the provisions of this subchapter shall be fined not more than one thousand dollars (\$1,000), and each day of continued violation shall constitute a distinct and separate offense under this subchapter for which the offender may be punished.

Source

RPPL 1-48 § 11(c), modified.

Subchapter V

Preservation Activities by States

§ 171. States; historical and cultural preservation programs.

§ 172. Same; regulations, special conditions or restrictions.

§ 171. States; historical and cultural preservation programs.

The several states of the Republic may engage in a comprehensive program of historical and cultural preservation, to promote the use and conservation of historical sites and tangible cultural property for the education, pleasure, and enrichment of the citizens of the Republic. The governing body of any state may establish a historical and cultural preservation commission to preserve, promote, and develop the historical and cultural resources of the state. State functions undertaken for these purposes shall be supplemental to and not in derogation of the powers and duties of the Division, and shall not constitute a delegation to the states of the powers vested in the Division by this chapter.

Source

RPPL 1-48 § 15, modified.

§ 172. Same; regulations, special conditions or restrictions.

In addition to any power or authority of a state to regulate by planning or zoning laws or regulations or by other laws and regulations, any state may provide by law or regulation for the protection, enhancement, preservation, and use of historical sites and tangible cultural properties. Such laws or regulations may include appropriate and reasonable control of the use or appearance of adjacent or associated private property within public view, or both, historical easements, preventing deterioration by wilful neglect, permitting the modification of local health and building code provisions and transferring development rights.

Source

RPPL 1-48 § 16, modified. Subchapter VI

Violations and Penalties

§ 181. Penalties; damaging historical site or tangible cultural property.

§ 182. Same; reproductions, forgeries, and illegal sales.

§ 183. Same; restraining orders and injunctive relief.

§ 181. Penalties; damaging historical site or tangible cultural property.

(a) It shall be unlawful for any person, natural or corporate, to take, steal, appropriate, excavate, convert, sell, convey, injure, destroy, alter, or dispose of any registered historical site, any artifact from a historical site, or tangible cultural property located upon lands or in waters owned or controlled by the Republic or any of its political subdivisions without the written permission of the Chief being first obtained. It shall be unlawful for any person, natural or corporate, to take, steal, appropriate, excavate, convert, sell, convey, injure, destroy, alter, or dispose of any registered historical site, any artifact from a historical site, or

tangible cultural property located upon lands or in waters owned or controlled by the Republic or any of its political subdivisions except as permitted by the Division.

(b) It shall be unlawful for any person, natural or corporate, to aid, abet, assist, or conspire to take, steal, appropriate, excavate, convert, sell, convey, injure, destroy, alter, or dispose of any registered historical site, any artifact from a historical site, or tangible cultural property located upon lands or in waters owned or controlled by the Republic or any of its political subdivisions.

(c) Any person who violates this section shall be fined not more than five thousand dollars (\$5,000), imprisoned for a period of not more than three (3) years, or both for each separate offense. If the violator directly or indirectly has caused the loss of, or damage to, registered historical sites, artifacts of historical sites, or tangible cultural property, the violator shall be fined an additional amount determined by the court to be equivalent to the value of the lost or damaged historical site, artifacts, or tangible cultural property. Each day of continued violation of this provision shall constitute a distinct and separate offense for which the offender may be punished. Equipment used by a violator for the taking, appropriation, stealing, conversion, sale, conveyance, excavation, storage, injury, destruction, or alteration of a historical site, artifact, or tangible cultural property, or for the transportation of the violator to or from the historical site or the location of the artifact or tangible cultural property, shall be subject to immediate seizure and disposition by the Republic without compensation to its owners.

(d) Sixty percent (60%) of the amount of each fine collected pursuant to this section shall be allocated to the state government of the state in which the violation occurred that led to the imposition of the fine, and forty percent (40%) of the amount of each fine shall be allocated to the national government.

Source

RPPL 1-48 § 12, modified. RPPL 8-16 § 2 amended §§ (a) and (b) in their entirety and adds §§ (c) and (d), modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 281 (Tr. Div. 1995).

§ 182. Same; reproductions, forgeries, and illegal sales.

It shall be unlawful to reproduce, retouch, rework, or forge any registered tangible cultural property and to represent it or offer it for trade or sale as an original and genuine object. It shall be unlawful for any person to offer for sale or exchange any registered tangible cultural property with the knowledge that it has been collected or excavated in violation of any of the terms of this chapter. Any person violating this section shall be fined not more than one thousand dollars (\$1,000). Each object offered for sale or trade in violation of this section shall constitute a distinct and separate offense for which the offender may be punished.

Source

RPPL 1-48 § 13, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 280 (Tr. Div. 1995).

§ 183. Same; restraining orders and injunctive relief.

(a) In addition to and without limiting the other powers of the Ministry of Justice and without altering or waiving any criminal penalty provisions of this chapter, the Ministry of Justice shall have the power to

bring an action in the name of the Republic in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter.

(b) Any person may maintain an action, in the trial court having jurisdiction where the alleged violation occurred or is likely to occur, for restraining orders or injunctive relief against the Republic, its political subdivisions, or any person, upon a showing of irreparable injury, for the protection of a historical site or tangible cultural property and the public trust therein from unauthorized or improper demolition, alteration, or transfer of such property.

Source

RPPL 1-48 § 14, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 283 (Tr. Div. 1995).

Chapter 2

Palau Museum

§ 201. Creation.

§ 202. Board of Trustees.

§ 203. Annual report.

§ 201. Creation.

The Palau Museum is recognized as being officially chartered as a nonprofit corporation by authority of the High Commissioner as of September 26, 1973, with the purpose of preserving and displaying items of interest and importance in reflection of the natural history of Palau and the culture of the Palauan people.

Source

PL 5-5-2 § 1, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 278 (Tr. Div. 1995).

§ 202. Board of Trustees.

The Museum and facilities shall be operated under the authority of a board of Trustees in accordance with the Museum articles of incorporation and bylaws on file with the Registrar of Corporations. The Olbiil Era Kelulau recognizes the present thirteen (13) members of the board of trustees as named in said articles of incorporation; provided that any new members or vacancies on said board shall be appointed or filled only by recommendation of the board to the President, who shall submit the candidates' names for the advice and consent of the Senate. There shall always be at least one member of the Olbiil Era Kelulau on the board of trustees.

Source

PL 5-5-2 § 2, modified.

Notes

ROP v. Palau Museum, 6 ROP Intrm. 277, 278 (Tr. Div. 1995).

§ 203. Annual report.