

**TITLE 28
FOREIGN RELATIONS AND TRADE**

**Chapter 1
Foreign Investment Act**

- § 101. Short title.
- § 102. Definitions.
- § 103. Requirement of foreign investment approval certificate.
- § 104. Foreign Investment Board.
- § 105. Local ownership requirement.
- § 106. Minimum requirements for grantee.
- § 107. Criteria for evaluation of applications.
- § 108. Application and procedures.
- § 109. Request for review.
- § 110. Amendment of investment approval certificate.
- § 111. Reporting of grantee.
- § 112. Modification, suspension, or revocation.
- § 113. Penalties.
- § 114. Penalty for aiding and abetting.
- § 115. Report by the Board.
- § 116. Fees.
- § 117. Regulations.
- § 118. Service of process.
- § 119. Tax exemption.
- § 120. Enforcement.
- § 121. Severability.
- § 122. Non-citizen tour boat, tour bus, or taxi operators.
- § 123. Drug testing for tour bus and taxi operators.
- § 124. Tour boat, tour bus, or taxi exemptions.
- § 125. Fees applicable to exempt operators and training of tour boat operators.
- § 126. Tour boat, tour bus, or taxi penalties.
- § 127. Grandfather clause.

§ 101. Short title.

This chapter shall be known and may cited as the “Foreign Investment Act”.

28 PNCA § 101 FOREIGN RELATIONS AND TRADE

Source

RPPL 3-34 § 1, modified. Amended by RPPL 9-64 § 2.

Notes

RPPL 9-64 § 1. Legislative findings. The Olbiil Era Kelulau finds that one of the best available means to encourage the expansion of Palau's private economic sector so as to help create a more broad-based and sustainable economy is to modernize and incentivize the Foreign Investment Act. The creation of a broad-based sustainable private sector economy in Palau will help lessen our people's dependence on government as the preferred and primary source of employment and livelihood in Palau by creating alternative, private sector jobs and other business opportunities for Palauan citizens and residents.

The Olbiil Era Kelulau further finds that private business within the Republic of Palau must be protected. In effect, a proper balance must be found that encourages foreigners to invest money in the Republic of Palau to create a vibrant economy and lift up the livelihoods of all, while at the same time protecting Palauans from foreigners who could swallow up their ability to compete. This bill maintains the local ownership requirements set forth in 28 PNC § 105, while expanding the incentives for foreigners to invest and easing the bureaucracy toward obtaining a license.

Former Chapter 1 sections 101 to 167, 33 TTC § 1-19, amended by RPPL 3-30 § 9[8,9,10,11,12,13 & 14] were repealed by RPPL 3-34 § 22.

Ngirchechol v. Triple J Enters., 11 ROP 58, 59, 60 (2004).

Asanuma v. Koo Soon Park, 11 ROP 53, 54, 56 (2004).

Allied Boston Bank, Inc. v. Registrar of Corps., 10 ROP 198, 200 (Tr. Div. 2002).

Micronesia Yachts Co., LTD. v. Palau Foreign Investment Board, 7 ROP Intrm. 128 (1998).

§ 102. Definitions.

As used in this chapter, unless the context requires otherwise:

- (a) "Beneficial interest" means any direct or indirect interest in the commercial gain or profit of a business enterprise; provided, however, that an interest holder of a publicly traded legal entity listed on an internationally recognized exchange which has a beneficial interest in a business enterprise will not be considered to hold a beneficial interest in such business enterprise.
- (b) "Board" means the Foreign Investment Board established under section 104 of this chapter.
- (c) "Business enterprise" means any sole proprietorship, partnership, corporation, trust, joint venture, association, or other entity, however organized, operating or intending to operate, that is or will be required to obtain a business license issued in accordance with 40 PNC § 1501.

- (d) “Chairman” means the chairman of the Foreign Investment Board established under section 104 of this chapter.
- (e) “Citizen” means a citizen of the Republic as defined in Article III of the Constitution of the Republic and includes a business enterprise wholly owned by a citizen or citizens.
- (f) “Foreign investment” means investment made by a non-citizen in a business enterprise.
- (g) “Front” means a citizen or citizens in whose name a “front business” is established, licensed, or taxed.
- (h) “Front business” means a business enterprise nominally owned exclusively by one or more citizens, but which in fact is owned or financed, in whole or in part, by one or more non-citizens.
- (i) “Foreign investment approval certificate” means an investment approval certificate granted under section 107 of this chapter.
- (j) “Grantee” means a business enterprise which has been granted a foreign investment approval certificate under this chapter.
- (k) “Investment” means cash or the value of tangible assets subscribed or contributed to the equity capital of or ownership interest in a business enterprise.
- (l) “Member” means a member of the Foreign Investment Board established under section 104 of this chapter.
- (m) “Non-citizen” means any person, natural or legal, who is not a citizen and includes a business enterprise in which a non-citizen owns an interest.
- (n) “Operator” means any individual who is in direct control of the mechanical and/or electrical operation of a vehicle or vessel.
- (o) “Owner” or “part-owner” means any person or member of a group of persons, natural or legal, that owns a business enterprise in a bona fide attempt to profit from its successful operation. Elements of ownership generally include decision-making abilities and first right to profit. For the purpose of this definition, “group of persons” includes family members. Bare legal title or nominal ownership is not determinative of ownership

28 PNCA § 102 FOREIGN RELATIONS AND TRADE

or part ownership.

(p) “President” means the President of the Republic.

(q) “Republic” means the Republic of Palau.

(r) “Secretary” means the Secretary to the Foreign Investment Board established under section 104 of this chapter.

(s) “Short term lodging facility” means a hotel or other business enterprise which provides sleeping or lodging accommodations averaging stays of thirty days or fewer in exchange for remuneration.

(t) “Taxi” means any motorized vehicle driven upon any street or highway within the Republic for the purpose of transporting passengers in exchange for remuneration in cash, cash equivalent, or other property. This definition does not include tour buses as defined in subsection (u) of this section.

(u) “Tour boat” means any motorized water craft, vehicle, or vessel, including, but not limited to, sport-fishing, and dive vessels, used to transport passengers in exchange for remuneration in cash, cash equivalent, or other property.

(v) “Tour bus” means any motorized vehicle designed to carry six or more passengers and used to transport passengers for profit.

(w) “Vice Chairman” means the Vice Chairman of the Foreign Investment Board established under section 104 of this chapter.

Source

RPPL 3-34 § 2, modified. Amended by RPPL 9-56 § 12, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Subsection (o) amended; a new subsection (s) added and the rest of subsections re-lettered accordingly by RPPL 10-20 § 2.

Notes

To conform into alphabetical order former subsection (p) is designated as subsection (t) and subsection (t) is designated as (u) accordingly.

Terms put into alphabetical order. Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

Demei v. Eight Eng’g Co., 14 ROP 64, 66, 67 (2007).

Asanuma v. Koo Soon Park, 11 ROP 53, 56 (2004).

Micronesia Yachts Co., LTD. v. Palau Foreign Investment Board, 7 ROP Intrm. 128, 129, 130, 131 (1998).

§ 103. Requirement of foreign investment approval certificate.

- (a) No non-citizen shall be an owner or part-owner of a business enterprise, either directly or indirectly, without first obtaining approval in accordance with the provisions of this chapter.
- (b) No non-citizen shall become an owner or part-owner of, or make any investment in, an existing business enterprise in the Republic owned wholly by citizens until that business enterprise obtains a foreign investment approval certificate approving such acquisition.
- (c) No grantee shall carry on any business activity other than the activity approved in its foreign investment approval certificate without first obtaining approval from the Board for such new activity.
- (d) Notwithstanding subsections (a) through (c) of this section, a foreign investment approval certificate is not required for:
- (1) a non-citizen engaging in any type of business or making a foreign investment exclusively to fulfill the terms of a contract or agreement, either as a party or as a subcontractor pursuant to such contract or agreement, with the National Government of the Republic; Palau Community College; Palau Public Utilities Corporation; Palau National Communications Corporation; National Development Bank of Palau; Belau Submarine Cable Corporation; or any other public corporation of the Republic. Such business activity or foreign investment shall be governed and regulated by the contract or agreement notwithstanding any provisions of this chapter.
 - (2) any not-for-profit entity organized exclusively for religious, charitable, scientific, literary, environmental, or educational purposes, or to foster national or international amateur athletic competition or for the prevention of cruelty to children or animals, no part of the earnings of which inure to the benefit of any shareholder, individual, or beneficial interest holder, as applicable, and no substantial part of the activities of which is carrying on propaganda or is involved in political campaigning.
 - (3) any person or entity licensed by the appropriate agency within the Republic engaging exclusively in the practice of accounting, architecture, engineering, law or medicine (for the avoidance of doubt, including dentistry, optometry and like

28 PNCA § 103 FOREIGN RELATIONS AND TRADE

fields).

(4) any financial institution required to be licensed by the Financial Institutions Commission.

(5) the publication of general or classified advertisements through newspapers, brochures, or other publications, or through radio or television.

(6) the conduct of scientific research or investigations, if the research or investigation is sponsored by a university, college, agency, or institution normally engaged in such activities, and the particular research or investigation at issue is not for purposes of, or expected to yield, commercial profit.

(7) the collection of information by a bona fide journalist for news publication or broadcast, but not actual publication of newspapers, brochures, or other publications.

(8) maintaining or defending any action or suit, or participating in administrative proceedings, arbitration or mediation, as an actual party to such action.

(9) maintaining an account or accounts in a financial institution in the Republic.

(10) offering or providing to the public any professional service through a non-profit, charitable, public service, religious program or organization, including, but not limited to, any service through the Peace Corps, the Japan International Cooperation Agency and religious missions.

(11) a manufacturer or distributor performing services auxiliary to an existing contract of sale to which they are a party to, such as installing machinery which has been manufactured and exported to the Republic by such manufacturer or distributor, servicing the same, and training personnel located in the Republic to operate it.

(12) leasing or chartering, for non-commercial purposes, for a maximum of thirty calendar days, an airplane, or an ocean-going vessel, including a fishing vessel, provided that nothing herein shall be construed as allowing foreign flag vessels to fish within the waters of the Republic.

(13) being the lessee or taking an option to lease real property in the Republic.

- (14) holding meetings of directors or shareholders.
- (15) conducting an isolated transaction completed within a period of thirty (30) calendar days and not in the course of a series of repeated transactions of like nature.
- (16) being a franchisor party to a franchise agreement, to the extent the franchisor does not otherwise engage in business in the Republic.
- (17) being a medical specialist or veterinary specialist present in the Republic temporarily, from time to time, to provide medical services, in cooperation with the Ministry of Health or Bureau of Agriculture.
- (18) the lending of money by a non-citizen to a business enterprise or individual so long as that non-citizen lender has no ownership interest with, management authority or control over, or employment relationship to the borrower.
- (19) the leasing of a watercraft pursuant to a written agreement for a specified term and fee whereby the watercraft is registered in a country other than the Republic and the owner or lessor grants to a business enterprise the exclusive right, responsibility and liability of controlling, operating, and navigating the watercraft within the waters of the Republic, and simultaneously relinquishes all responsibility and liability for the watercraft. If the owner or lessor of the watercraft retains any control whatsoever (personally or through agents, representatives or employees) over the operation or navigation of the watercraft while it is in the waters of the Republic, the arrangement does not qualify for this exemption.
- (20) any business enterprise that is regulated by Title 8 of the Palau National Code and is engaged in the business of operating aircraft for the purpose of transporting persons or property for compensation or hire between a place in the Republic and any place outside thereof.
- (21) a non-citizen engaging in any type of business or making a foreign investment exclusively to fulfil the terms of a contract or agreement, either as a party or as a subcontractor pursuant to such contract or agreement, with a state government of the Republic, provided that the state government provides the Board with notice, in writing, of the contract, the non-citizen(s) involved, and the services to be performed. Once notice has been provided to the Board, such

28 PNCA § 103 FOREIGN RELATIONS AND TRADE

business activity or foreign investment shall be governed and regulated by the laws of the Republic, applicable state laws, and the rules and regulations of the Environmental Quality Protection Board.

(e) A business enterprise is not eligible for a foreign investment approval certificate if the business enterprise has a non-citizen owner or part-owner who has been convicted in any jurisdiction within the last ten (10) years of a crime involving dishonesty or moral turpitude that constitutes a felony offense under the laws of the Republic; provided, however, that this provision shall in no way restrict the ability of the Board to deny a foreign investment approval certificate to a business enterprise with a non-citizen owner or part-owner that has been convicted of other crimes not aforementioned.

Source

RPPL 3-34 § 3, modified. Subsection (b) amended by RPPL 9-56 § 10. Amended in its entirety by RPPL 9-64 § 2, modified. Subsections (a) & (d) amended by RPPL 10-20 § 2.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

Pamintuan v. ROP, 16 ROP 32, 34 (2008).

Demei v. Eight Eng'g Co., 14 ROP 64, 66 (2007).

Asanuma v. Koo Soon Park, 11 ROP 53, 56 (2004).

Micronesia Yachts Co., LTD. V. Palau Foreign Investment Board, 7 ROP Intrm. 128, 129, 131 (1998).

§ 104. Foreign Investment Board.

(a) There is hereby established within the executive branch of the national government of the Republic a Foreign Investment Board with the following functions:

(1) to review, evaluate, and approve applications and proposals for foreign investment approval certificates;

(2) to monitor and enforce compliance with the terms and conditions of any foreign investment approval certificate granted under this chapter;

(3) to monitor and perform spot inspections of any business enterprises by the Board or its designees to enforce compliance with the provisions of this chapter, including by:

(A) making unannounced on-site inspections or spot checks of the

business premises of grantees, applicants, and other business enterprises which the Board has reason to believe are operating as front businesses, or otherwise reasonably believes to be in violation of the provisions of this chapter; and

(B) issuing an administrative summons or subpoena to obtain information, statements, or documents reasonably related to the investigation;

(4) to review the procedures and regulations of the Board, and all other regulations governing or proposing to govern foreign investments, and advise the President and Olbiil Era Kelulau from time to time on matters related to the implementation and recommendations for improvement of this chapter and the regulations issued under this chapter;

(5) to represent the Republic at conferences, meetings, gatherings, and other forums on matters pertaining to foreign investment;

(6) to submit an annual report to the President and the Olbiil Era Kelulau on the working of this chapter as prescribed in section 115;

(7) to seek out foreign grant and technical assistance to aid it in carrying out its duties and responsibilities;

(8) to hold administrative hearings on contested matters arising under this chapter. Such hearings on contested matters will be conducted in accordance with the Administrative Procedures Act, and are subject to judicial review. All decisions of administrative hearings must be made in writing;

(9) to investigate suspected front businesses, irrespective of nominal ownership, including but not limited to the initiation of proceedings under section 120(d);

(10) to bring civil actions directly in the Trial Division of the Supreme Court of the Republic to enforce the provisions of this chapter;

(11) to promulgate regulations to effectuate any provisions of this chapter;

(12) to promulgate regulations setting the minimum employment requirement applicable under section 106(a)(2), either generally or on a sector-by-sector basis;

28 PNCA § 104 FOREIGN RELATIONS AND TRADE

(13) to select and publicly endorse one or more reputable and independent accommodations rating or classification system(s) for use in evaluating applications for foreign investment approval certificates that are subject to section 107(b) of this chapter; and

(14) to perform such other duties and functions falling within the purview of this chapter, or as may be entrusted to it by the President.

(b) The Board shall have seven (7) appointed members who shall be residents of the Republic and who have sufficient knowledge, experience and expertise in the areas of business policy affairs or related fields to efficiently and effectively discharge the functions of the Board under this chapter. They shall be appointed by the President with the advice and consent of the Senate of the Olbiil Era Kelulau, and may be removed by the President only for cause.

(c) The term of office for members of the Board who are initially appointed shall be as follows: two (2) for a period of one (1) year; two (2) for a period of two (2) years; and three (3) for a period of three (3) years. Successors to the first appointees hereunder shall be appointed for terms of three (3) years each. A person who has served as a member of the Board is eligible for reappointment for further terms. Vacancies occurring for reasons other than expiration of term shall be filled by the President by appointment, in same manner as the original appointment was made, for the unexpired term. A member of the Board shall not serve beyond the expiration of his term.

(d) The Board shall elect its own Chairman and Vice Chairman from among the appointed members. In the absence of the Chairman, the Vice Chairman shall perform all the functions of the Chairman.

(e) The Board shall meet whenever required by the Chairman or the President, but in any event, no less than once every month. In any Board meeting, the attendance of at least four appointed members shall be required to constitute a quorum. The assents of at least four appointed members shall be required for all decisions requiring a vote.

(f) The Chairman shall notify all board members in writing at least three (3) days in advance of any meetings of the board. The notice shall specify the date, time, place and business to be considered at the meeting. A member shall not vote by proxy.

(g) The Board shall have an office. The office of the Board shall be headed by the Board Secretary who shall ensure that a complete and systematic record of all meetings of the

Board is maintained.

(h) The Board may adopt its own rules, consistent with the provisions of this chapter, to regulate the conduct of its business.

(i) The Board shall adopt and publish specific criteria in furtherance of the provisions of section 107, which criteria shall be made available to all applicants, and any regulations to carry out the provisions of this chapter.

Source

RPPL 3-34 § 4, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Subsections (a) and (e) amended by RPPL 10-20 § 2.

Notes

Subsections previously codified with number designations have been re-codified with letter designations to conform with Code format.

§ 105. Local ownership requirement.

(a) The following business activities are reserved exclusively for business enterprises in which at least one citizen is an owner or part-owner and shall not be permitted to be undertaken by any business enterprise in which no citizen is an owner or part-owner:

(1) handicraft and gift shops; provided, however, that handicraft or gift shops located on the premises of hotels or at the Palau International Airport shall be exempt from the prohibition of this section;

(2) bakeries;

(3) bar services not associated and contained within a restaurant or hotel complex. For purposes of this subsection, hotel complex means any lodging facility having at least fifty (50) rooms for the accommodation of guests;

(4) operations manufacturing products already being produced by wholly Palauan-owned manufacturing enterprises;

(5) equipment rentals for both land and water usage within the Republic, including equipment for purpose of tourism, but not including rentals of land or water transportation vehicles;

28 PNCA § 105 FOREIGN RELATIONS AND TRADE

- (6) raising and harvesting farm-raised fish and maricultured species; and
- (7) any such other businesses as the Board may determine.

(b) The following business activities are reserved exclusively for business enterprises in which only citizens are owners or part-owners and shall not be permitted to be undertaken by any business enterprise in which a non-citizen is an owner or part-owner:

- (1) wholesale or retail sale of goods;
- (2) all land transportation services, including but not limited to, bus services, taxi services, and car rentals;
- (3) any form of water transportation services, including rentals of any water transportation vehicle;
- (4) travel and tour agencies and land-based and water-based tour service providers, including but not limited to dive shops, chartered fishing operations and surfing businesses;
- (5) commercial fishing for other than highly migratory species, with the exception of fishing for farm-raised fish and maricultured species; and
- (6) any such other businesses as the Board may determine.

Source

RPPL 3-34 § 5, as amended by RPPL 4-10 § 24, modified. Amended by RPPL 9-56 § 11. Amended in its entirety by RPPL 9-64 § 2, modified.

Notes

- (1) Subsections previously codified with number designations have been re-codified with letter designations to conform with Code format.
- (2) Section 471 of the Compact of Free Association between the United States of America and the Republic of Palau reads:
 - (a) The Government of the United States and the Government of Palau agree that they have full authority under their respective constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.
 - (b) The Government of the United States and the Government of Palau shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, that their laws, regulations and administrative procedures are such as to effect the commitments referred to in Section 471(a).

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 142 of the Compact of Free Association reads:

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to the right of the Government of Palau to regulate occupations in Palau in a non-discriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

In a section entitled "Listing of Revisions Incorporated into January 10, 1986 Improved Compacts" on page 506 of a U.S. Government publication entitled "Compact of Free Association - Hearings before the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs - 1986" Serial No. 99-9 Part IV appears the statement: "Section 142(a). A new sentence has been added to the end of this subsection recognizing Palau's right to regulate occupations in a non-discriminatory manner." This same statement is repeated on pp. 201, 385 and 440.

U. Corp. v. Shell Co., 15 ROP 137, 140, 141, 142 (2008).

Micronesia Yachts Co. v. Foreign Investment Board, 5 ROP Intrm. 305, 308 (Tr. Div. 1995).

§ 106. Requirements for grantee.

(a) A grantee must:

(1) make and maintain a foreign investment in the Republic of no less than five hundred thousand dollars (\$500,000) or, in the case of a hotel or other short-term lodging facility, five million dollars (\$5,000,000); or

(2) maintain a work force of which at least twenty percent (20%) are citizens of the Republic or such other percentage as may be fixed by the Board through regulation, either generally or on a sector-by-sector basis, provided that each grantee has the right to challenge in an administrative hearing the application of the citizen employment percentage to its business based on evidence of the availability of citizens for hire. The ruling of the Board shall be subject to appeal in the Trial Division of the Supreme Court of the Republic. The grantee must give preference in hiring to citizens of the Republic in all jobs and occupations for which such citizens are qualified and available and shall pay all of its employees no less than the minimum wage established by law. If the grantee is permitted to construct a new hotel or other short-term lodging facility, the grantee must report

28 PNCA § 106 FOREIGN RELATIONS AND TRADE

to the Board when it is ready to begin construction of said hotel or lodging facility, including but not limited to, the number and type of workers the grantee requires to construct the facility, and upon completion of construction, the number and type of workers needed to operate the facility.

(b) A grantee must comply with all of the following ongoing obligations to maintain the validity of its foreign investment approval certificate:

- (1) open an office in the Republic and maintain an office in the Republic at all times.
- (2) comply with all laws and regulations of the Republic.
- (3) set up and maintain its books of account, in English, in the Republic.
- (4) open and maintain at least one banking accounts in the Republic with a financial institution licensed by the Financial Institutions Commission.
- (5) not sell, assign, encumber, or transfer any beneficial interest in such grantee for one (1) year after receiving its foreign investment certificate.
- (6) prior to the sale, assignment, encumbrance, or transfer of any five percent (5%) or greater beneficial interest in such grantee, the grantee must obtain the prior written consent of the Board, which consent shall not be unreasonably withheld. Any request to the Board for consent shall be in writing and shall include the details of any purchaser, assignee, beneficiary or transferee including the full name, citizenship or domicile (as applicable), and address of such person or entity (as applicable); provided that the Board may request any further information it deems necessary to make a decision on whether to provide its consent; provided further that, in any twelve (12) month period, no greater than ten percent (10%) of the beneficial interests in the aggregate in the grantee may be sold, assigned, encumbered or transferred without the consent of the Board pursuant to this provision notwithstanding that such transactions may each involve less than five percent (5%) of the beneficial interest in the grantee.
- (7) if the grantee is a corporation, hold at least one (1) board of directors meeting every calendar year in the Republic at which a quorum of the board is physically present.
- (8) pay applicable taxes in accordance with relevant laws and regulations.

(9) pay all of its employees wages and benefits as required by the minimum wage laws and other employment and labor laws and regulations of the Republic.

(10) pay into the National Treasury of the Republic, an annual fee of five hundred dollars (\$500) for each non-citizen employed which sum shall be collected by the National Treasury. Half of the proceeds of the fees for non-citizen employees collected pursuant to this section shall be deposited into the Scholarship Fund established by 22 PNC 229(a). For purposes of this section, a non-citizen is considered an employee if the non-citizen is hired by, is an independent contractor of, under contract to, or working on the business premises of the grantee.

Source

RPPL 3-34 § 6, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Subsection (a) amended by RPPL 10-20 § 2.

§ 107. Criteria for evaluation of applications; special considerations for new hotels or other short-term lodging facilities.

(a) An application for a foreign investment certificate shall be evaluated by the Board according to the following criteria:

- (1) the economic need for the proposed activity in the Republic;
- (2) the extent of its current availability in the Republic;
- (3) the likely impact on same or similar activities currently being carried on by citizens;
- (4) the overall benefit to the national economy;
- (5) the bona fides, financial capacity, experience and expertise of the applicant;
- (6) the technical and economic viability of the proposed project;
- (7) the overall contributions to the national economy;
- (8) the extent of direct and indirect employment generation;
- (9) the extent of import earnings or import savings;

28 PNCA § 107 FOREIGN RELATIONS AND TRADE

(10) the extent of utilization of domestic raw materials and natural resources, including the benefits or adverse impact of such utilization;

(11) the extent of transfer of managerial and technical skills to citizens, including well-defined training programs for achieving such transfer;

(12) the size of the foreign investment as well as the total investment required for the project;

(13) the impact of the proposed activity upon the social and cultural values and the environmental integrity of the Republic; and

(14) whether the capital investment and technical and managerial skills required for a business activity are such as to be available from citizens.

(b) No foreign investment approval certificate that permits the construction of a new hotel or other short-term lodging facility shall be issued unless:

(1) The hotel or other short-term lodging facility's infrastructure needs, including, but not limited to electricity, water, wastewater/sewage, and roadways, will be addressed through:

(A) the employment of means for reducing the hotel or other short-term lodging facility's overall strain on public infrastructure, such as the use of renewable energy sources, self-contained wastewater treatment systems with no discharge, water recycling mechanisms, rainwater collection, and/or like technologies that have the effect of making the hotel or other short-term lodging facility more self-sustaining; and/or

(B) contributions to off-site infrastructure improvements, in a manner that would entitle the business enterprise to a tax exemption under Section 119 of this chapter, and in a kind and/or amount commensurate with the character and size of the hotel or other short-term lodging facility, as determined by the Board on a case-by-case basis; and

(2) The proposed hotel or other short-term lodging facility is of a kind that would further the Republic's official policy and strategy of encouraging high-end and high-value tourism.

(A) The Board shall promulgate rules and regulations to encourage and incentivize foreign investment in high-end facilities, including facilities which would likely qualify for the highest possible ranking (e.g., “5 Stars”) under reputable and independent accommodation rating systems adopted pursuant to § 104 (a)(13).

(B) The Board shall promulgate regulations to discourage or prohibit foreign investment in low-quality facilities, budget facilities, or facilities which would likely only qualify for a low rating under reputable and independent accommodation rating systems adopted pursuant to § 104 (a)(13).

Source

RPPL 3-34 § 7, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Subsections (a) and (b) amended by RPPL 10-20 § 2.

Notes

See note (2) to 28 PNCA § 105.

Masang v. Dengokl, 9 ROP 243, 247, 248 (Tr. Div. 2001).

§ 108. Application and procedures.

(a) An application for a foreign investment approval certificate shall be made to the Chairman of the Foreign Investment Board, and shall be accompanied by a non-refundable five hundred dollars (\$500) filing fee or, in the case of a hotel or other short-term lodging facility, a two thousand five hundred dollars (\$2,500) filing fee, payable to the National Treasury.

(1) the non-citizen who proposes to carry on a business;

(2) the citizen or both the citizen and non-citizen jointly in the case of a joint venture involving investment by both a citizen and a non-citizen; and

(3) the business enterprise which will carry on the proposed business or in which the proposed foreign investment will be made.

(b) The application shall be in such form, contain such particulars and shall be made in such number of copies as may be prescribed by regulations issued under this chapter.

28 PNCA § 108 FOREIGN RELATIONS AND TRADE

(c) The application for a foreign investment approval certificate shall contain the following information:

- (1) name of the applicant's business, the form of the business organization under which the applicant proposes to do business, its officers, directors, and proposed and existing stockholders and their citizenship if a corporate form of business, or ownership and management and their citizenship if a form of business other than a corporation, and in each case providing details of all interest holders in the applicant that have a five percent (5%) or greater beneficial interest in the applicant;
- (2) proposed principal office in the Republic;
- (3) purpose, scope, and objective of the business activities to be conducted by the applicant;
- (4) the following specific proposals:
 - (A) for the authorized capitalization, par value if any, proposed or initial issuance of shares of stock, consideration per share of stock issued, subsequent contemplated issuance of stock and the portion of stock to be set aside for purchase by citizens of the Republic equity owners to be allowed citizens of the Republic;
 - (B) agreeing not to revalue stock shares authorized but not issued that have been set aside for purchase by citizens of the Republic within the first five years after receipt of a business permit unless revaluation is approved by the Board and the President;
 - (C) agreeing not to restrict in any manner, except by way of pre-emptive rights existing in shareholders or the corporation, the issuance or sale of shares of stock to citizens of the Republic;
 - (D) agreeing to offer shares of stock at the principal place of business in the Republic, and explaining the procedures required to purchase a share of stock;
 - (E) setting forth in detail proposed stock purchase programs for employees of the business; and

(F) relating to establishing a Republic corporation, the proposed date of incorporation, and such other relevant information thereon as the Board may request.

(5) detailed proposals for management participation to be allowed citizens of the Republic and provisions for the creation of labor-management boards to represent the views of employees at meetings of the Board of Directors and with management on matters affecting employees;

(6) employment preference to be accorded citizens of the Republic and the initial number of citizens of the Republic to be employed;

(7) detailed proposals for training programs for Republic citizen employees in management and in upgrading labor skills;

(8) existing and proposed wage and employment benefit programs;

(9) a listing of total capital anticipated to be invested initially, identifying borrowed funds and their sources for each of the first five years after receipt of the business permit, and from where such capital funds will be obtained;

(10) a detailed investment analysis for each of the first three years of business showing:

(A) anticipated gross revenues and gross expenditures;

(B) anticipated and proposed marketing schemes;

(C) anticipated and proposed use of utilities and infrastructure; and

(D) the number of employees by nationality in the proposed business activity and the levels of skills required for the operation of the business in the Republic.

(11) specific economic and social programs the applicant intends to implement for the Republic to:

(A) develop and conserve the land and marine resources; and

28 PNCA § 108 FOREIGN RELATIONS AND TRADE

(B) provide community-related social services such as beautification programs and libraries.

(12) any additional information which the Board may deem necessary to evaluate the application being filed, such as proof of financial ability of the principals, or any other information which the applicant may deem appropriate.

(d) In addition to the information required for non-citizen applications under subsection (c) of this section, the application of a non-citizen which is a corporation (including a joint stock company) shall contain the following, unless it has already been filed with the Registrar of Corporations:

(1) a duly certified copy of the articles of incorporation, charter, and bylaws of the corporation;

(2) an affidavit sworn by an authorized officer of the corporation stating the amount of its authorized capital stock on or within sixty (60) days before the date of filing; and

(3) a designation of a person residing within the Republic upon whom process issued under any law of the Republic may be served, and his place of business or residence, and a certified copy of the minutes of the Board of Directors of the corporation authorizing his designation.

(e) In addition to the information required for non-citizen corporations under subsections (c) and (d) of this section, an insurance company organized under the laws of a state, territory or possession of the United States, or of a foreign country, which desires to maintain an office or agent in the Republic, shall file the following:

(1) a certificate of an authorized official, showing that the company is authorized to transact business in the state, territory, possession, or country under whose laws the company is organized; and

(2) a duly certified copy of the last annual statement of the insurance company.

(f) On receiving an application by the Chairman, the Board Secretary shall ensure that the application is complete and contains all the required information. If necessary, the Board Secretary will ask the applicant to complete the application or furnish such additional information as may be required for a proper evaluation of the application. The

Board Secretary shall render such assistance and guidance as may be possible to enable an applicant to make a complete application.

(g) Within fifteen (15) days after the applicant's submission of a completed application, the Board Secretary shall forward a copy of the complete application to each of the following prior to the Board's action and request their comments on the application:

- (1) the government of each state in which the application proposes to carry on the business;
- (2) the President or his/her designee;
- (3) the Chamber of Commerce;
- (4) the Senate, Olbiil Era Kelulau;
- (5) the House of Delegates, Olbiil Era Kelulau;
- (6) the Belau Tourism Association (as necessary);
- (7) the Bureau of Tourism (as necessary); and
- (8) such other persons or agencies as maybe appropriate for an evaluation of the application.

However, the Board may not make public or circulate any personal financial information about applicants that may be contained in an application. The Board shall issue regulations determining what would constitute "personal financial information" and creating procedures to keep such information confidential.

(h) The Board Secretary shall circulate the comments received under subsection (g) of this section, together with a copy of the application, to each member of the Board.

(i) The Board shall evaluate the application in terms of the criteria set out in sections 105 through 107 of this chapter taking into full consideration the comments received under subsection (h).

(j) The Board may call for such additional information, seek such expert advice or make such additional investigation as it may consider necessary for a proper evaluation of the

28 PNCA § 108 FOREIGN RELATIONS AND TRADE

application. The Board may also hold public hearings in appropriate cases. If it considers it necessary, the Board may also afford an opportunity to the applicant to explain his proposal.

(k) If the Board decides on the basis of such evaluation to grant a foreign investment approval certificate, it shall also decide the terms and conditions to be stipulated under the foreign investment approval certificate, which shall include the following:

- (1) the scope of the business activity;
- (2) the scope of utilization of domestic raw materials and natural resources;
- (3) the scope of utilization of supplies and services provided by citizens;
- (4) participation by citizens in ownership and management of the business enterprise either from the outset or over a period of time;
- (5) training programs for citizens for transfer of managerial and technical skills;
- (6) duration of business permit or investment approval certificate and its renewal;
- (7) any guarantee to be provided by the non-citizen; and
- (8) in order to safeguard the interest of persons doing business with a grantee, the Board may stipulate as a condition of a foreign investment approval certificate that the grantee shall, throughout the period of its validity, maintain a stipulated minimum amount of money in a bank account with a bank located in the Republic, before commencement of his business activity in the Republic, a grantee shall furnish proof of his having opened such a bank account together with a guarantee from the bank that the balance in the account shall not be allowed to fall below the stipulated minimum amount, without the prior written approval of the Board, the minimum amount stipulated under this paragraph shall be reasonable in relation to the nature and size of the business activity or foreign investment.

(l) The Board shall issue a decision on each application for a foreign investment approval certificate within ninety (90) days after submittal of such complete application.

(m) If the Board decides not to grant a foreign investment approval certificate, it shall record the reasons for not granting the foreign investment approval certificate with as much detail as possible.

(n) The decision of the Board granting or denying the application, together with a copy of the application and the comments received under subsection (g) must be transmitted to the applicant.

Source

RPPL 3-34 § 8, modified. Subsection (k)(9) is amended by RPPL 9-37 § 6. Amended in its entirety by RPPL 9-64 § 2, modified. Subsections (a) & (e)(1) amended by RPPL 10-20 § 2.

Notes

The bracketed “[country]” in subsection (e)(1) replaced the word “county” in the original legislation as complying with likely intention of legislation.

Section 108(c)(4)(A) is published as enacted. See note (2) to 28 PNCA § 105.

§ 109. Request for review.

(a) Where an application for a foreign investment approval certificate has been denied, the applicant may request a reconsideration, giving the grounds for it and any additional information in support of his application.

(b) The provisions of section 108 shall, as far as considered appropriate by the Board, apply to such a request for review.

(c) The decision taken on such a review to grant or deny a foreign investment approval certificate shall be final and without prejudice, but subject to any judicial remedy available to the applicant.

Source

RPPL 3-34 § 9, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

§ 110. Amendment of investment approval certificate.

(a) A grantee may request an amendment of the terms and conditions of a foreign

28 PNCA § 110 FOREIGN RELATIONS AND TRADE

investment approval certificate; provided, however, that no amendment shall be granted to permit a business enterprise to engage in an activity substantially different or unrelated to that which it is permitted to engage in by way of its original foreign investment approval certificate.

(b) Such a request shall be in the form of an application together with the necessary information and sufficient reasons for requesting the amendment.

(c) Subsections (g) through (l) of section 108 of this chapter, and any other provisions thereof considered appropriate by the Board, shall apply to such an application for amendment.

Source

RPPL 3-34 § 10, modified. Amended in its entirety by RPPL 9-64, modified.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

§ 111. Reporting of grantee.

(a) A grantee shall submit to the Secretary of the Board quarterly reports at times and containing such information to be prescribed by regulations issued under this chapter to enable the Board to monitor compliance by the grantee with terms and conditions of the foreign investment approval certificate granted to it.

(b) The Board shall review the reports, and when it decides that the grantee has committed a breach of the terms and conditions, direct the grantee to rectify the breach within a stipulated period of time, or take such other action as it may consider appropriate in the circumstances.

Source

RPPL 3-34 § 11, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

§ 112. Modification, suspension, or revocation.

(a) The Board may modify, suspend, or revoke a foreign investment approval certificate if it is found that:

- (1) the application of the grantee, or any report or notification the grantee is required to file with the Board, contained false or fraudulent information.
- (2) the grantee presented false or fraudulent information to the Board in support of his application.
- (3) the grantee resorted to bribery or unlawful influence or coercion in connection with his application.
- (4) the grantee violated any of the provisions of this chapter or any other laws of the Republic or regulations issued thereunder.
- (5) the grantee violated any of the terms and conditions of the foreign investment approval certificate granted to him.
- (6) the grantee carried on a business activity or made a foreign investment outside the scope of the foreign investment approval certificate granted to it.
- (7) the grantee, as a result of sale, assignment, or transfer of an interest of such grantee, no longer meets the local ownership requirements in section 105.
- (8) a beneficial interest in the grantee has been sold, assigned, encumbered, or transferred within one (1) year of receiving its foreign investment approval certificate in violation of Section 106(b)(5).
- (9) a beneficial interest in the grantee has been sold, assigned, encumbered, or transferred in violation of Section 106(b)(6).
- (10) the grantee's business license has expired or been revoked.

(b) Before any action is taken under subsection (a), the Board shall satisfy itself that there are sufficient grounds to proceed against the grantee, communicate the grounds for the proposed action to the grantee, and afford him an adequate opportunity to present his case.

28 PNCA § 112 FOREIGN RELATIONS AND TRADE

- (c) The Board shall consider the representation of the grantee and make any further investigation it may consider necessary.
- (d) If the Board decides that action under subsection (a) of this section is warranted, the Board shall notify the Attorney General.
- (e) The Public Auditor, at the request of and in cooperation with the Board, shall have the authority to inspect the records of any person or entity conducting business in the Republic to assure compliance with the provisions of this chapter.
- (f) The Board shall look to the following factors which are indicative of, though not necessarily determinative of, the existence of a front business:
 - (1) The business enterprise is managed by an on-site non-citizen manager or similar position of authority.
 - (2) A non-citizen can withdraw money or write checks from a bank account of the business enterprise or accept bank drafts on behalf of the business enterprise for payment of shipped goods without signature by any citizen.
 - (3) Hiring or firing decisions for the business enterprise are made by a non-citizen.
 - (4) All employees of the business enterprise are non-citizens.
 - (5) A non-citizen employee of the business enterprise has loaned funds, or supplied inventory or equipment to the business enterprise.
 - (6) Compensation for a non-citizen manager or employee is based on periodic earnings of the business enterprise, rather than an hourly wage or set salary.
 - (7) An initial set-up fee and/or periodic payments are received by the citizen or citizens who have legal title to the business enterprise, from a non-citizen.
 - (8) A non-citizen employee of the business enterprise represents the business enterprise or acquires inventory or equipment for the business enterprise while off-island.
 - (9) Payroll of the business enterprise is paid in cash.

(10) Shipments of inventory or equipment are received by a non-citizen at a port, an airfield or other point of entry to the Republic without the presence of the citizen who has legal title to the business enterprise.

(11) A current or former non-citizen employee of the business enterprise claims an ownership interest in the inventory or equipment of the business enterprise.

(12) A non-citizen employee of the business enterprise pays rent to or leases or subleases the business premises or any portion thereof, from the citizen who has legal title to the business enterprise.

(13) The citizen in whose name the business enterprise is legally set up cannot establish a source of payment for any asset(s) of the business enterprise, the purchase price or value of which was over \$5,000 per item or collectively.

Source

RPPL 3-34 § 12, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Subsections (a) & (d) amended by RPPL 10-20 § 2.

Notes

The bracketed [106(b)(5)] in subsection (a)(8) read “106A(e)” and the bracketed [106(b)(6)] in subsection (a)(9) read “106A(f)” in the original legislation and were amended accordingly to comply with likely intention of legislation.

See Note (2) to 28 PNCA § 105.

Tulmau v. R.P. Calma Co., 3 ROP Intrm. 205, 206, 210-11 (1992).

§ 113. Penalties.

(a) Without prejudice to any action that may be taken under subsection (a) of Section 112, any non-citizen:

(1) who violates, causes, or permits to be violated, or fails to or refuses to comply with any provision of subsections (a), (b) or (c) of Section 103 or any provision of Section 105, or subsection (b) of Section 106 of this chapter, shall be guilty of a misdemeanor. In addition to any criminal penalties, such person may also be subject to a civil fine not to exceed twenty-five thousand dollars (\$25,000), as determined by the Board;

(2) who obtains or attempts to obtain a foreign investment approval certificate by

28 PNCA § 113 FOREIGN RELATIONS AND TRADE

fraud, misrepresentation, bribery, unlawful influence, or coercion shall be guilty of a misdemeanor. In addition to any criminal penalties, such person may also be subject to a civil fine not to exceed twenty-five thousand dollars (\$25,000), as determined by the Board;

(3) who continues to engage in business after their foreign business permit or foreign investment approval certificate has expired or has been suspended or revoked shall be guilty of a misdemeanor. In addition to any criminal penalties, such person may also be subject to a civil fine not to exceed twenty-five thousand dollars (\$25,000), as determined by the Board;

(4) who violates the provisions of subsection (a) of section 103 of this chapter shall be automatically disqualified from obtaining a foreign investment approval certificate in accordance with the provisions of this chapter for a period of one (1) year.

(b) Any non-citizen unlawfully engaging in business in the Republic, directly or indirectly, without a currently valid foreign investment approval certificate or a foreign business permit, is liable for a civil, monetary fine of at least one thousand dollars (\$1,000) but not more than ten thousand dollars (\$10,000) for the first violation, at least two thousand five hundred dollars (\$2,500) but not more than fifteen thousand dollars (\$15,000) for the second violation, and at least five thousand dollars (\$5,000) but not more than twenty-five thousand dollars (\$25,000) for the third and subsequent violations. No natural person or business enterprise is eligible to obtain or retain a foreign investment approval certificate if found to have violated this section three or more times.

(c) Any citizen acting as a front on behalf of a front business is liable for a civil penalty of at least one thousand dollars (\$1,000) but not more than ten thousand dollars (\$10,000) for the first violation, at least two thousand five hundred dollars (\$2,500) but not more than fifteen thousand dollars (\$15,000) for the second violation, and at least five thousand dollars (\$5,000) but not more than twenty-five thousand dollars (\$25,000) for the third and subsequent violations. No natural person or business enterprise is eligible to obtain or retain a foreign investment approval certificate if found to have violated this section three or more times.

(d) Any grantee that violates the terms of its foreign investment approval certificate is liable for a civil, monetary fine of at least one thousand dollars (\$1,000) but not more than ten thousand dollars (\$10,000) for the first violation, at least two thousand five hundred dollars (\$2,500) but not more than fifteen thousand dollars (\$15,000) for the

second violation, and at least five thousand dollars (\$5,000) but not more than twenty-five thousand dollars (\$25,000) for the third and subsequent violations. No natural person or business enterprise is eligible to obtain or retain a foreign investment approval certificate if found to have violated this section three or more times.

Source

RPPL 3-34 § 13, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Subsection (a)(1)(2)(3) amended by RPPL 10-20 § 2.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

Pamintuan v. ROP, 16 ROP 32, 34 (2008).

Tulmau v. R.P. Calma Co., 3 ROP Intrm. 205, 206, 210 (1992).

§ 114. Penalty for aiding and abetting.

Any person who knowingly aids or assists in any manner whatsoever, in a violation of subsections (a), (b) or (c) of Section 103 or any provision of Section 105 of this chapter shall be guilty of a misdemeanor. In addition to any criminal penalties, such person may also be subject to a civil fine not to exceed twenty-five thousand dollars (\$25,000), as determined by the Board.

Source

RPPL 3-34 § 14, modified. Amended in its entirety by RPPL 9-64 § 2, modified. Amended by RPPL 10-20 § 2.

§ 115. Report by the Board.

(a) After the close of each calendar year, the Board shall submit an annual report to each house of the Olbiil Era Kelulau and the President on the working of this chapter containing, among other things, a review of quantitative and qualitative aspects of applications received for foreign investment approval certificates, the progress made and difficulties encountered in dealing with them, and recommendations for improvement of the policy and procedural framework.

(b) On a quarterly basis, the Board shall submit a report to the President and each house of the Olbiil Era Kelulau on the current applications under consideration, any action taken on any application, and a summary of any periodic report received by the grantees.

28 PNCA § 115 FOREIGN RELATIONS AND TRADE

Source

RPPL 3-34 § 15, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

§ 116. Fees.

Fees for applications, foreign investment approval certificates, and related matters shall be charged and paid to the National Treasury.

Source

RPPL 3-34 § 16, modified. Amended by RPPL 9-64 § 2.

§ 117. Regulations.

The Board shall promulgate regulations in accordance with Title 6 of the Palau National Code Annotated for the purpose of carrying this chapter into effect, and in particular and without prejudice to the foregoing, with respect to any of the following matters:

- (a) to amplify the expressions and provisions of this chapter;
- (b) to prescribe the forms for applications, foreign investment approval certificates, evaluation reports, reports to be submitted by the grantees and any other matters, whether or not specified to be prescribed under this chapter;
- (c) to prescribe time limits and procedures for various matters dealt with under this chapter; and
- (d) to prescribe fees for any matter dealt with under this chapter.

Source

RPPL 3-34 § 17, modified. Amended by RPPL 9-64 § 2.

Notes

Subsections previously codified with number designations have been recodified with letter designations to conform with Code format.

§ 118. Service of process.

Any non-citizen issued a foreign investment approval certificate automatically nominates and appoints the Vice President of the Republic to accept service of process on their behalf and further stipulates to the jurisdiction of the courts of the Republic involving all matters pertaining to or arising out of the authorized business activity. After the foreign investment approval certificate has been surrendered or revoked, process against the non-citizen may be served upon the Vice President in any action upon a liability or obligation occurred within the Republic prior to the surrender or revocation. Upon receipt of service of process by the Vice President, on behalf of a non-citizen license pursuant to the provisions of this chapter, the Vice President shall, within ten (10) days, mail a copy of the process to the non-citizen at the last known address on file with the Vice President. Service of process upon the Vice President for or on behalf of any non-citizen shall be cumulative to any other method of service or process provided for by law.

Source

RPPL 3-34 § 18, modified. Amended by RPPL 9-64 § 2, modified.

§ 119. Tax Credit.

A Grantee or person authorized to do business under Section 127 of this chapter that constructs a facility in the Republic shall be eligible, at the discretion of and subject to regulations promulgated by the Ministry of Finance, for a tax credit of up to forty percent (40%) of the costs of any off-site road, electrical power, water, and/or sewer infrastructure improvements made to service such facility. Said credit shall be for the tax year the costs were incurred, may be applied to any taxes levied against gross revenues pursuant to Chapter 12 of Title 40 of the Palau National Code, and may be carried forward at the discretion of and subject to regulations promulgated by the Ministry of Finance.

Source

RPPL 3-34 § 19, modified. Amended by RPPL 9-64 § 2. Amended by RPPL 10-20 § 2, modified.

Notes

Minister of Finance read Minister of Administration and was amended by RPPL 6-26 § 33[108], *see* 2 PNCA § 102.

§ 120. Enforcement.

(a) In addition to any remedies set forth above for violations of this chapter, the Board or the Attorney General may file an action to enjoin any activity violating the provisions of this chapter.

28 PNCA § 120 FOREIGN RELATIONS AND TRADE

(b) If the Board or an employee of the Board sees a violation of this chapter during an unannounced on-site inspection or spot check conducted under section 104(a)(3)(A) it may issue an administrative citation against the grantee. The grantee may challenge the administrative citation within thirty (30) days from the date that the citation is issued. The Board may penalize a violation by applying the applicable civil fine under section 113, or by modifying, suspending, or revoking the grantee's foreign investment approval certificate, or both. The Board shall resolve a challenge to a citation in an administrative hearing held in accordance with section 104(a)(8). All citations must be in written form and the Board must provide the grantee with a copy of the citation.

(c) Any citizen or resident of the Republic, any political subdivision of the Republic of Palau, or any incorporated or unincorporated association shall have standing and capacity to bring a civil action to enforce the provisions of this chapter as a private Attorney General.

(d) Where the Board finds, learns, believes or receives information which indicates that a business enterprise is operating as a front business, it shall serve written notice of the suspected violation on both an authorized agent of the business enterprise and the citizen owner(s) of the business enterprise. The business enterprise shall have thirty (30) days from the date that the notice is issued to provide such proof as would convince a reasonable person that the business enterprise is not a front business. Information obtained in accordance with this section may not be made public or disclosed by the Board or its agents beyond the extent necessary to enforce this chapter. If the business enterprise does not respond or otherwise fails to timely submit sufficient proof, the Board shall notify the Director of the Bureau of Revenue, Customs and Taxation in the Ministry of Finance, who shall revoke any business license obtained by the business enterprise under chapter 15 of Title 40 of the Palau National Code. Any failure to submit proof of ownership may not be used as evidence in any criminal proceeding under this chapter. Appeals of the Board's decision may be made directly to the Trial Division of the Supreme Court of the Republic.

Source

RPPL 3-34 § 21, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

Notes

The word "chapter" has been used in place of "Act" to conform with codification policy. Included in the Foreign Investment Act statute was an amendment to 40 PNCA § 1301.

U. Corp. v. Shell Co., 15 ROP 137, 140 (2008).
Masang v. Dengokl, 9 ROP 243, 246 (Tr. Div. 2001).
Tulmau v. R.P. Calma Co., 6 ROP Intrm. 54, 55 (1997).

Foreign Investment Board v. OEK, 5 ROP Intrm. 344, 345 (Tr. Div. 1996).
Tulmau v. R.P. Calma Co., 3 ROP Intrm. 205, 206-09 (1992).

§ 121. Severability.

If any provision of this chapter is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and applicability of such provision to other persons and circumstances shall not be affected thereby, and to this extent the provisions of this chapter are deemed severable.

Source

RPPL 3-34 § 23, modified. Amended by RPPL 9-64 § 2.

§ 122. Non-citizen tour boat, tour bus, or taxi operators.

(a) No non-citizen may operate a tour boat, tour bus, or taxi, except as provided for in section 124 of this chapter.

(b) No owner of a tour boat, tour bus, or taxi may employ, direct, authorize or allow a non-citizen to operate any tour boat, tour bus, or taxi, except as provided for in section 124 of this chapter.

Source

RPPL 9-56 § 13, modified. Amended by RPPL 9-64 § 2.

Notes

In the original legislation RPPL 9-56 Section 13, § 122 was untitled. The title for § 122 above which read: “Non-citizen restriction on operation of tour boats, tour busses and taxis” is incorporated herein by the Code Commission.

§ 123. Drug testing for tour bus and taxi operators.

(a) All operators of tour buses and taxis shall be required to undergo random testing for the use of illegal drugs. Rules and regulations for such drug testing shall be promulgated by the Bureau of Public Safety, in accordance with 6 PNC Chapter 1, and shall include provisions for the payment for such testing by the tour bus or taxi operator’s employer, or him or herself should the operator be self-employed. The cost of such testing shall not be deducted by an employer from the operator’s salary. The tests shall be conducted by a physician, medical officer, laboratory technician, or certified nurse approved to conduct such testing by the Bureau of Health Services and the Bureau of Public Safety.

28 PNCA § 123 FOREIGN RELATIONS AND TRADE

(b) In addition to the rules and regulations contained in and issued pursuant to this chapter, any tour bus, or taxi operator who tests positive for the use of illegal drugs or who refuses to submit to drug testing, shall have his or her license immediately suspended pending further criminal proceedings pursuant to this chapter.

(c) In addition to the other penalties provided for in 42 PNC § 514, in the case of any person operating a tour bus or taxi, who is convicted of violating 42 PNC § 514, for an offense while on duty, that person's operator's license shall be revoked for not less than three (3) years and not more than ten (10) years. Also, that person shall be fined in an amount of five hundred dollars (\$500) for the first violation, and not less than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000) for any subsequent violation. In addition, any tour bus or taxi operator who is convicted of violating 42 PNC § 514, for an offense while on duty, shall also be imprisoned for not less than forty-eight (48) hours and not more than one (1) year for a first violation, and imprisoned for not less than seven (7) days and not more than one (1) year for any subsequent violation. Imprisoned tour bus and taxi operators shall not be eligible for the work release program if it entails being a tour bus or taxi operator.

Source

RPPL 9-56 § 18, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

§ 124. Tour boat, tour bus, or taxi exemptions.

(a) The restrictions set forth in sections 122 and 123 of this chapter shall not apply to an operator of a live-aboard vessel registered outside of the Republic, who has a valid permit to operate a live aboard vessel in the Republic prior to the effective date of this chapter.

(b) Any non-citizen who currently holds a valid work permit issued by the Division of Labor for employment as a tour boat, tour bus, or taxi operator, shall be exempt from the restrictions set forth in section 122 of this chapter until the earlier of the expiration of his or her current work permit or operator's license or February 14, 2017.

(c) Any person or entity seeking to employ a non-citizen as a tour boat, tour bus, or taxi operator shall not be bound by the restrictions set forth in section 122(b) of this chapter if that person or entity can prove that, after making every reasonable effort to find and to employ a citizen, there is no citizen who is able and willing to be employed as a tour boat, tour bus, or taxi driver. Any individual employed pursuant to this subsection shall be known as an "exempt operator" and shall be employed on the same or substantially similar terms and conditions as a citizen in the same or comparable position, except as

otherwise provided by law. The Division of Labor shall, within 180 days after February 14, 2016, promulgate rules and regulations, in accordance with 6 PNC Chapter 1, which provide for a suitable application process for any employer wishing to employ an exempt operator. The application procedure shall include provisions through which the employer can demonstrate that a person or entity has satisfied the requirements of this subsection.

Source

RPPL 9-56 § 19, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

Notes

In subsection (a) the bracketed [122] replaced the number “2” in the original legislation as per Code Commission. The bracketed [vessel] in subsection (a) replaced the word “vessels” in the original legislation as per Code Commission.

§ 125. Fees applicable to exempt operators and training of tour boat operators.

Every person or entity that employs an exempt operator under section 124(c) of this chapter shall be required to pay an annual fee of two thousand dollars (\$2,000) per year for the first year; three thousand dollars (\$3,000) per year for the second year; four thousand dollars (\$4,000) per year for the third year; and five thousand dollars (\$5,000) per year for the fourth year with 50% (fifty percent) to the Palau Community College Tourism and Hospitality School of Excellence and 50% (fifty percent) to the Ministry of Public Infrastructure, Industries, and Commerce for every exempt operator that a person or entity hires, or whose contract of employment that a person or entity renews after having satisfied the requirements of section 123(c) of this chapter. Such annual fees shall be paid upon the date of the approval of the employer’s application, pursuant to section 124(c) of this chapter, for the employment of an exempt operator, and on an annual basis.

Source

RPPL 9-56 § 20, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

§ 126. Tour boat, tour bus, or taxi penalties.

(a) Any person or entity that violates the provisions of section 122 or section 124 of this chapter, or the rules and regulations promulgated to implement such sections, shall be fined not less than two thousand dollars (\$2,000) for the first violation, and not less than four thousand dollars (\$4,000) and not more than six thousand dollars (\$6,000) for any subsequent violations.

(b) Any person or entity that violates section 125 of this chapter shall be fined in an

28 PNCA § 126 FOREIGN RELATIONS AND TRADE

amount of double the fees it has failed to pay.

Source

RPPL 9-56 § 21, modified. Amended in its entirety by RPPL 9-64 § 2, modified.

§ 127. Grandfather clause.

The provisions of this chapter shall apply only prospectively, and grantees or other beneficiaries currently holding foreign investment approval certificates or foreign business permits, as applicable, issued under 28 PNC Chapter 1 shall be permitted to continue being an owner or part-owner of a business enterprise only for the current term of such present foreign investment approval certificates or foreign business permits, as applicable, with no renewal thereof except in accordance with the provisions of this chapter that do not conflict with any terms regarding extension or renewal included in such foreign investment approval certificates or foreign business permits, as applicable.

Source

RPPL 9-64 § 2.

**Chapter 2
Export Controls**

§ 201. Exporting or transshipping of imported commodities.

§ 202. Export license.

§ 201. Exporting or transshipping of imported commodities.

No commodity which has been or may hereafter be imported into the Republic from the United States or its territories or possessions shall be transshipped or exported from the Republic to any place, other than the United States, its territories or possessions, except as provided in this chapter.

Source

(Code 1966, § 1102(a).) 33 TTC § 201, modified.

§ 202. Export license.

(a) The exportation of any commodity described in section 201 of this chapter to a country for which no export license would be required if the exportation were from the United States or its territories or possessions, shall be in accordance with written permit granted by the President, or on his behalf by such official or officials as he may designate except as expressly provided by subsection (c) of this section.

(b) The exportation of any commodity described in section 201 of this chapter to the Bonin Islands so long as they are under the jurisdiction of the United States, may be made in accordance with written permit granted by the President, or on his behalf by such official or officials as he may designate.

(c) The exportation of any commodity described in section 201 of this chapter, other than as authorized in subsections (a) and (b) of this section, may be made only with the written consent of the office of export control of the United States Department of Commerce, or in accordance with an export license duly issued under the export control laws and regulations of the United States.

Source

(Code 1966, § 1102(b).) 33 TTC § 202, modified.

**Chapter 3
Licensing of Copra Trade**

- § 301. Terms and conditions of licensure.
- § 302. License required for purchase of copra for export.
- § 303. Exceptions.

§ 301. Terms and conditions of licensure.

The President may license, under such terms and conditions as he may determine, persons, firms or corporations to purchase, within the Republic, copra for export through such agency as the President may approve.

Source

(Code 1966, § 1100(c).) 33 TTC § 151, modified.

§ 302. License required for purchase of copra for export.

No person, firm or corporation shall purchase copra for export within the Republic unless licensed under this chapter.

Source

(Code 1966, § 1100(c).) 33 TTC § 152, modified.

§ 303. Exceptions.

Nothing in this chapter shall be construed to prevent the sale by any person, firm or corporation of copra for export to one licensed under this chapter, nor to prevent any person who, or firm or corporation which, has purchased copra in the Republic and processed or manufactured any product therefrom, from exporting such processed or manufactured product.

Source

(Code 1966, § 1100(c).) 33 TTC § 153, modified.

28 PNCA § 401 FOREIGN RELATIONS AND TRADE

**Chapter 4
Claims Commission
[Repealed]**

- § 401. [Repealed]
- § 402. [Repealed]
- § 403. [Repealed]
- § 404. [Repealed]
- § 405. [Repealed]
- § 406. [Repealed]
- § 407. [Repealed]
- § 408. [Repealed]
- § 409. [Repealed]
- § 410. [Repealed]

Source

PL 7-4-11, modified; repealed by RPPL 4-14 § 1(3).

Chapter 5

Tourism

Subchapter I

Tourism Reorganization Act of 1982

- § 501. Short title.
- § 502. Declaration of policy.
- § 503. Palau Visitor Authority established as a public corporation.
- § 504. Board of Directors; created; members; terms; vacancies; compensation; removal.
- § 505. Same; organization; meetings; quorum.
- § 506. Rules of procedure.
- § 507. Managing Director.
- § 508. Powers and duties.
- § 509. Accounts and records.
- § 510. Funding.
- § 511. Suits.
- § 512. Annual report.
- § 513. Transfer of property.
- § 514. Conflict of laws.

§ 501. Short title.

This subchapter may be cited as the “Tourism Reorganization Act of 1982.”

Source

RPPL 1-49 § 1, modified.

Cross-reference

For statutory provisions on Tour Operators licensing see chapter 9, Title 11.

§ 502. Declaration of policy.

It is hereby declared the policy of the government of the Republic of Palau to promote the development of a visitor industry in Palau as a high-value tourism destination with a high quality tourism product that envisions “Pristine Paradise Palau” and that is environmentally friendly. It is the responsibility of all visitor-oriented government and quasi-government agencies to assist and participate in the implementation of this policy, and to coordinate with the public and private sector businesses in furtherance of this policy.

28 PNCA § 502 FOREIGN RELATIONS AND TRADE

Source

RPPL 1-49 § 2, modified. Amended by RPPL 9-53 § 1 [502].

§ 503. Palau Visitor Authority established as a public corporation.

The Palau Visitor Authority is hereby established as a public corporation to carry out the purpose and policy of this subchapter.

Source

RPPL 1-49 § 3, modified.

§ 504. Board of Directors; created; members; terms; vacancies; compensation; removal.

There shall be a Board of Directors of the Palau Visitor Authority which shall consist of the following members who shall serve the following terms:

- (a) Seven members appointed by the President, subject to advice and consent of the Senate; provided that, three of the members shall be duly licensed tour operators in the Republic; and provided further, that three of the members shall serve an initial term of two years and four of the members shall serve an initial term of three years. After the initial terms are completed appointments shall be for terms of two years. Any member may be reappointed for additional terms.
- (b) Vacancies in the membership of the Board shall be filled in the same manner to complete the term of the original member.
- (c) Members of the Board shall be compensated pursuant to law.
- (d) Members of the Board shall serve at the pleasure of the President and may be removed without cause.

Source

RPPL 1-49 § 4, modified.

§ 505. Same; organization; meetings; quorum.

- (a) The Board of Directors shall meet and organize by the election of its chairman at an annual meeting to be held on the third Monday in January of each year. The Board shall meet at such times as the Board shall determine or as otherwise specified by law.

(b) The first meeting of the Board shall be called by the Minister of National Resources, who shall preside as temporary chairman until a permanent chairman is selected.

(c) At the first meeting of the Board and annually thereafter, members of the Board shall by majority vote select a chairman from their own membership, who shall preside at all meetings. At the same time they shall likewise select a vice-chairman to serve as presiding officer in the absence of the chairman.

(d) A quorum shall consist of a majority of all voting members. All business shall be conducted by a majority vote of those present unless otherwise provided by law or the rules of procedures adopted by the Board.

Source

RPPL 1-49 § 5, modified.

§ 506. Rules of procedure.

The Board of Directors shall adopt rules of procedure consistent with this subchapter.

Source

RPPL 1-49 § 6, modified.

§ 507. Managing Director.

The Authority shall hire a Managing Director who shall not be a member of the Board of Directors and who shall report to the chairman of the Board. The Managing Director shall be responsible for the daily operations and affairs of the Authority and for supervision of other employees of the Authority. The Authority may hire additional staff as may be necessary to carry out its responsibilities. The Managing Director and other staff of the Authority shall be compensated as determined by the Board.

Source

RPPL 1-49 § 7, modified.

§ 508. Powers and duties.

It shall be the duty and responsibility of the Authority to:

- (a) implement the policy declared in this subchapter;

28 PNCA § 508 FOREIGN RELATIONS AND TRADE

- (b) implement the Republic of Belau Tourism Master Plan and the “Sustainable Development Policies and Action Plan” after its adoption;
- (c) establish and formulate programs for human resources and training needs;
- (d) establish programs to develop and improve tourist services in the Republic, including but not limited to the development of local hosting, local network of services, training locals in tourism services, regulating tourism businesses, etc.;
- (e) establish and formulate policies for sustainable development consistent with environmental quality and control;
- (f) attract visitors to Palau;
- (g) conduct programs of advertising, publicity and promotion designed to familiarize the traveling public with Palau;
- (h) recommend to the President of the Republic and to the Olbiil Era Kelulau, legislation that will facilitate or establish necessary or desirable public policies and programs to increase and improve the number of tourist facilities in Palau, including the construction of additional hotel rooms, capacity building for labor and human resources, airport and affiliated facilities and attractions which would facilitate the entry of visitors to Palau;
- (i) encourage the participation of foreign and local private capital in the development of tourism in Palau, by recommending to the President and the Olbiil Era Kelulau, legislation and programs that will foster investment from foreign sources into the Republic;
- (j) recommend, to Bureau of Immigration and Division of Customs, efficient procedures to clear visitors through immigration and customs;
- (k) recommend and develop projects and programs to improve communication between visitors and members of the community;
- (l) establish community outreach and awareness programs to promote the manufacture of local handicrafts and establish regulations that establish standards of quality;
- (m) provide liaison between government and private agencies and business in the promotion and regulation of visitor industry in Palau;

(n) apply for and seek foreign grant and technical assistance to develop and establish policies, programs and legislation in carrying out its duties and responsibilities;

(o) sell reusable bags at the night market and other community events in which tourists and residents may purchase local products;

(p) Palau Visitors Authority shall take any other specific steps as may be necessary to carry out its responsibilities and shall within 180 days from the effective date of this section be in full compliance with the provisions in this subchapter.

Source

RPPL 1-49 § 8, modified. Amended by RPPL 7-13 § 21, modified. Subsection (o) amended by RPPL 10-14 § 5.

§ 509. Accounts and records.

The Authority shall maintain accurate accounts and records which shall be subject to audit and inspection as prescribed by law.

Source

RPPL 1-49 § 9, modified.

§ 510. Funding.

The Board of Directors may receive, manage, invest and spend pursuant to law money or other property, real, personal, or mixed, which may be appropriated, granted, given, bequeathed, devised, endowed, or in any manner received from any source for the purposes set forth herein.

Source

RPPL 1-49 § 10, modified.

§ 511. Suits.

The Authority may sue and be sued in its corporate name, provided that it shall be subject to suit only in the manner provided for suits against the Republic; provided further that any liability incurred by the Authority shall not be a liability of the Republic or any subdivision thereof. The chairman of the Board, the vice-chairman in the absence of the chairman, and the Managing Director are authorized to accept service or to be served on behalf of the Authority. The Minister of Justice shall represent the Authority in all legal actions.

28 PNCA § 511 FOREIGN RELATIONS AND TRADE

Source

RPPL 1-49 § 11, modified.

§ 512. Annual report.

The Authority shall submit or on before April 1 of each year an annual report to the President and the Olbiil Era Kelulau of its activities and a balance sheet showing all revenues and expenditures.

Source

RPPL 1-49 § 12, modified.

§ 513. Transfer of property.

Upon the effective date of this subchapter, the following property and funds shall be transferred to the Authority:

- (a) all items of property, materials and equipment owned or otherwise in the possession of the Palau Tourism Commission;
- (b) all working capital, cash, accounts receivable and payable, deposits, advances, appropriations, all books, records and documents, and all other rights, obligations and privileges pertaining to the operation of the Palau Tourist Commission.

Source

RPPL 1-49 § 13, modified.

§ 514. Conflict of laws.

Any law, rule or regulation in conflict with the provisions of this subchapter are hereby superseded and void to the extent of the conflict.

Source

RPPL 1-49 § 15, modified.

**Subchapter II
Palau Visitors Authority Fund**

§ 551. [Repealed]

§ 552. Fiscal authority; accounting; expenditures.

§ 551. [Repealed]

Source

RPPL 3-3 § 1, modified. Repealed by RPPL 5-7 § 17(b) effective 10/1/97.

Notes

RPPL 4-26 § 17 provided for an automatic budget adjustment for a surplus or a deficit to the fund during fiscal year 1995. RPPL 4-26 was repealed in its entirety by RPPL 4-32 § 49.

See 40 PNCA § 1403 concerning the assessment and payment of the travelers head tax.

Commission Comment

Section 5 of RPPL 3-3 states as follows: “Section 5. Conflict: act to govern. The provisions of this Act shall govern where a conflict exists between this Act and any law or regulation in force and effect.”

§ 552. Fiscal authority; accounting; expenditures.

The Board shall establish and maintain its records and accounts of all of its financial transactions, and shall have full charge of its financial affairs, including but not limited to establishing its own bank accounts under the control of the Board. The Board shall keep an independent accounting of all funds and accounts under its control and shall submit to the President and Olbiil Era Kelulau bi-annually a financial statement indicating the status of these funds and accounts, including a complete listing of all expenditures made and obligations incurred.

Source

RPPL 3-3 § 3, modified.

Commission Comment

Section 5 of RPPL 3-3 states as follows: “Section 5. Conflict: act to govern. The provisions of this Act shall govern where a conflict exists between this Act and any law or regulation in force and effect.”

28 PNCA § 601 FOREIGN RELATIONS AND TRADE

Chapter 6 Duty-Free Stores

- § 601. Definitions.
- § 602. Establishment; operation and maintenance; transfer; fees generally.
- § 603. Grant on prepaid concession fee basis.
- § 604. [Repealed]
- § 605. Disposition of concession fees.
- § 606. License fee.
- § 607. Manner of delivery of goods.
- § 608. Regulations.
- § 609. Restriction of rights to citizens by district legislature.
- § 610. Violations; penalties.

§ 601. Definitions.

In this chapter:

- (a) “Person” means any individual, company, corporation, association, or other business activity, which, except as provided in section 603 hereof, must be wholly owned by citizens of the Republic.
- (b) “Ports of entry” means the official ports specified under section 1102 of Title 13 of this Code.
- (c) “Taxes” means excise, tariff and other taxes levied on the import, export and sale of merchandise pursuant to the laws of the Republic, but does not include gross revenue taxes.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 401, terms put into alphabetical order and section modified.

§ 602. Establishment; operation and maintenance; transfer; fees generally.

The President is hereby authorized, subject to the conditions and restrictions of this chapter, to grant to any person the privilege of establishing, operating, and maintaining a duty-free retail concession in or adjacent to any port of entry under the jurisdiction of the Republic. He may lease, rent, or let any public land or building or any part thereof or any interest therein, to any

person to establish a duty-free retail concession under terms and conditions which among others determined by him to be reasonable and proper, shall include the following:

- (a) Only one duty-free retail concession shall be permitted at each port of entry.
- (b) Each duty-free retail concession shall be advertised for public auction or public bidding and be granted to that financially responsible person of good moral character and reputable experience who, in the sole opinion of the President, makes the best offer or bid. A noncitizen who wishes to bid for a duty-free retail concession pursuant to section 603 of this chapter shall comply with all applicable Republic foreign investment laws.
- (c) Bids or offers shall be accepted only in conformance with precise terms and conditions uniform in all administrative districts, which terms and conditions, among others, shall include hours of business, standards of operation, reasonableness of prices charged and appropriate record keeping, cash handling and audit procedures all in accordance with sound accounting principles.
- (d) The term of any duty-free concession shall not exceed five years except as provided in section 603 hereof, and regardless of term shall not be extended without public auction or bids.
- (e) The concession privilege granted hereunder may not be sold or assigned without the prior written approval of the President of the financial responsibility, moral character, and reputable experience of the proposed purchaser or assignee. Any such approval if given shall be without charge or levy upon the seller, purchaser or assignee as a condition to such approval. A concession privilege may not be sold or assigned to a noncitizen who has not first obtained a foreign investor's business permit in the district in which the duty-free retail concession is located.
- (f) The minimum concession fee shall be seven percent of gross sales of each duty-free retail concession. The percentage fee shall be paid within fifteen (15) days after the last day of each calendar month. In addition to the concession fee, there shall be a business privilege fee of three percent of the gross sales of each duty-free retail concession which shall be paid within fifteen (15) days after the last day of each calendar month and be deposited in and be a part of the National Treasury. The business privilege fee may not be increased during the term of a concession privilege granted by the President.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 402, modified.

28 PNCA § 603 FOREIGN RELATIONS AND TRADE

§ 603. Grant on prepaid concession fee basis.

At any port of entry where the President determines prepayment of the duty-free concession fee to be desirable or necessary to supplement available public funds for purposes of constructing port of entry facilities, including space for said concession, he may require offers or bids on the basis of a prepaid minimum concession fee. In such instances noncitizens may bid for the concession privilege, and the President may, with respect to that person who submits the best offer or bid of a prepaid concession fee in excess of one million dollars (\$1,000,000):

- (a) grant a concession term not in excess of fifteen (15) years; and
- (b) waive the imposition of gross revenue taxes.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 403, modified.

§ 604. Importation of goods for resale at duty-free stores; taxes. [Repealed]

Source

(P.L. No. 5-70, § 1.) 33 TTC § 404, modified. Repealed by RPPL 9-37 § 4.

§ 605. Disposition of concession fees.

All concession fees paid by each duty-free retail concession shall, upon receipt, be deposited into and be a part of the National Treasury; provided, that where separate authorities or agencies operate port of entry facilities said concession fees may by determination of the President be deposited into and become a part of the funds of such authority or agency operating said port of entry facilities.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 405, modified.

§ 606. License fee.

There shall be paid to the Republic government the sum of one hundred dollars (\$100) each year by any person who shall be granted a privilege to establish, operate, and maintain a duty-free retail concession in any port of entry of the Republic. Such license fee shall be in addition to any other sums of money which shall be payable to the government for concession fees, lease of land or other facilities or privileges.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 406, modified.

§ 607. Manner of delivery of goods.

Any and all merchandise sold pursuant to this chapter shall be delivered to the purchaser at a point or points and in a manner whereby said merchandise may not reenter the Republic without customs examination and control.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 407, modified.

§ 608. Regulations.

The President shall promulgate such rules and regulations as he shall deem necessary to carry out the provisions and intent of this chapter.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 408, modified.

§ 609. Restriction of rights to citizens by district legislature.

The Olbiil Era Kelulau may, by Act, at any time prior to the time that bids have been publicly solicited or advertised for a duty-free concession, restrict those eligible to bid upon and receive such a concession to citizens of the Republic.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 409, modified.

§ 610. Violations; penalties.

Any person who violates any of the provisions of this chapter or rules and regulations issued pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500), or imprisoned for not more than three (3) months, or both.

Source

(P.L. No. 5-70, § 1.) 33 TTC § 410, modified.

28 PNCA

FOREIGN RELATIONS AND TRADE

Chapter 7
Compact Implementation Act of 1993

- § 701. Short title.
- § 702. Intent and purpose.
- § 703. Legislative findings and declarations.
- § 704. Ratification of subsidiary agreements.
- § 705. Statement of Reliance.
- § 706. Statements of interpretations and positions.
- § 707. Statement of the relationship.
- § 708. Certification of results and period for challenging plebiscite or results.
- § 709. Transition Commission on the Compact established; authorization and appropriation.
- § 710. Entry into force of the Compact.
- § 711. Severability.

§ 701. Short title.

This chapter shall be known and may be cited as the “Compact Implementation Act of 1993”.

Source

RPPL 4-9 § 1, modified.

Notes

Micronesia Yachts Co. Ltd. v. Palau Foreign Investment Board, 7 ROP Intrm. 128, 131 (1998).

§ 702. Intent and purpose.

It is the intent and purpose of this chapter to provide for fulfillment of all requisite steps and actions required of the Government and the people of the Republic of Palau in order for the Compact of Free Association between the Republic of Palau and the United States of America to take effect.

Source

RPPL 4-9 § 2, modified.

§ 703. Legislative findings and declarations.

The Fourth Olbiil Era Kelulau, in an effort to resolve the future political status for the people and the Government of the Republic of Palau in a relationship of free association with the United

28 PNCA § 703 FOREIGN RELATIONS AND TRADE

States of America, finds and declares as follows:

- (a) Since the commencement of formal negotiations between the United States and members of the Congress of Micronesia in early 1970's, Palau government officials were engaged in a number of joint future political status discussions with officials of the United States of America on a multilateral level alongside representatives of the Federated States of Micronesia and the Republic of the Marshall Islands centered on a relationship of free association.
- (b) Following the division of the former Trust Territory of the Pacific Islands into separate political entities resulting from the 1978 constitutional referendum of the FSM Constitution, Palau commenced its own bilateral status negotiations with the United States of America with such negotiations still centered on a relationship of free association.
- (c) From January to April of 1979, thirty-eight (38) convention delegates assembled, drafted and approved a Constitution for the Republic of Palau which, after three constitutional referenda, was duly ratified overwhelmingly by the Palauan voting public on July 9, 1980, and took effect on January 1, 1981.
- (d) Over the past 10 years, a total of seven (7) plebiscites on a Compact of Free Association have been conducted and observed by the United Nations Observer Missions within and outside the Republic of Palau with the following voting results:
 - (1) February 10, 1983 with 62% in favor of Free Association; 31% for closer association with (territory of) the United States; 29% for independence;
 - (2) September 4, 1984, with 67% in favor of Free Association; 33% for closer association with (territory of) the United States; 14% for independence;
 - (3) February 21, 1986, with 72% favorable vote for Free Association and 28% against;
 - (4) December 2, 1986, with 66% in favor of Free Association and 34% against;
 - (5) June 30, 1987, with 68% in favor of Free Association and 32% against;
 - (6) August 21, 1987, with 73% in favor of Free Association and 27% against; and
 - (7) February 6, 1990, with 60% in favor of Free Association and 40% against.

(e) To lower the Compact approval from the constitutionally mandated requirement of 75% approval to that of a simple majority vote, two constitutional amendment referenda have been held in the Republic of Palau with following results:

(1) On August 4, 1987, the first such constitutional amendment referendum was held resulting in a 73% affirmative vote. However, the outcome of said referendum was nullified in Civil Action No. 161-87 and which nullification was affirmed on appeal in Civil Appeal No. 60, for lack of three-fourth (3/4) voters required of each House of the Olbiil Era Kelulau to pass legislation authorizing a constitutional amendment pursuant to Article XIV, Section 1(c) of the Constitution.

(2) The second such constitutional amendment referendum was held on November 4, 1992, in which the proposed amendment was approved by a 62% majority vote overall and by 14 out of the 16 states as is required for passage under Section 11 of Article XV of the Constitution. That referendum vote was authorized by a petition signed by not less than twenty-five percent (25%) of the registered voters of the Republic as is required pursuant to Article XIV, Section 1(b) of the Constitution.

(f) For the Compact of Free Association to take effect or be implemented, it must first be approved by both the Republic of Palau and the United States of America according to their respective constitutional processes. The Compact, together with its associated Subsidiary Agreements, was signed by duly designated representatives of the United States of America and the Republic of Palau on January 10, 1986. The United States Government has to date approved the Compact of Free Association by the enactment of the following United States laws:

(1) US Public Law 99-239, approved on January 14, 1986, entitled a “Joint Resolution to approve the ‘Compact of Free Association’” (mainly for the Federated States of Micronesia and the Republic of the Marshall Islands, but including Palau as well), and known as the COMPACT OF FREE ASSOCIATION ACT OF 1985 (99 Stat. 1770-1841);

(2) US Public Law 99-658, approved on November 14, 1986, entitled a “Joint Resolution to approve the ‘Compact of Free Association’ between the United States and the Government of Palau...” and known as COMPACT OF FREE ASSOCIATION, APPROVAL (100 Stat. 3672-3704); and

(3) US Public Law 101-219, approved on December 12, 1989, entitled a “Joint Resolution to authorize entry into force of the Compact of Free Association

28 PNCA § 703 FOREIGN RELATIONS AND TRADE

between the United States and the Government of the Republic of Palau...” and known as IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH PALAU (103 Stat. 1870-1875).

(g) The President of the Republic of Palau has held discussions and negotiated with the United States regarding modifications to the Compact of Free Association and has received a letter of assurances regarding the Compact from the Government of the United States signed by the Secretary of State of the United States, dated May 6, 1993 (the “Letter of Assurances”), which assurances the President of the Republic of Palau has determined constitute a favorable response by the United States to Palau’s request for Compact modifications.

Source

RPPL 4-9 § 3, modified.

§ 704. Ratification of subsidiary agreements.

The Olbiil Era Kelulau hereby approves and ratifies the Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau and the Agreement Between the Government of the United States and the Government of Palau Regarding Mutual Assistance in Law Enforcement Matters, both entered into on December 2, 1987, and the Agreement Concerning Special Programs Related to the Entry into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau entered into on May 26, 1989.

Source

RPPL 4-9 § 4, modified.

§ 705. Statement of reliance.

(a) In adopting the Compact of Free Association between the Government of the United States and the Government of the Republic of Palau, the Government of the Republic of Palau shall be acting in reliance upon the assurances provided in the May 6, 1993 letter of assurances from the Secretary of State of the United States to the President of the Republic and the provisions of the “Agreement Concerning Special Programs Related to the Entry into Force of the Compact of Free Association between the Government of the United States and the Government of the Republic of Palau”

executed in Guam on May 26, 1989 (“Guam Agreement”) and the good faith of the United States in connection therewith.

(b) In adopting the Compact of Free Association between the Government of the United States and the Government of the Republic of Palau, the Government of the Republic of Palau shall be acting in reliance upon the funding analysis provided as an attachment to the letter of the Deputy Assistant Secretary of State of the United States of February 27, 1993 to the President of the Republic. The Republic acknowledges that any adjustments made to funding amounts shall be made in accordance with Section 215 of the Compact.

Source

RPPL 4-9 § 5, modified.

§ 706. Statement of interpretations and positions.

The Government of the Republic of Palau makes the following interpretations and takes the following positions in regard to the Compact of Free Association and the relationship of free association between the Government of the Republic of Palau and the Government of the United States shall be deemed to include such interpretations and positions:

(a) The Government of the Republic of Palau recognizes that the United States Government does not intend, other than during periods of crisis or hostilities, to exercise its rights to train or maneuver in Palau under Paragraph 3 of Annex A to the Subsidiary Agreement regarding the Military Use and Operation Rights of the Government of the United States in Palau concluded pursuant to Sections 321 and 322 of the Compact of Free Association.

(b) The Government of the Republic of Palau shall be obligated to make available to the Government of the United States land in Palau as additional defense sites under Section 322(b) of the Compact of Free Association only if such sites are necessary for the purposes contemplated in Sections 312 and 352 of the Compact of Free Association.

(c) Section 351(d) of the Compact of Free Association means that any issues unresolved by the joint committee established under Section 351(a) shall be resolved by referral to the Government of the United States and the Government of the Republic of Palau for resolution, and the Government of the Republic of Palau shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which

28 PNCA § 706 FOREIGN RELATIONS AND TRADE

threatens its continued association with the Government of the United States.

(d) In the course of conducting negotiations with the Government of the United States for financial assistance in regard to privately owned land as contemplated under Article VI of the Guam Agreement, the Government of the Republic of Palau shall allow the owners of such land the opportunity to fully consult with the Government of the Republic of Palau as to the compensation to be provided.

(e) In carrying out its rights and obligations under Title Three of the Compact of Free Association, the Government of the Republic of Palau shall cooperate with the Government of the United States to the maximum extent possible and in good faith to meet the legitimate needs of the Government of the United States under Title Three of the Compact of Free Association.

(f) The Government of the Republic of Palau and the Government of the United States, prior to the first anniversary of the effective date of the Compact, shall enter into an appropriate agreement identifying whether and what federal program assistance shall be continued to offset any anticipated, economically adverse circumstances. The Government of the Republic of Palau recognizes that the United States Government will use its best efforts to address expeditiously and sympathetically any transitional problems caused by the difference between Palau's eligibility for federal programs under its status as a Trust Territory and its eligibility for federal programs as a Freely Associated State.

Source

RPPL 4-9 § 6, modified.

§ 707. Statement of the relationship.

The relationship of free association between the Republic of Palau and the United States shall consist of (i) the Compact of Free Association and its Subsidiary Agreements; (ii) those laws of the United States and the Republic of Palau, agreements and assurances relating thereto enacted, entered into or given prior to the adoption of the Compact of Free Association by the people of Palau in a plebiscite called therefor and (iii) such agreements or assurances as may be subsequently entered into or accepted by both the Government of the United States and the Government of the Republic of Palau.

Source

RPPL 4-9 § 7, modified.

§ 708. Certification of results and period for challenging plebiscite or results.

(a) The Election Commission shall certify the election vote count no later than ten (10) days after the day of the plebiscite referendum in Palau.

(b) Notwithstanding sections 1571 and 1573(a) of Title 23 of the Palau National Code Annotated, any challenge to the certification of the results of the plebiscite by the Election Commission as provided above shall be by complaint directly to the Trial Division of the Supreme Court. Such complaint must be filed within forty-five (45) days of the certification by the Election Commission as provided for by subsection (a) of this section.

(c) All legal challenges to the establishment, constitutionality, conduct, administration, or results of the plebiscite must be by complaint according to the procedure and within the time period specified by subsection (b) of this section.

(d) All legal challenges to the establishment, constitutionality, conduct, administration, or results of the Referendum on the Petition to amend the Constitution held on November 4, 1992, pursuant to RPPL No. 3-76, must be by complaint and are subject to the same procedures and within the same time period specified by subsection (b) of this section.

(e) All legal challenges to the constitutionality, form or substance of this chapter or to RPPL No. 3-76 must be by complaint and are subject to the same procedures and within the same time period specified by subsection (b) of this section.

Source

RPPL 4-9 § 11, modified.

§ 709. Transition Commission on the Compact established; authorization and appropriation.

(a) Within sixty (60) days following certification of approval of the Compact of Free Association by the Palau Election Commission, the President of the Republic of Palau shall establish a Transition Commission on the Compact consisting of seven (7) members appointed by the President with the advice and consent of the Senate. Appointees to the Transition Commission need not be citizens of the Republic, shall have achieved a degree from a four-year program at a recognized institution of higher learning, and shall be either a professional or have recognized expertise in economics, finance, accounting, law, engineering, business, immigration matters, or federal

28 PNCA § 709 FOREIGN RELATIONS AND TRADE

programs.

(b) The Transition Commission shall submit, within six (6) months from the date it is constituted and first meets, the report of its findings and recommendations to the President of the Republic of Palau and to the Presiding Officers of the Olbiil Era Kelulau. The recommendations of such report shall not be implemented until approved by joint resolution of the Olbiil Era Kelulau. Should the Transition Commission require additional time or funding to carry out its duties under this section, a designated representative or representatives of such Commission shall submit a request to the Olbiil Era Kelulau for appropriate action.

(c) The Transition Commission is hereby charged with overall responsibility for identifying those steps or actions necessary to be taken in order for the Compact of Free Association to be implemented. It shall prepare a plan of action and a set of recommendations that, in its view, must be fulfilled prior to implementation of the Compact of Free Association. In addition, the Commission shall, under the authority of the President, conduct such negotiations as are necessary for transition purposes and oversee the implementation of the recommendations of the report mandated by subsection (b) of this section. The Commission shall have the authority to contract for the performance of such professional services as it requires and to employ such personnel as it deems necessary.

(d) Members of the Transition Commission shall be entitled to compensation at a rate not more than the rate of the salary of a Minister, excluding Commission expenses, while on the business of the Commission, except for those members who are employees of the National Government, who shall be granted administrative leave with pay when necessary to engage in the business of the Commission. Commission members shall be further entitled to travel costs and per diem allowances while on travel status in the official business of the Commission. Staff of both the Executive and Legislative Branches shall make their services available to the Commission upon request.

(e) There is hereby authorized and appropriated such sum as may be granted in the form of technical assistance from United States Department of the Interior in response to the request for the same from the Government of the Republic for the purpose of funding the activities of the Transition Commission, such sum to be administered by a chairperson elected by the members of such Commission. Upon approval of the report of the Commission as provided in subsection (b) of this section, the Commission shall submit to the President and the Olbiil Era Kelulau a detailed and itemized accounting of all funds expended.

Source

RPPL 4-9 § 12, modified.

§ 710. Entry into force of the Compact.

Upon approval of the Compact of Free Association and as authorized under RPPL No. 3-76 section 14(2) which states that “The President of the Republic of Palau shall negotiate with the United States and enter into an agreement setting forth the date on which the Compact of Free Association and its related Subsidiary Agreements shall become effective...”, the President of the Republic of Palau is authorized to agree, in accordance with Section 411 of the Compact, for the Compact to come into effect on such date as may be agreed upon with the Government of the United States of America in accordance with Section 411 of the Compact.

Source

RPPL 4-9 § 13, modified.

§ 711. Severability.

If any provision of this chapter shall be held invalid, such invalidity shall not affect the other provisions of the chapter which can be given effect without such invalid provision, and to this extent, the provisions of this chapter are severable; provided, however, that this chapter is integrated to the extent that if any provision of sections 706 or 707 of this chapter shall be suspended by the United States Department of the Interior, such suspension shall render this entire chapter void and of no effect.

Source

RPPL 4-9 § 14, modified.

28 PNCA § 801 FOREIGN RELATIONS AND TRADE

Chapter 8 Diplomatic Relations Act

- § 801. Short title.
- § 802. Purpose and scope.
- § 803. Definitions.
- § 804. Diplomatic relations and missions.
- § 805. Diplomatic missions; privileges and immunities of members of a mission of a foreign state not ratifying the Vienna Convention; extension of more favorable or less favorable treatment than provided under the Vienna Convention; authority of the President.
- § 806. Jurisdiction.
- § 807. Dismissal on motion of actions against individuals entitled to immunity.
- § 808. Immigration laws and Presidential authority.
- § 809. Liability insurance for members of a mission.
- § 810. Tax exemption for members of foreign missions.
- § 811. Income of foreign states.
- § 812. Tax exemption to foreign nations.
- § 813. Identification documents for tax-exempt individuals.
- § 814. Notice.

§ 801. Short title.

This Act shall be known as the “Diplomatic Relations Act of 1994.”

Source

RPPL 4-30 § 1, last sentence.

§ 802. Purpose and scope.

The purpose of this chapter is to authorize the President to enter into diplomatic relations with foreign states, to extend the privileges and immunities set forth in the Vienna Convention on Diplomatic Relations (the “Vienna Convention”) to foreign states not ratifying the Vienna Convention; to authorize the President to extend more or less favorable treatment than provided under the Vienna Convention; to place jurisdiction over certain actions or proceedings with the Supreme Court; to provide for the dismissal on motion of any action against individuals entitled to immunity; to exempt those individuals from certain immigration provisions; to authorize the establishment of liability insurance requirements; and, subject to the qualifications and limitations described in this chapter, to exempt from taxation the income of foreign states, the

compensation of employees of foreign states, the official transactions of foreign states, the official properties of foreign states, and the income, transactions, and properties of qualified members of missions of foreign states in Palau.

Source

RPPL 4-30 § 1, excluding last sentence, modified. Amended by RPPL 5-41 § 10(b)(1).

§ 803. Definitions.

The following definitions are to be used in interpreting this Chapter. Any term not listed below is to be accorded its ordinary dictionary definition.

(a) “members of a mission” means:

- (1) the head of a mission and those members of the mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities;
- (2) members of the administrative and technical staff of a mission; and
- (3) members of the service staff of a mission, as defined in Article 1 of the Vienna Convention.

(b) “family” means:

- (1) the members of the family of a member of a mission described in Section 803 (a)(1) who form part of his or her household if they are not nationals of the Republic of Palau, and
- (2) the members of the family of a member of a mission described in Section 803 (a)(2) who form part of his household if they are not nationals or permanent residents of the Republic of Palau, within the meaning of Article 37 of the Vienna Convention.

(c) “mission” includes missions within the meaning of the Vienna Convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention.

(d) “Vienna Convention” means the Vienna Convention on Diplomatic Relations of

28 PNCA § 803 FOREIGN RELATIONS AND TRADE

April 18, 1961.

(e) “Supreme Court” means the Trial Division of the Supreme Court of the Republic of Palau.

Source

RPPL 4-30 § 2, modified.

Notes

In Subsection (b)(1), “s” was added to the word “national” of the original statute.

§ 804. Diplomatic relations and missions.

The President of the Republic of Palau is authorized to enter into diplomatic relations with foreign states and to consent to the establishment of diplomatic missions in the Republic of Palau.

Source

RPPL 4-30 § 3, first sentence.

§ 805. Diplomatic missions; privileges and immunities of members of a mission of a foreign state not ratifying the Vienna Convention; extension of more favorable or less favorable treatment than provided under the Vienna Convention; authority of the President.

(a) Unless otherwise provided by law, treaty, or the President under subsection (c) or subsection (d) of this section, such missions, members of the mission, and their families and personal employees, and diplomatic couriers assigned to the mission shall be afforded the privileges, immunities, protections and exemptions specified in the Vienna Convention.

(b) With respect to a non-party to the Vienna Convention, the mission, the members of the mission, their families and personal employees, and diplomatic couriers shall enjoy the privileges, immunities, protections and exemptions specified in the Vienna Convention.

(c) The President may, on the basis of reciprocity and under such terms and conditions as he or she may determine, specify privileges, immunities, protections and exemptions for the mission, the members of the mission, their families and personal employees, and the diplomatic couriers which result in more favorable treatment or less favorable treatment than is provided under the Vienna Convention.

DIPLOMATIC RELATIONS ACT 28 PNCA § 807

(d) The President may, by Executive Order, designate and empower the Minister of State to perform the functions vested to the President in subsection (a) of this section.

Source

RPPL 4-30 § 3, § 4, § 5(1), § 5(2), modified.

Notes

The word “by” in Subsection (d) reads “be” in the original statute.

§ 806. Jurisdiction.

The Supreme Court shall have original and exclusive jurisdiction of all actions and proceedings against:

- (a) consuls or vice consuls of foreign states;
- (b) members of a mission or members of their families; or
- (c) any insurer who by contract has insured an individual entitled to immunity under this Chapter against liability for personal injury, death, or damage to property. Any direct action brought against such an insurer shall not be subject to the defense that:
 - (1) the insured is immune from suit;
 - (2) the insured is an indispensable party; or
 - (3) in the absence of fraud or collusion, the insured has violated a term of the contract.

Source

RPPL 4-30 § 6, modified.

Notes

Subsection (a) ended “...foreign states; or” in the original legislation. The change was made by the Code Commission.

§ 807. Dismissal on motion of actions against individuals entitled to immunity.

Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention, under subsections (b), (c) or (d) of

28 PNCA § 807 FOREIGN RELATIONS AND TRADE

section 805 of this Chapter, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

Source

RPPL 4-30 § 7, modified.

§ 808. Immigration laws and Presidential authority.

The provisions of Title 13 of the Palau National Code Annotated relating to the exclusion and deportation of aliens, and the revocation of entry permits, except for 13 PNCA Sections 1005 (b) to (f), shall not be construed to apply to any person granted privileges, immunities, protections or exemptions under this Chapter, except to the extent otherwise provided by law or treaty. Provided, however, that this section shall not be construed as diminishing the authority of the President or his or her designee to declare such persons *persona non grata* or unacceptable and effectuate their removal or departure from the Republic of Palau. If a person is declared *persona non grata* or unacceptable and fails to depart the Republic of Palau within a reasonable length of time, the privileges, immunities, protections and exemptions accorded such person shall cease and he or she shall be promptly deported.

Source

RPPL 4-30 § 8, modified.

§ 809. Liability insurance for members of a mission.

- (a) Each mission and all persons granted privileges, immunities, protections and exemptions under this Chapter must comply with any requirements imposed by the regulations promulgated by the President of the Republic under subsection (b) of this section.
- (b) The President shall establish liability insurance requirements which can reasonably be expected to afford adequate compensation to victims, and which are to be met by each mission and all person granted privileges, immunities, protections and exemptions under this Chapter, relating to risks arising from the operation in the Republic of Palau of any motor vehicle, vessel or aircraft.
- (c) The President shall take such steps as he or she may deem necessary and proper to insure that each mission and all persons granted privileges, immunities, protections and exemptions under this Chapter that operate motor vehicles, vessels or aircraft in the

Republic of Palau comply with the requirements established pursuant to subsection (b) of this [section].

Source

RPPL 4-30 § 9, modified.

Notes

In subsection (b) “be expected” reads “by expected” in the original statute. The bracketed “[section]” in subsection (c) is typed over by the word “pursuant” in the original statute.

§ 810. Tax exemption for members of foreign missions.

(a) A member of a mission and his or her family shall be exempt from taxation if:

- (1) the member is not a citizen of the Republic of Palau; and
- (2) the foreign state grants an equivalent exemption to members of Palauan missions.
- (3) the foreign state grants an equivalent exemption to employees of the Government of the Republic of Palau performing similar services in the foreign state.

(b) The Minister of State shall certify to the Minister of Finance the names of the foreign states which grant an equivalent exemption to the employees of the Government of the Republic of Palau performing services in those foreign states, and the character of the services performed by employees of the Government of the Republic of Palau in foreign states.

(c) Subsection (a) shall not apply to:

- (1) any employee of a controlled commercial entity, as defined in subsection (b)(4) of section 811; or
- (2) any employee of a foreign state whose services are primarily in connection with a commercial activity (whether within or outside the Republic of Palau) of the foreign state.

Source

RPPL 4-30 § 11, modified. Subsection (a)(1) & (2) amended by RPPL 5-41 § 10(b)(2).

28 PNCA § 810 FOREIGN RELATIONS AND TRADE

Notes

“Minister of Finance” read “Minister of Administration” which was amended by RPPL 6-26 § 33[108], *see* 2 PNCA § 102.

§ 811. Income of foreign states.

(a) The income of a foreign state received from investments in the Republic of Palau in stocks, bonds, or other domestic securities owned by that foreign state, or financial instruments held in the execution of governmental financial or monetary policy, or interest on deposits in banks in the Republic of Palau of monies belonging to that foreign state shall not be included in gross income and shall be exempt from taxation under all tax laws of the Republic of Palau and of its political subdivisions.

(b) Subsection (a) shall not apply to any income:

(1) derived from the conduct of any commercial activity whether within or outside the Republic of Palau;

(2) received by or from a controlled commercial entity; or

(3) derived from the disposition of any interest in a controlled commercial entity.

(4) for purposes of this section, “controlled commercial entity” means any entity engaged in commercial activities (whether within or outside the Republic of Palau) if the foreign state:

(A) holds (directly or indirectly) any interest in that entity which (by value or voting interest) is fifty percent (50%) or more of the total of the interests in that entity, or

(B) holds (directly or indirectly) any other interest in that entity which provides the foreign state with effective control of that entity. For purpose of this subsection, a central bank of issue shall be treated as a controlled commercial entity only if engaged in commercial activities within the Republic of Palau.

(c) A foreign state shall be treated as a corporate resident of its country. A foreign state shall be so treated for purposes of any income tax treaty obligation of the Republic of Palau if that state grants equivalent treatment to the Government of the Republic of Palau.

(d) The Minister of Public Infrastructure, Industries and Commerce, or his designee, shall promulgate regulations as may be necessary or appropriate to carry out the purposes of this section.

Source

RPPL 4-30 § 10, modified.

Notes

RPPL 4-30 § 10 contains headings for each subsection. Those headings were not codified to conform to code format. Cf. 1 PNCA § 205. The “Minister of Public Infrastructure, Industries and Commerce” in subsection (d) previously read “Minister of Commerce and Trade” which was amended by RPPL 7-43 § 2, *see* 2 PNCA § 102.

§ 812. Tax exemption to foreign nations.

Any foreign nation that extends any tax exemptions to the Republic of Palau on a reciprocal basis shall be extended the same tax exemptions by the Republic of Palau.

Source

RPPL 5-41 § 10(b)(3).

§ 813. Identification documents for tax-exempt individuals.

The Minister of State or his designee shall prepare and issue to qualified individuals a document or documents which reflect their tax-exempt status. The Minister of State or his designee shall retain current records of all individuals to whom such a document or documents are issued and the extent of their exemption from taxation.

Source

RPPL 5-41 § 10(b)(3).

§ 814. Notice.

Within sixty (60) days after May 22, 2000, the Minister of State shall cause to be published notice of the provisions of this chapter. The content and manner of publishing this notice shall be determined by the Minister of State, but must be designed to reach tax officials, customs officials, merchants, and other entities that are likely to be affected by this chapter.

Source

RPPL 5-41 § 10(b)(3), modified.

28 PNCA § 901 FOREIGN RELATIONS AND TRADE

Chapter 9 International Financial Institutions

- § 901. Definitions.
- § 902. Membership in the Institutions.
- § 903. Incorporation of the Articles of Agreement and the Convention.
- § 904. Conversion of Reserve Asset Cash Contribution.

§ 901. Definitions.

In this chapter:

- (a) “Agency” means the Multilateral Investment Guarantee Agency.
- (b) “Association” means the International Development Association.
- (c) “Bank” means the International Bank for Reconstruction and Development.
- (d) “Corporation” means the International Finance Corporation.
- (e) “Fund” means the International Monetary Fund.
- (f) “Institutions” refers collectively to Agency, Association, Bank, Corporation, and Fund, as provided for in the Membership Resolutions of the Boards of Governors or the Council of Governors of the Institutions.

Source

RPPL 5-10 § 1, modified.

Notes

Definitions distilled from original legislation and subsections added to conform to Code format.

§ 902. Membership in the Institutions.

- (a) The Minister of Finance is authorized to sign the originals of the Articles of Agreement of the Institutions and to execute and deposit the instruments of acceptance accepting the Articles of Agreement of the Fund, the Bank, the Corporation and the Association and the Convention establishing the Agency, as well as the terms and conditions of the Membership Resolutions and other documents that may be required for

INTERNATIONAL FINANCIAL INSTITUTIONS 28 PNCA § 902

related membership purposes.

(b) The Minister of Finance is authorized, upon the admission of the Republic of Palau to membership in the Fund, to execute and deposit any necessary documents for the participation of the Republic of Palau in the Special Drawing Rights Department of the Fund, as established in Article XV of the Articles of Agreement of the Fund.

(c) The Minister of Finance is authorized, pursuant to appropriation, to acquire, to borrow, and to pay, on behalf of the Republic of Palau, the amounts that are payable from time to time to the Institutions under the terms and conditions set forth in the Membership Resolutions, and to make payments in connection with the Republic of Palau's participation in the Special Drawing Rights Department of the Fund.

(d) The Minister of Finance is authorized to issue, in accordance with the Articles of Agreement of the Fund, the Bank, the Association and the Convention establishing the Agency, respectively, any nonnegotiable, noninterest bearing notes which may be necessary or appropriate for the Republic of Palau's membership in the Fund (including a purchase by the Republic of Palau of its reserve tranche), the Bank, the Association and the Agency, respectively.

(e) The Minister of Finance is designated to serve as the fiscal agent for the Republic of Palau, which designation of an appropriate official by the Government of Palau is required under Article V, Section 1 of the Articles of Agreement of the Fund and Article III, Section 2 of the Articles of Agreement of the Bank and to carry out all operations and transactions authorized under these Articles, including the receipt of any amounts which may be paid or transferred to the Republic of Palau pursuant to these operations and transactions.

(f) The Minister of Finance is designated to serve as the channel of communication referred to in Article IV, Section 10 of the Articles of Agreement of the Corporation, Article VI, Section 10 of the Articles of Agreement of the Association and Article 38 of the Convention establishing the Agency.

(g) The Minister of Finance is authorized to designate a depository for all of the Fund's and the Bank's holdings of the currency of the Republic of Palau that is acceptable to both Institutions.

(h) The Minister of Finance is appointed as the Republic of Palau's designated Governor of the Fund, the Bank and the Agency, respectively, and the Director of the Bureau of

28 PNCA § 902 FOREIGN RELATIONS AND TRADE

National Treasury is appointed as the Republic of Palau's designated Alternate Governor of the Fund, the Bank and the Agency, respectively.

(i) The Minister of Finance is authorized to issue directives and regulations, and to take all necessary steps to carry out the obligations of the Republic of Palau under the Articles of Agreement of the Fund, the Bank, the Corporation and the Association, and the Convention establishing the Agency.

Source

RPPL 5-10 § 2.

Notes

"Minister of Finance" in each subsection read "Minister of Administration" which was amended by RPPL 6-26 § 33[108], *see* 2 PNCA § 102.

§ 903. Incorporation of the Articles of Agreement and the Convention.

The provisions of Article VIII, Section 2(b), Article IX, Sections 2 through 9 inclusive, and Article XXI(b) of the Articles of Agreement of the Fund, the provisions of Article VII, Sections 2 to 9 inclusive of the Articles of Agreement of the Bank, the provisions of Article VI, Sections 2 to 9 inclusive of the Articles of Agreement of the Corporation, the provisions of Article VIII, Sections 2 to 9 inclusive of the Articles of Agreement of the Association, and the provisions of Articles 44 to 48 inclusive of the Convention establishing the Agency, as well as other provisions of the Articles and of the Convention referred to above, are hereby incorporated into this chapter effective as of the date of the signature of the respective Articles of Agreement and Convention, and accordingly, shall have the full force and effect of law in the Republic of Palau as of the date thereof. A copy of each is attached and incorporated by reference.

Source

RPPL 5-10 § 3, modified.

§ 904. Conversion of Reserve Asset Cash Contribution.

All funds paid by the Republic of Palau as the reserve asset cash contribution to the Fund, as authorized and appropriated by this Act, shall be converted into a promissory note payable to the Fund as soon as practicable. Thereupon, all funds received by the Republic of Palau as a result of the conversion shall be promptly deposited into the National Treasury for future authorization and appropriation by law.

Source

RPPL 5-10 § 4.

**Chapter 10
Free Trade Zone**

- § 1001. Definitions.
- § 1002. Free trade zone created.
- § 1003. Admission of raw materials and merchandise; treatment; shipment to customs territory; shipment from customs territory.
- § 1004. Ngardmau Free Trade Zone Authority.
- § 1005. Board of directors: composition, terms.
- § 1006. Board of directors; organization and quorum.
- § 1007. Board of directors; reimbursements.
- § 1008. Ngardmau Free Trade Zone Authority; powers and duties.
- § 1009. Public land in free trade zones; lease restricted to FTZ licensees.
- § 1010. Private land; pre-existing-uses.
- § 1011. Executive director; appointment.
- § 1012. Executive director; powers and duties.
- § 1013. Free Trade Zone Authority, accounting and reporting.
- § 1014. Conflict of interest.
- § 1015. Procurement.
- § 1016. Licenses to operate business in free trade zone.
- § 1017. License revocation.
- § 1018. Incentives to licensed industries.
- § 1019. Applicability of other laws coordination by the Authority.
- § 1020. Insurance and indemnification.
- § 1021. Movement of goods in and out of free trade zone.
- § 1022. Establishment of customs posts in free trade zone.
- § 1023. Applicable law.
- § 1024. Disclosure of proprietary information to unauthorized persons prohibited.

§ 1001. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

- (a) “Authority” or “FTZ Authority” means the Ngardmau Free Trade Zone Authority established by this chapter;
- (b) “board” means the board of directors of the Ngardmau Free Trade Zone Authority;

28 PNCA § 1001 FOREIGN RELATIONS AND FREE TRADE

- (c) “Chamber of Commerce” means the Palau Chamber of Commerce;
- (d) “customs territory” means the territory of the Republic, excluding free trade zones established by or pursuant to law;
- (e) “domestic merchandise” means tangible and intangible property of every description entering the free trade zone from within the customs territory of the Republic;
- (f) “foreign merchandise” means tangible and intangible property of every description entering the free trade zone from outside the customs territory of the Republic;
- (g) “free trade zone(s)” or “zone(s)” or “FTZ” means the free trade zones established pursuant to this chapter;
- (h) “FTZ licensee” means a business enterprise licensed pursuant to this chapter and includes, where appropriate to the context, a prospective licensee or lessee;
- (i) “Minister” means the Minister of Finance;
- (j) “person” means any individual, estate, firm, corporation, company, joint venture, association, partnership, trust, receiver, club, syndicate, cooperative association, or any other entity;
- (k) “public land” means all real property the title to which is held by the national or a state government;
- (l) “Republic” means the Republic of Palau.

Source

RPPL 6-40 § 3, modified.

Notes

RPPL 6-40 § 1 reads: “Short title. This Act may be cited as the Free Trade Zone Act of 2003.”

RPPL 6-40 § 2 reads: “Findings and purpose. The Olbiil Era Kelulau finds that it is in the best interest of the Republic to establish a free trade zone as an economic development tool to encourage the establishment of new business, industrial, and commercial activities in order to diversify the Republic’s economy. Currently, tourism and fishing constitute the economic base of the Republic. As the recent global economic downturn has demonstrated, this economy is vulnerable to forces outside the Republic’s control.

The Olbiil Era Kelulau further finds that the types of business, industrial, and commercial activity that are in the best long-term interests of the people of Palau are those that require significant capital investment, have low labor requirements, make a negligible impact on the environment, and are compatible with tourism. Examples of

such types of desirable business activities would be production of computer hardware and software, licensing and distribution of intellectual property, computer programming services, data base storage and retrieval, and financial and trade-related services. Such businesses will attract skilled and highly paid employees, and will provide meaningful employment opportunities for Palauan citizens. Because tourism will remain the Republic's leading industry, businesses in the free trade zone must not cloud the air, foul the beaches, contaminate the aquifer, or otherwise produce a significant adverse impact on the environment. It is the intention of the Olbiil Era Kelulau to encourage appropriate new business, industrial, and commercial enterprises to relocate to Palau. It is not the Olbiil Era Kelulau's intent to diminish the existing tax base by allowing existing business, industrial, and commercial enterprises currently operating in the Republic to relocate into the free trade zone. In order to encourage new economic activity, the Republic must provide tax and other financial incentives similar to those offered by other countries. To accomplish this, the Olbiil Era Kelulau finds that it is in the best interest of the people of the Republic to provide incentives in the form of tax relief for desirable businesses establishing operations within the free trade zone.

The Olbiil Era Kelulau intends to speed the process of obtaining the necessary permits or licenses applicable to businesses wanting to establish operations in the free trade zone by directing that these applications be reviewed on a priority basis and that applicant businesses receive assistance in coordinating with relevant regulatory agencies to eliminate unnecessary delays."

§ 1002. Free trade zone created.

(a) There is hereby created a free trade zone in the state of Ngardmau encompassing an area of 14,130,393 square meters, more or less, delimited by straight lines extending between the following points expressed as cadastral coordinates:

- (1) a point in the lagoon located approximately due north from the end of D Dock at: $X = 63894.9953$; $Y = 180504.8645$ (northernmost point);
- (2) thence approximately south-southeast to a point on land located at: $X = 64774.6845$; $Y = 175549.4467$ (easternmost point);
- (3) thence approximately south-southwest to a point on land located at: $X = 63854.96$; $Y = 173884.69$ (southernmost point);
- (4) thence approximately northwest to a point near the edge of the mangroves at: $X = 60927.23$; $Y = 176749.66$;
- (5) thence approximately north to a point in the lagoon located at: $X = 60888.08$; $Y = 177654.77$ (westernmost point); and
- (6) thence returning to the point described in subsection (a), above.

28 PNCA § 1002 FOREIGN RELATIONS AND FREE TRADE

The FTZ Authority may expand or designate additional FTZs within the state.

(b) Whenever public land is designated as part of a FTZ, the national government or state government holding title to the land has no obligation to construct or install any infrastructure needed by FTZ industries.

(c) National government statutes, rules, regulations, and any other order having the effect of law shall apply on, within, and with respect to national public land within a FTZ and shall prevail in the event of a conflict with FTZ rules and regulations.

(d) Any improvement, structure, building, or infrastructure to be built on national public land within a FTZ shall be subject to the prior review and written approval of the President of the Republic.

Source

RPPL 6-40 § 4.

§ 1003. Admission of raw materials and merchandise; treatment; shipment to customs territory; shipment from customs territory.

Foreign and domestic merchandise may, except as prohibited by law or as otherwise provided in this chapter, without being subject to the customs laws of the Republic, be imported into a zone by a licensee under this chapter and may be produced, created, improved, stored, sold, exhibited, broken up, repackaged, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured, except as otherwise provided in this chapter, and be exported, destroyed, or sent into the customs territory of the Republic, in the original package or otherwise. When foreign merchandise is sent from a zone into the customs territory of the Republic, it shall be subject to the customs laws of the Republic.

Source

RPPL 6-40 § 5, modified.

§ 1004. Ngardmau Free Trade Zone Authority.

There shall be a public corporation called the Ngardmau Free Trade Zone Authority (“Authority”), to be governed by a board of directors. The Authority’s functions are governmental and public, and it may sue and be sued in its own name. The Authority shall prepare an annual budget to be submitted to the President of the Republic and approved by the

Olbiil Era Kelulau. In the absence of a budgetary appropriation, the President is authorized to reprogram such unexpended funds as may be available in the national treasury to fund the operations of the Authority, subject to the Budget Reform Act, RPPL No. 6-11, as amended.

Source
RPPL 6-40 § 6.

§ 1005. Board of directors; composition; terms.

- (a) All powers vested in the Authority shall be exercised by a board of directors composed of eleven voting members. The board shall consist of:
- (1) the person holding the title of Beouch in the State of Ngardmau, ex officio, or his designee;
 - (2) the person holding the title of Ngirkebai in the State of Ngardmau, ex officio, or his designee;
 - (3) the Governor of the State of Ngardmau, ex officio, or his or her designee;
 - (4) three persons appointed by the Governor of the State of Ngardmau, with the advice and consent of the Ngardmau legislature; and
 - (5) five persons appointed by the President of the Republic (“President”) with the advice and consent of the Senate, at least three of whom shall not hold any other national or state government employment and who shall be chosen from a list of persons submitted to the President by the Chamber of Commerce.
- (b) Members of the board appointed by the Governor of Ngardmau and the President shall serve staggered terms of four years and may be reappointed; the Ngardmau traditional chiefs and the Governor of Ngardmau shall serve for as long as they hold their respective titles or office. The initial terms of appointed members shall be as follows: four members shall serve an initial term of two years, and four members shall serve an initial term of three years. The initial terms of the appointed members shall be determined by the drawing of lots.
- (c) Appointments to fill vacancies shall be for the remainder of the term of the appointed member replaced.

28 PNCA § 1005 FOREIGN RELATIONS AND FREE TRADE

(d) Appointed board members may be removed for cause by the Governor of Ngardmau State or the President, according to which appointed the member to be removed.

Source
RPPL 6-40 § 7.

§ 1006. Board of directors; organization and quorum.

The President shall appoint a chairperson of the board, who shall serve as such for the duration of the President's term in office and may be removed by the President for any reason from the position of chairperson. The board shall further organize by electing one of its members as vice chairperson. The board shall designate a secretary, who need not be a member, to keep the minutes and records of the board. Any six members of the board shall constitute a quorum, and a concurrence of six members shall be necessary for any official action taken by the board unless otherwise provided herein. No vacancy in the membership of the board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the board. The board may meet at such times and places as the chairperson may determine. The substance of all official proceedings and actions of the board shall be recorded in writing.

Source
RPPL 6-40 § 8.

§ 1007. Board of directors; reimbursements.

Members of the board are entitled to reimbursement for actual expenses incurred in the performance of their official duties and to compensation of \$35.00 per day on which official business of the board is conducted.

Source
RPPL 6-40 § 9.

§ 1008. Ngardmau Free Trade Zone Authority; powers and duties.

In addition to the powers and duties elsewhere conferred and imposed, the Authority shall have the following powers and duties:

(a) The Authority shall determine the types of business, industrial, and commercial

enterprises that best meet the objectives of fostering environmentally friendly, non-labor intensive, high-skill activities that will offer training and employment opportunities to Palauan citizens. In making its determination of the desirability of business activities, the board shall be guided by the intention of the Olbiil Era Kelulau as reflected in this chapter.

(b) The Authority may purchase, lease, and hold real and personal property, supplies, goods, materials, and commodities incident to the operation of free trade zones, including contracting with other agencies and individuals for the use of their property in free trade zones.

(c) Subject to this chapter and the property rights of those holding title to the land, the Authority may develop and maintain or cause to be developed and maintained any land declared to be a free trade zone for use by persons licensed in accordance with this chapter.

(d) The Authority may, in coordination with the Ministers of Finance, Public Infrastructure, Industries and Commerce, and Natural Resources, Environment, and Tourism, and other appropriate agencies of the national government, request such infrastructure as may be required to be constructed, installed, or delivered in or to the free trade zone. Such infrastructure shall include the following:

- (1) roads and highways sufficient to afford reasonable access to international seaports and airports in the Republic;
- (2) electrical power, water, sewer services, and telecommunications services essential for the operations of the free trade zone; and
- (3) the establishment of customs posts.

(e) The Authority may enter into contracts with any person or persons or government agency or agencies to carry out its functions under this chapter, including rendering planning and management services within the free trade zone.

(f) The Authority may issue licenses to any approved person, firm, or corporation to operate businesses in the free trade zone.

(g) The Authority shall adopt and enforce rules and regulations pursuant to the Administrative Procedure Act, 6 PNC Chapter 1, for the lawful, orderly, safe, and

28 PNCA § 1008 FOREIGN RELATIONS AND FREE TRADE

sanitary management and operation of free trade zones and of all business activities carried on in the free trade zones. Regulations shall provide for the issuance of licenses to operate businesses in the free trade zones, and the terms and conditions thereof, including requiring an independent professional cost/benefit analysis of the proposed business activity.

(h) The Ministry of Natural Resources, Environment and Tourism shall provide FTZ companies with technical assistance and information on compliance with environmental protection regulations and shall cooperate with the Environmental Quality Protection Board (“EQPB”) to expedite the grant of necessary permits under EQPB regulations.

(i) The Authority may apply for the loan or grant of funds, and accept, expend, and repay any foreign donor or the national government for any and all moneys made available by grant, loan, or both to plan or accomplish any of the purposes of this chapter.

(j) The Authority may employ agents and employees, or contract for the services of qualified specialists or experts, as individuals or organizations, to advise and assist the Authority and its employees. The National Public Service System Act, 33 PNC § 101 *et seq.*, shall apply to all employees of the Authority other than independent contractors. All wages shall be subject to the minimum wage required by law.

(k) The Authority shall prepare a detailed statement of its proposed budget for each ensuing fiscal year, to be adopted by a majority vote of the members of the board of directors at a meeting called for that purpose. No expenditures shall be made for a purpose not included in the adopted budget, and no debt, obligation, or liability shall be created in any period for which the budget was adopted, in excess of the amounts specified for each purpose unless with the express approval of a majority of the board.

(l) The Authority shall represent the interests of free trade zone licensees and actual and prospective occupants in negotiating with the entity owning or controlling the property within the free trade zone, the charges, rentals, or fees for the use of such property, including the terms and conditions under which the property may be used; provided, that nothing in this section shall prohibit licensees or actual or prospective occupants from negotiating on their own behalf, provided further, that nothing in this subsection shall be construed as permitting the Authority to bind a licensee or actual or prospective occupant without consent of the licensee or occupant. The Authority shall negotiate charges that are reasonable and with due regard for the public benefit. In no event shall public land be leased for less than twenty-five cents (\$0.25) per month per square foot for buildings, and ten cents (\$0.10) per month per square meter for undeveloped land.

(m) The enumeration of specific powers and duties in this section shall not be deemed to be exclusive.

Source

RPPL 6-40 § 10, modified.

Notes

“Ministry of Finance” read “Minister of Administration” was amended by RPPL 6-26 § 33[108]. Ministry of “Public Infrastructure, Industries and Commerce” read Ministry of “Commerce and Trade”, and Ministry of “Natural Resources, Environment, and Tourism” read Ministry of “Resources and Development” which were amended by RPPL 7-43 § 2, *see* 2 PNCA § 102.

§ 1009. Public land in free trade zones; lease restricted to FTZ licensees.

Public land within a free trade zone shall not be leased for any purposes except to a free trade zone licensee. This restriction does not apply to pre-existing uses and leases in effect on the effective date of this chapter.

Source

RPPL 6-40 § 11, modified.

§ 1010. Private land; pre-existing uses.

Nothing in this chapter shall be construed as imposing any restraint on the use of private land within any free trade zone by persons other than a FTZ licensee. Private land within free trade zone shall be eligible, however, for all benefits of the FTZ, and, when receiving such benefits or leased or otherwise used by a FTZ licensee, shall be subject to all conditions on such benefits imposed by or with respect to the FTZ license. Pre-existing uses of land on the date the land becomes part of a FTZ shall not be subsequently sought with respect to land that is subsequently leased or used by a FTZ licensee.

Source

RPPL 6-40 § 12, modified.

§ 1011. Executive director; appointment.

The board shall appoint an executive director to be its chief executive officer. The executive director shall serve at the pleasure of, and be compensated as determined by, the board.

28 PNCA § 1011 FOREIGN RELATIONS AND FREE TRADE

Source
RPPL 6-40 § 13.

§ 1012. Executive director; powers and duties.

The executive director shall have the following powers and duties:

- (a) to market and promote the Ngardmau free trade zone internationally to businesses of the type determined by the Authority to be desirable for future economic development and diversification;
- (b) to be in full charge and control of the operation and maintenance of property controlled by the Authority and of construction of any facilities and other necessary or incidental works controlled by or required to be constructed or repaired by the Authority;
- (c) to ensure that all rules and regulations of the Authority are enforced;
- (d) to attend all meetings of the board and to submit a general report on the affairs of the Authority;
- (e) to keep the board advised on the needs of the Authority;
- (f) to approve demands for payment of obligations within the purposes and amounts authorized by the board;
- (g) to prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities operated by the Authority;
- (h) to devote full time to the business of the Authority; to select and appoint employees, subject to the approval of the Authority, except as otherwise provided in this chapter; to plan, organize, coordinate, and control the services of such employees in the exercise of the powers of the Authority under the general direction of the board, and, in lieu of hiring employees of the Authority to perform any of the tasks, works, or other services required by the Authority, to contract with independent contractors to provide such services;
- (i) to cause to be published within sixty (60) days after the end of each fiscal year a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof, which publication shall be made in the manner provided by the board;

- (j) to perform such other and additional duties as the board may require; and
- (k) to be an ex officio, non-voting member of the board.

Source
RPPL 6-40 § 14.

§ 1013. Ngardmau Free Trade Zone Authority; accounting and reporting.

- (a) The board shall adopt and maintain a system of accounting which is in accordance with generally accepted accounting principles applicable to free trade zone administration.
- (b) With the concurrence and under the supervision of the Public Auditor, the board shall employ a firm of independent certified public accountants to examine and report to the board, at least annually, upon the status of the financial records and accounts maintained by the Authority. Copies of any such reports shall be transmitted to the President and the Olbiil Era Kelulau. The Authority shall present an annual report within sixty (60) days after the end of each fiscal year and, if requested by the President or the Olbiil Era Kelulau, shall present special reports within thirty (30) days after the end of each intervening quarter.
- (c) The fiscal year of the Authority shall correspond to that of the Republic.

Source
RPPL 6-40 § 15, modified.

Notes
The title of this section reads “Free Trade Zone Authority; accounting and reporting” in RPPL 6-40 § 15.

§ 1014. Conflict of interest.

Members of the board, employees, and agents of the Authority shall be bound by the Code of Ethics Act, RPPL No. 5-32.

Source
RPPL 6-40 § 16.

28 PNCA § 1015 FOREIGN RELATIONS AND FREE TRADE

§ 1015. Procurement.

The board shall purchase all supplies, materials, and construction work in accordance with the procurement laws of the Republic, 40 PNC Chapter 6.

Source
RPPL 6-40 § 17.

§ 1016. Licenses to operate business in free trade zone.

(a) A license issued by the Free Trade Zone Authority is required for any business operating or planning to operate within a free trade zone to gain the benefits of this chapter. The requirements of the Foreign Investment Act, 28 PNC Chapter 1, shall not apply to any licensee under this chapter. A holder of a license issued by the FTZ Authority is not required to obtain a business license pursuant to 40 PNC Chapter 15.

(b) Any person may apply on the prescribed form to the board to establish and operate a business, industrial, or commercial activity in a free trade zone; existing businesses within the Republic may not relocate existing business, industrial, or commercial activities from outside a free trade zone into a free trade zone.

(c) The board shall promulgate regulations setting forth the factors to be considered in granting a license to operate in the zones. These policies may include: an analysis of the economic impact on the Republic, the amount of capital investment proposed, a cost/benefit analysis of the proposed activity, the environmental impact of the proposed activity, the impact on other business, industrial, and commercial activities within the Republic, the labor requirements of the proposed activity, and to what extent the applicant proposes to train and to employ residents. Where the board is satisfied that the business or enterprise described in the application meets the stated policies of this chapter and the regulations, and upon payment of the prescribed fee, the board may approve the application and issue to the applicant a license, authorizing the applicant to establish and operate within the free trade zone the business or enterprise specified in the license.

(d) There may be attached to every license such conditions as the board may consider necessary, including but not limited to:

- (1) the time within which the person or company shall commence operation;
- (2) the minimum investment to be made in the free trade zone;

- (3) any limitations on the licensee's labor force; and
- (4) the business, industrial, and commercial activities that may be carried on in the zone.
- (e) Licenses granted by the board shall not be transferable to any other person without prior approval of the board.
- (f) The board shall publish in the major local newspapers the name of any person to whom a license has been granted under this chapter.

Source
RPPL 6-40 § 18, modified.

§ 1017. License revocation.

- (a) No person shall establish or operate any business, industrial, or commercial activity within a free trade zone except in conformity with all applicable laws and regulations.
- (b) Pursuant to the Administrative Procedure Act, 6 PNC Chapter 1, the board may revoke the license of any licensee who contravenes the provisions of any applicable law or regulation or any condition attached to a license.

Source
RPPL 6-40 § 19.

§ 1018. Incentives to licensed industries.

Notwithstanding any other provision of law, licensed free trade zone businesses shall be:

- (a) exempted from the payment of import tax, 40 PNC Chapter 13, on the importation of capital equipment and machinery, including without limitation machinery used exclusively for hauling and loading cargo and spare parts into, within, and out of the free trade zones, in an amount and for a period not to exceed ten (10) years, to be determined by the Authority;
- (b) exempted from the payment of import tax, 40 PNC Chapter 13, on raw materials and other goods brought into the free trade zones which are to be incorporated into products

28 PNCA § 1018 FOREIGN RELATIONS AND FREE TRADE

produced or assembled within the free trade zones, in an amount and for a period not to exceed ten (10) years, to be determined by the Authority. This exemption shall not apply to consumable supplies, food, or other expendable items utilized in the daily operations of the business;

(c) exempted from any export taxes or user fees that may be enacted in an amount and for a period not to exceed ten (10) years, to be determined by the Authority.

(d) The Authority shall determine the amount of the tax exemption under subsections (a) through (c), above, in an amount from one percent (1 %) to one hundred percent (100%), and the period of years, from one (1) to ten (10) years, during which the exemption shall apply. The Authority shall recommend to the President and the Olbiil Era Kelulau tax incentives for licensed businesses at a level that is commensurate with the economic benefit to the Republic.

(e) The Minister shall consult with the Authority to develop the necessary forms for the orderly implementation of this chapter.

Source

RPPL 6-40 § 20, modified.

§ 1019. Applicability of other laws; coordination by the Authority.

(a) Except to the extent made specifically inapplicable under this chapter, all provisions of Palau criminal and civil law, including but not limited to environmental laws and regulations, business licensing laws and regulations, labor, and immigration laws and regulations, shall apply in the free trade zones in the same manner and to the same extent as elsewhere in the Republic.

(b) In order to facilitate timely action in licensing and permitting matters within the jurisdiction of other local agencies, the Authority shall coordinate with the permitting agencies and assist free trade zone businesses in securing the necessary licenses and permits required under Palau law.

(c) All Palau regulatory agencies shall expedite the processing of permits for developments within the free trade zones.

Source

RPPL 6-40 § 21, modified.

§ 1020. Insurance and indemnification.

(a) Every licensee shall undertake to hold the Authority free and harmless for any loss incurred by the licensee by reason of or ensuing from the failure of any service to the free trade zone pertaining to the supply of water, electricity, sewerage, telecommunication, or other services that are provided to or within the free trade zone and not under the control of the Authority.

(b) Every licensee shall secure and maintain insurance in an amount set by the board by regulation relating to any liability for injury or damage, including environmental damage, occasioned by or to any person and his or her property in a free trade zone while that person is on the premises whereon the licensee is conducting business operations or utilizing the common approaches contiguous to those premises.

(c) Every licensee shall undertake to hold the Authority free and harmless for any loss or damage to the goods, articles, machinery, and things upon the premises occupied by the licensee in the free trade zone for any loss or damage arising from any acts or omission of other licensees.

Source
RPPL 6-40 § 22.

§ 1021. Movement of goods in and out of free trade zone.

(a) The Minister shall, after consultation with the Authority, make regulations relating to:

(1) the entry, removal, importation, and exportation of goods, articles, machinery, or other things into or out of a free trade zone;

(2) the seizure and forfeiture of goods, articles, machinery, or other things intended for or brought into or taken out of a free trade zone in breach of customs regulations and tax laws.

(b) For the purposes of this section, goods, articles, machinery, or other things manufactured, processed, or assembled by a licensee and exported from the free trade zone into a non-free trade zone in the Republic will be subject to the payment of all taxes and duties applicable outside of the free trade zone.

Source
RPPL 6-40 § 23.

28 PNCA § 1022 FOREIGN RELATIONS AND FREE TRADE

§ 1022. Establishment of customs posts in free trade zone.

(a) The Minister shall, after consultation with the Authority, establish and staff customs posts in the free trade zones as necessary.

(b) Customs officers assigned to a customs post in a free trade zone shall carry out such duties as are assigned to them and, in particular shall:

(1) inspect, monitor, and record the entry of all goods into free trade zones, including:

(A) the names of the importer and the exporter;

(B) the description of the goods and the declared value of such goods; and

(C) the country of origin of the goods;

(2) inspect, monitor, and record the exit of all goods from a free trade zone including:

(A) the names of the exporter and the consignee;

(B) the description of the goods or services exported or consigned and the declared value of such goods; and

(C) the destination of the goods.

(c) The Chief of the Division of Customs shall submit to the Minister and the Authority a monthly report in respect of the information recorded pursuant to subsection (b).

(d) The Minister shall, after consultation with the Authority, charge such hourly fees as he or she may consider appropriate and reasonable for handling and for customs services provided in the free trade zones.

Source
RPPL 6-40 § 24.

§ 1023. Applicable law.

Palau law shall apply to any contract between the Authority and a licensee, as well as to the conduct and operations of any business or enterprise, and generally for good order and management in a free trade zone.

Source
RPPL 6-40 § 25.

§ 1024. Disclosure of proprietary information to unauthorized persons prohibited.

Except with the consent of a licensee or as authorized by law, no officer, agent, consultant, employee, or attorney of the Authority, or any customs or immigration officer assigned to a free trade zone, shall disclose any proprietary information or business trade secrets to a third party that may have come to his or her knowledge in the course of duty.

Source
RPPL 6-40 § 26.

28 PNCA § 1101 FOREIGN RELATIONS AND TRADE

Chapter 11 Compact Review Commission

- § 1101. Compact Review Commission established.
- § 1102. Commission duties and responsibilities
- § 1103. Executive Director.
- § 1104. Attorneys and staff.

§ 1101. Compact Review Commission established.

There is established in the Republic of Palau a commission called the “Compact Review Commission”. The Compact Review Commission (“Commission”) shall be established as follows:

- (a) Membership. The Commission shall be composed of nine (9) members as follows:
 - (1) five (5) members, all of whom shall be appointed by the President of the Republic of Palau with the advice and consent of the Senate of the Olbiil Era Kelulau. A member shall not have been convicted of any felony. A member shall have at least a bachelor’s degree from an accredited four year college or university. The President of the Republic shall nominate for appointment five (5) members within thirty (30) days after the effective date of this chapter;
 - (2) four (4) ex officio members, two (2) ex officio members from the Senate of the Olbiil Era Kelulau and two (2) ex officio members from the House of Delegates of the Olbiil Era Kelulau. The President of Senate shall appoint two senators to be ex officio members and the Speaker of the House of Delegates shall appoint two delegates to be ex officio members. The ex officio members shall be appointed within sixty (60) days after the effective date of this chapter. An ex officio member shall remain as a member of the Commission as long as he or she is still a member of the Olbiil Era Kelulau. If an ex officio member is no longer a member of the Olbiil Era Kelulau, then a new ex officio member shall be appointed according to subsection (a)(2) of this section; and
 - (3) A vacancy on the Commission shall be filled in accordance with subsection (a) of this section.
- (b) Terms. Each member shall be appointed until the completion of the review with the

COMPACT REVIEW COMMISSION 28 PNCA § 1102

United States of America. The Commission shall terminate at the end of the review with the United States of America, no later than January 1, 2008.

(c) Meetings and compensation. The Commission shall carry out all duties necessary to review the Compact of Free Association with the United States of America. The members who are not employed by the National Government or its agencies or by a state government are entitled to receive compensation at the rate of \$50 for each day he or she performs the official duties or business of the Commission. The members who are employed by the National Government or its agencies or by a state government or its respective agencies shall be eligible to take “administrative leave” from their regular employment and be paid by their respective governmental employer while he or she performs the official duties or business of the Commission. Ex officio members shall not receive any compensation from the Commission while performing the official duties or business of the Commission. The members including ex officio members are also entitled to a per diem while traveling outside the territory of Palau, while performing official duties of the Commission, according to standard government rates.

(d) Commission organization. The Commission shall be organized by electing, by a majority vote, one of its members as chairperson. The chairperson shall appoint, when necessary, an acting chairperson to take his or her place in case of the chairperson’s absence. The Commission shall hire a secretary to keep the minutes and records of the Commission. The hired secretary shall be compensated, as determined by the Commission, within the limits of the funds made available to the Commission by this chapter and other acts. Any three (3) members of the Commission shall constitute a quorum, and a concurrence of three (3) members shall be necessary for any official action taken by the Commission, unless otherwise provided herein. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all of the rights and perform all of the duties and responsibilities of the Commission. The Commission shall first be convened within ten (10) working days after appointment and confirmation of all members.

Source

RPPL 7-15 § 2, modified.

§ 1102. Commission duties and responsibilities.

The Commission shall review the Compact of Free Association with the United States and report to the President of the Republic of Palau and to the presiding officers of the Olbiil Era Kelulau about the findings of such review before the termination of the Commission. The

28 PNCA § 1102 FOREIGN RELATIONS AND TRADE

Commission shall have a period of twenty (20) months from the effective date of this chapter to carry out its review process. The Commission during this period shall also make recommendations in its report of persons who are qualified and should be members of the COFA Negotiating Team for year 2009. The Commission's review and the names of persons shall be submitted in a report no later than twenty (20) months from the effective date of this chapter. The Commission may take any legal steps and means necessary to carry out the review of the Compact of Free Association and to report its findings. The Commission shall cause to be published in a manner provided by the Commission a report showing the findings and recommendations regarding its recommendations for what Palau's position on the review of the Compact of Free Association with the United States should focus on. The report shall only be distributed to the President of the Republic of Palau and to the Olbiil Era Kelulau. After the review of the Compact of Free Association with the United States of America is completed or ended, the President of the Republic of Palau and the presiding officers of the Olbiil Era Kelulau may decide in what capacity and to what extent the report may be made public information.

Source

RPPL 7-15 § 3, modified.

§ 1103. Executive Director.

The Commission shall appoint an Executive Director to be its chief executive compact review officer. The minimum qualifications for the Executive Director shall include a four year college degree and a graduate degree, some experience in finance and international relations, and must not have been convicted of any felony. The Executive Director shall devote his or her full time to the business of the Commission. The Executive Director shall serve at the pleasure of the Commission and shall be compensated as determined by the Commission within the limits of the funds made available to the Commission by this chapter and other acts.

Source

RPPL 7-15 § 4, modified.

§ 1104. Attorneys and staff.

The Commission shall receive the help from the following government lawyers: one lawyer from the Office of the President of the Republic of Palau, the Senate Legal Counsel, and the House of Delegates Legal Counsel. The attorneys shall advise the Commission and the Executive Director in all legal matters to which the Authority is a party or in which the Commission is legally interested, and may represent the Commission within the Republic of Palau or in a foreign

COMPACT REVIEW COMMISSION 28 PNCA § 1104

nation. The Commission shall also have the help of the staff of the Office of the Legal Counsel of the President of the Republic of Palau, the staff of the Senate Legal Counsel, and the staff of the House of Delegates Legal Counsel. The Commission may also obtain the services of other attorneys, professionals, and technical and clerical staff as it deems necessary to carry out its duties and responsibilities, and provide for payment of all services rendered.

Source

RPPL 7-15 § 5, modified.

