

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 102

**TITLE 6
ADMINISTRATIVE LAW**

**Chapter 1
Administrative Procedure Act**

**Subchapter I
General Provisions**

- § 101. Short title.
- § 102. Definitions.
- § 103. Applicability.
- § 104. Suspension of chapter's provisions.
- § 105. Informal settlements.

§ 101. Short title.

This chapter may be cited as the “Administrative Procedure Act.”

Source

RPPL 1-53 § 101.

Notes

- Rechetuker v. MOJ, 11 ROP 31, 34 (2003).
- Skebong v. Environmental Quality Protection Board, 8 ROP Intrm. 80, 83 (1999).
- Becheserrak v. ROP, (Civil Appeal No. 33-91, Dec. 1993).

Commission Comment

Section 401(a) of RPPL 1-53 repealed chapter 1 of Title 17 of the Trust Territory Code in its entirety.

§ 102. Definitions.

In this chapter:

- (a) “Agency” means a ministry, bureau, division, board, commission, department, officer or other administrative unit of the national government authorized by law to make rules or regulations or to determine contested cases, except the Olbiil Era Kelulau and the Judiciary;

- (b) “Contested case” means an adjudicatory proceeding, including a licensing proceeding, in which the legal rights of a party are asserted by the party to have been directly and adversely affected by an agency rule or action;
- (c) “License” means a permit, certification, approval, registration, charter, or similar form of permission required by law, except that it does not include a license required solely for revenue accountability;
- (d) “Licensing” includes the agency process of a grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license;
- (e) “Party” means a person named or admitted as a party, or properly seeking and entitled, as a matter of right, to be admitted as a party;
- (f) “Person” means any individual, partnership, corporation, association, governmental subdivision, or private organization or entity of any character, and includes another agency;
- (g) “Rule” means the whole or a part of an agency statement of general applicability that implements, interprets, regulates or controls conduct or action, prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment, repeal, or suspension of a prior rule, but does not include a statement exclusively concerned with the internal management of an agency not affecting private rights or procedures available to the public, nor declaratory rulings issued pursuant to section 131, nor intra-agency memoranda.

Source

RPPL 1-53 § 102, modified.

Notes

Rechetuker v. MOJ, 11 ROP 31, 34 (2003).

§ 103. Applicability.

- (a) This chapter applies to all agencies and all proceedings not expressly exempted.
- (b) This chapter creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes. To the extent that any other statute would diminish a right created or duty imposed by this chapter, the other

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 105

statute is superseded by this chapter, unless the other statute expressly provides otherwise.

(c) An agency may grant procedural rights to persons in addition to those conferred by this chapter so long as rights conferred upon other persons by any provision of law are not substantially prejudiced.

Source

RPPL 1-53 § 103.

Notes

Rechetuker v. MOJ, 11 ROP 31, 34 (2003).

§ 104. Suspension of chapter's provisions.

(a) To the extent necessary to avoid denial of funds or services from the United States which would otherwise be available to the Republic, the President by executive order may suspend, in whole or in part, one or more provisions of this chapter. The President shall declare the termination of a suspension as soon as it is no longer necessary to prevent the loss of funds or services from the United States.

(b) If any provision of this chapter is suspended pursuant to this section, the President shall promptly report the suspension to the Olbiil Era Kelulau.

Source

RPPL 1-53 § 104, modified.

§ 105. Informal settlements.

Except to the extent precluded by another provision of law, informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is encouraged. Agencies shall establish by rule specific procedures to facilitate informal settlement of matters.

Source

RPPL 1-53 § 105.

**Subchapter II
Rule-Making**

- § 121. Required rule-making.
- § 122. Public inspection.
- § 123. Same; invalidity if none made available.
- § 124. Model rules.
- § 125. Notice procedure for adoption of rules.
- § 126. Emergency rules.
- § 127. Effective date and filing of rules.
- § 128. Publication of rules.
- § 129. Petition for adoption of rules.
- § 130. Declaratory judgment on validity or applicability of rules.
- § 131. Declaratory rulings by agencies.
- § 132. Presidential review.
- § 133. Legislative veto.

§ 121. Required rule-making.

In addition to other rule-making requirements imposed by law, each agency shall:

- (a) adopt a rule describing its organization, stating the general course and method of its operations, and setting out the procedures whereby the public may obtain information from the agency or make submissions or requests to the agency;
- (b) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions of general application used by the agency.

Source

RPPL 1-53 § 201(a)(1) and (a)(2), modified.

Notes

Foreign Investment Board v. OEK, 5 ROP Intrm. 344, 345 (Tr. Div. 1996).

§ 122. Public inspection.

In addition to other rule-making requirements imposed by law, each agency shall:

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 125

(a) make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions;

(b) make available for public inspection all final orders, decisions, and opinions of general applicability or effect upon the public.

Source

RPPL 1-53 § 201(a)(3) and (a)(4), modified.

§ 123. Same; invalidity if none made available.

No agency rule, order, or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection as required by this chapter. This provision is not applicable in favor of any person or party who has actual knowledge of a rule, order or decision.

Source

RPPL 1-53 § 201(b), modified.

§ 124. Model rules.

The Ministry of Justice shall draft model rules of procedure appropriate for use by as many agencies as possible. The model rules must deal with all general functions and duties performed in common by the several agencies and with the provisions of this section. Each agency shall adopt all or part of the model rules as it deems necessary. To the extent an agency adopts the model rules, it shall do so in accordance with the rule-making requirements of this chapter.

Source

RPPL 1-53 § 201(c), modified.

§ 125. Notice procedure for adoption of rules.

(a) Prior to adoption, amendment or repeal of any rule:

(1) an agency shall give at least thirty (30) days' notice of a proposed rule by posting notice of the rule in the Office of the Bureau of Domestic Affairs, at the Judiciary Building and at the Olbiil Era Kelulau. The notice shall also be read

over the radio broadcasting station at Koror on five (5) consecutive calendar days within the first fifteen (15) days after it is posted. Such notice shall be in English and Palauan and shall include:

- (A) a short statement of either the terms or substance of the proposed rule or a description of the subject and issues involved;
- (B) reference to the legal authority under which the rule is proposed;
- (C) when, where, and how interested persons may present their views thereon; and
- (D) where copies of the proposed rule will be available for reading or distribution to the public;

(2) an agency shall make copies of each proposed rule available for reading at the Office of the Bureau of Domestic Affairs.

(3) for at least thirty (30) days after providing notice under this section, an agency shall afford all interested persons the opportunity to submit data, views, or arguments, in writing.

(b) The agency shall conduct a public hearing on a proposed rule at its discretion, or if requested by either house of the Olbiil Era Kelulau or another government agency. An agency shall consider fully all written and oral submissions concerning the proposed rule.

(c) If requested to do so by an interested person within thirty (30) days after adoption, amendment or repeal of any rule, the agency shall issue a concise statement of the basis upon which it has adopted, amended or repealed a rule.

(d) To the extent that an agency for good cause finds that any requirements of this section are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, these requirements do not apply. In an action contesting a rule adopted under this subsection, the burden is upon the agency to demonstrate that any omitted requirements of this section were impracticable, unnecessary, or contrary to the public interest.

Source

RPPL 1-53 § 202, modified.

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 128

§ 126. Emergency rules.

If there is a clear, substantial, and imminent danger to the public health, safety, or welfare, requiring adoption of a rule upon fewer than 30 days' notice, the agency, upon stating in writing the nature of the danger, may proceed without prior notice of hearing, or upon abbreviated notice and hearing, to adopt an emergency rule. The emergency rule shall be void 120 days after adoption or upon notice of the termination of the emergency by the agency or the President filed with the Bureau of Domestic Affairs. An emergency rule shall be delivered to the President and the presiding officers of the Olbiil Era Kelulau as soon as possible, and in any event, within 24 hours after adoption.

Source

RPPL 1-53 § 203, modified.

§ 127. Effective date and filing of rules.

Every agency shall transmit a copy of each rule adopted by it to the President on the day of adoption. The President shall approve or disapprove the rule within 20 consecutive calendar days after receipt. If the President does not act within 20 days, or if the President approves the rule, it shall become effective 30 days after its adoption by the agency, except that:

- (a) if a later date is required by statute or specified in the rule, the later date shall be the effective date; and
- (b) an emergency rule shall become effective immediately upon filing the rule with the Bureau of Domestic Affairs, unless otherwise provided by law.

Source

RPPL 1-53 § 204, modified.

§ 128. Publication of rules.

- (a) The Director of the Bureau of Domestic Affairs shall compile, index, and maintain all rules adopted by each agency. Compilations shall be supplemented or revised promptly as rules are adopted, amended or revoked.
- (b) The Director of the Bureau of Domestic Affairs shall publish for public distribution, an annual bulletin setting forth a summary of each rule filed during the preceding

calendar year.

(c) The Director of the Bureau of Domestic Affairs shall within seven days of adoption provide a copy of the full text of each rule to each state where it shall be kept on file and be available for public inspection, to the presiding officers of both houses of the Olbiil Era Kelulau, and to the Chief Justice.

Source
RPPL 1-53 § 205.

§ 129. Petition for adoption of rules.

Any person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe the form of petitions and the procedure for their submission, consideration, and disposition. Within 30 days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or shall initiate rule-making proceedings in accordance with this chapter.

Source
RPPL 1-53 § 206.

§ 130. Declaratory judgment on validity or applicability of rules.

The validity or applicability of any rule may be determined in an action for declaratory judgment in the Supreme Court, if it is alleged that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The agency shall be made a party to the action. A declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of any statutory provision or any rule or order of the agency.

Source
RPPL 1-53 § 207.

§ 131. Declaratory rulings by agencies.

Each agency may provide by rule for the filing and prompt disposition of petitions for declaratory rulings by the agency, as to the applicability of any statutory provision or any rule or order of the

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 133

agency. Proceedings on petitions for declaratory rulings shall be conducted as in contested cases.

Source
RPPL 1-53 § 208, modified.

§ 132. Presidential review.

To the extent the agency itself would have authority, the President may rescind or suspend all or a portion of a rule of an agency. In exercising this authority, the President shall act by an executive order that is subject to the provisions of this chapter applicable to the adoption and effectiveness of a rule.

Source
RPPL 1-53 § 209.

§ 133. Legislative veto.

Any rule or part thereof adopted by an agency may be rendered void by the adoption by both houses of the Olbiil Era Kelulau of a joint resolution declaring such rule or part thereof void; provided that the Olbiil Era Kelulau may exercise this power only within 120 days after adoption of such rule or part thereof.

Source
RPPL 1-53 § 210.

Notes
Foreign Investment Board v. OEK, 5 ROP Intrm. 344, 345 (Tr. Div. 1996).

**Subchapter III
Adjudicative Proceedings**

- § 141. Contested cases; notice; hearings; opportunity to be heard; informal disposition.
- § 142. Same; record; findings of fact.
- § 143. Rules of evidence; official notice.
- § 144. Decisions and orders.
- § 145. Ex parte consultations.
- § 146. Licenses.
- § 147. Judicial review of contested cases.
- § 148. Appeal.

§ 141. Contested cases; notice; hearings; opportunity to be heard; informal disposition.

(a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall include:

- (1) a statement of the time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of the statutes and rules involved;
- (4) a short and plain statement of the matters asserted;
- (5) the names and addresses of all parties and other persons to whom notice is being given.

(b) If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

(c) Opportunity shall be afforded all parties in a contested case to respond and present evidence and argument on all issues involved.

(d) Unless proscribed by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent decree, or default.

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 143

Source

RPPL 1-53 § 301(a), (b) and (c), modified.

Notes

Skebong v. EQPB, 8 ROP Intrm. 80, 83 (1999).

§ 142. Same; record; findings of fact.

(a) The record in a contested case shall include:

- (1) all pleadings, motions, and interim rulings;
- (2) evidence received or considered;
- (3) a statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings thereon;
- (5) proposed findings and exceptions;
- (6) any decision, opinion, or report by the officer presiding at the hearings;
- (7) all staff memoranda or data submitted to the officer presiding at the hearing or to members of the agency in connection with their consideration of the case.

(b) Oral proceedings in contested cases shall be recorded, and any part thereof shall be transcribed on request of any party at the party's expense.

(c) Findings of fact in contested cases shall be based exclusively on the evidence and on matters officially noticed.

Source

RPPL 1-53 § 301(d), (e) and (f), modified.

§ 143. Rules of evidence; official notice.

The following procedures concerning evidence shall be observed in contested cases:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Courts

of Republic of Palau Rules of Evidence shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the evidence may be received in written form. All testimony of parties and witnesses must be made under oath or affirmation;

(b) Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;

(c) A party may conduct cross-examinations required for a full and true disclosure of the facts; and

(d) Notice may be taken of judicially recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Source

RPPL 1-53 § 302, modified.

§ 144. Decisions and orders.

A final decision, or order adverse to a party in a contested case, shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. A copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

Source

RPPL 1-53 § 303.

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 146

§ 145. Ex parte consultations.

(a) Unless required for the deposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of law, with any party or his representatives; except upon notice and opportunity for all parties to participate.

(b) An agency member may:

- (1) communicate with other members of the agency; and
- (2) have the aid and advice of one or more personal assistants.

Source
RPPL 1-53 § 304.

§ 146. Licenses.

(a) When the grant, denial or renewal of a license is required by law to be preceded by notice and opportunity for hearing, the provisions of this chapter concerning contested cases shall apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license for an activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency. When the application is denied or the terms of the new license are limited, the existing license shall not expire until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) Except as otherwise provided by law, no revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave due notice to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that the public health, safety, or welfare is clearly, imminently and substantially endangered, requiring emergency action, and incorporates a finding to that effect in its order, with a statement of the nature of the danger, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly

instituted and determined.

Source

RPPL 1-53 § 305, modified.

§ 147. Judicial review of contested cases.

(a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case, is entitled to judicial review of the decision. This section does not limit utilization of the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or interim agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(b) Proceedings for review are instituted by filing a petition in the Trial Division of the Supreme Court within 30 days after receipt of the final decision of the agency; or, if a rehearing is requested, within 30 days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

(c) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(d) Within 60 days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were justifiable reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record,

ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 147

proof thereon may be taken in the court. The court, upon request of either party, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the statutory authority of the agency;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) clearly erroneous in view of the reliable, probative, and substantial evidence in the whole record; or
- (6) arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Source

RPPL 1-53 § 306.

Notes

- Ochedaruchei Clan v. Thomas, 2020 Palau 11 ¶ 24.
Kasiano v. Palau Election Comm'n, 18 ROP 10, 11, 12 (Tr. Div. 2010).
Nebre v. Uludong, 15 ROP 15, 23 (2008)
MOJ v. Rechetuker, 12 ROP 43, 45 (2005)
Rechetuker v. MOJ, 11 ROP 31, 34, 35, 36 (2003).
Becheserrak v. ROP, 4 ROP Intrm. 103, 110 (1993).
Elbelau v. Election Commission, 3 ROP Intrm. 426, 430 (Tr. Div. 1993).

Cross-reference

For constitutional provisions regarding the Judiciary, see ROP Const. art. X; for statutory provisions regarding the Judiciary, see Title 4.

§ 148. Appeal.

An aggrieved party may obtain a review of any final judgment of the court under this chapter by appeal to the Appellate Division of the Supreme Court. The appeal shall be taken as in other civil cases.

Source

RPPL 1-53 § 307.

Notes

Nebre v. Uludong, 15 ROP 15, 24 (2008)

Cross-reference

ROP Const., Art. X, § 6; for statutory provisions regarding the Judiciary, see Title 4; for rules of appellate procedure, see Courts of Republic of Palau Rules of Appellate Procedure (eff. December 23, 1983).

**Subchapter IV
Transition**

§ 161. Rules adopted pursuant to Trust Territory Code.

§ 161. Rules adopted pursuant to Trust Territory Code.

Each rule and regulation, consistent with the Constitution and the laws of the Republic, adopted pursuant to chapter 1 of Title 17 of the Trust Territory Code, and in force on the effective date of this chapter, shall continue to be in full force and effect until repealed by law, voided by its own terms, or repealed, modified or amended by rule adopted pursuant to this chapter.

Source

RPPL 1-53 § 402, modified.

**Chapter 2
Privacy Act**

- § 201. Definitions.
- § 202. Collection of personal information.
- § 203. Notification of collection of personal information.
- § 204. Manner of collection of personal information.
- § 205. Storage of and access to personal information.
- § 206. Use of personal information.
- § 207. Disclosure of personal information.
- § 208. Public register personal information.
- § 209. Information sharing.
- § 210. Matching programs.
- § 211. Adverse action from a matching program.
- § 212. Transfer of information outside of the Republic of Palau.
- § 213. Civil penalties.
- § 214. Criminal penalties.
- § 215. Cause of action and remedies.
- § 216. Rules and regulations.

§ 201. Definitions.

In this chapter:

(a) “*Agency*” means a ministry, bureau, division, commission, department officer or other administrative unit of the national government or a state government, or any other government entity created by the Constitution, statute, treaty, regulation, or executive order, including quasi-government entities such as public corporations, that gathers, stores, accesses, maintains, monitors, possesses, or otherwise exercises control over personal information. “Agency” does not include:

- (1) the Olbiil Era Kelulau; or
- (2) the courts of the Republic of Palau.

(b) “*Individual*” means a natural person whose personal information is maintained by an agency.

(c) “*Information sharing agreement*” means a provision that authorizes the sharing of personal information by an agency with one or more other agencies for one or more specified purposes.

(d) “*Maintain*” includes maintain, collect, use, or disseminate.

(e) “*Matching program*” means any two or more automated systems of agency records, including:

- (1) records to identify recipients of government benefits;
- (2) records to recoup delinquent debts; and
- (3) personnel or payroll systems.

(f) “*Personal information*” means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history, and can be used to identify that individual, including by means of the individual’s name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(g) “*Public register*” means any register, roll, list, or other document maintained by law to be accessible to the public.

(h) “*Recipient agency*” means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program.

(i) “*Serious threat*” means a threat that an agency reasonably believes is imminent, and once realized, the consequences will be severe.

(j) “*Source agency*” means any agency which discloses records contained in a system of records to be used in a matching program.

Source

RPPL 9-65 § 3, modified.

Notes

RPPL 9-65 § 1 reads: Short title. This Act shall be known as the Privacy Act.

RPPL 9-65 § 2 reads: Legislative Findings. The Olbiil Era Kelulau finds that within the Republic of Palau there are few privacy safeguards in place to protect the citizens. Improper disclosure of private information can cause extreme

embarrassment, detrimentally affect one's reputation, and affect one's job and family stability. Furthermore, without strong privacy laws, businesses are at a great disadvantage in doing business in the Republic of Palau because important sensitive trade secrets and financial information could be exploited, thereby destroying the company's competitive edge, if not the actual lifeblood of the company in possession of an important trade secret. This privacy act will provide necessary safeguards to personal information that the government collects and uses to carry out its official functions.

§ 202. Collection of personal information.

- (a) Personal information may not be collected by any agency unless the information is relevant and necessary to accomplish a lawful purpose connected with a function or activity of the agency.

- (b) To the greatest extent practicable, an agency shall collect personal information directly from the subject individual.

Source
RPPL 9-65 § 3.

§ 203. Notification of collection of personal information.

- (a) Where an agency collects personal information concerning an individual, the agency shall notify the individual of:
 - (1) the agency collecting personal information;
 - (2) the type of personal information being collected;
 - (3) the purpose for which the information is being collected;
 - (4) the particular law under which collection of personal information is authorized or required; and
 - (5) the legal consequences, if any, of not providing all or any part of the requested information.

- (b) An agency may avoid notification requirements set forth in subsection (a) if:
 - (1) the individual from whom information is being collected waives the right to

notification;

(2) notification would prejudice the maintenance or enforcement of the law by any agency in the prevention, detection, investigation, prosecution, and punishment of civil, administrative or criminal offenses; or

(3) the information will be used for statistical or research purposes and will not be published, and could not reasonably be used to identify the individual concerned.

Source

RPPL 9-65 § 3, modified.

§ 204. Manner of collection of personal information.

Personal information may not be collected by an agency:

(a) by unlawful means; or

(b) by any means that are unfair or unreasonably intrude upon the individual's reasonable expectation of privacy.

Source

RPPL 9-65 § 3.

§ 205. Storage of and access to personal information.

(a) An agency that maintains personal information shall ensure that the information is protected from loss, unauthorized access, modification, disclosure, or other misuse.

(b) An agency that maintains personal information shall, upon request, permit any individual to gain access to his or her record which is contained in the system, to review the record and have a copy made of all or any portion of the personal information;

(c) An individual whose personal information is collected by an agency may request the correction of personal information. Upon such request, an agency shall:

(1) make any correction which the individual believes is not accurate, relevant, timely, or complete; or

(2) inform the individual in writing of its refusal to amend the personal information, the reason for the refusal, and the procedures established by the agency for the individual to request a review of that refusal by the head of the agency.

(d) An agency has the affirmative duty to ensure, and may not use without first ensuring, personal information collected is accurate, up to date, complete, and not misleading.

(e) An agency that maintains personal information may not keep that information for longer than is required for the purposes for which the information may lawfully be used.

(f) An agency that maintains personal information shall keep an accurate accounting for five years or the life of the record, whichever is longer, of:

(1) the date, nature, and purpose of each disclosure of a record to any person or agency made under section 207; and

(2) the name and address of the person or agency to whom the disclosure is made.

(f) Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

Source

RPPL 9-65 3, modified.

§ 206. Use of personal information.

An agency that holds personal information that was obtained in connection with one purpose shall not use the information for any other purpose, unless:

(a) the source of the personal information is publicly available;

(b) the individual concerned consents to the other purpose;

(c) use for another purpose is necessary to avoid prejudice to the maintenance or enforcement of the law by any agency in the prevention, detection, investigation, prosecution, and punishment of civil, administrative or criminal offenses;

(d) the use of the information for another purpose is necessary to prevent or lessen a

serious threat to public health or public safety;

(e) the purpose for which the information is used is directly related to the purpose in connection with which the information was obtained;

(f) the purpose for which the information will be used will be for statistical or research purposes and will not be published, and could not reasonably be used to identify the individual concerned; or

(g) pursuant to the order of a court of competent jurisdiction.

Source
RPPL 9-65 § 3.

§ 207. Disclosure of personal information.

An agency that maintains personal information may not disclose the information by any means of communication to a person or agency unless:

(a) the disclosure of the information is one of the purposes in connection with which the information was obtained or is directly related to the purposes in connection with which the information was obtained;

(b) the source of the information is publicly available;

(c) the disclosure is to the individual the personal information concerns;

(d) the disclosure is authorized by the individual the personal information concerns;

(e) the use of the information is necessary to avoid prejudice to the maintenance or enforcement of the law by any agency in the prevention, detection, investigation, prosecution, and punishment of civil, administrative or criminal offenses;

(f) the use of the information for another purpose is necessary to prevent or lessen a serious threat to public health or public safety;

(g) the purpose for which the information is used is directly related to the purpose in connection with which the information was obtained;

- (h) the purpose for which the information will be used will be for statistical or research purposes, will not be published, and could not reasonably be used to identify the individual the personal information concerns;
- (i) to the Olbiil Era Kelulau, or to any committee or subcommittee thereof;
- (j) to the Public Auditor, or any of his authorized representatives, in the course of the performance of his official duties; or
- (k) pursuant to the order of a court of competent jurisdiction.

Source
RPPL 9-65 § 3.

§ 208. Public register personal information.

- (a) Personal information obtained from a public register may not be combined with personal information obtained from any other public register, for the purpose of making available for valuable consideration.
- (b) Nothing in this chapter shall be interpreted to alter any existing law regarding the publication of personal information on a public register. To the extent a conflict arises with this chapter and any existing law regarding the publication of personal information to a public register, the existing law shall prevail.

Source
RPPL 9-65 § 3.

§ 209. Information sharing.

- (a) An information sharing agreement among agencies may provide for an agency to share personal information for a specific purpose with the agencies specified in the information sharing provision.
- (b) An information sharing agreement is valid only between agencies in the Republic of Palau.
- (c) At a minimum, an information sharing agreement shall:

- (1) be in writing;
- (2) specify the parties to the agreement;
- (3) specify the specific purpose and legal authority for the agreement;
- (4) the justification for the program and the anticipated results, including a specific estimate of any savings;
- (5) describe what personal information will be shared per the agreement, how it may be used, and the projected starting and completion date of the agreement;
- (6) specify the procedures that will be used to verify information, and the safeguards that will be applied to protect the privacy of individuals' information;
- (7) specify which party will be primarily responsible for dealing with complaints regarding interference with privacy;
- (8) specify procedures for the retention and timely destruction of personal information records created by the agreement; and
- (9) prohibit the duplication or re-disclosure of records provided by the source agency, except where required by law or essential to the agreement.

Source
RPPL 9-65 § 3.

§ 210. Matching programs.

- (a) No record may be disclosed to a recipient agency for use in a matching program except pursuant to a written information sharing agreement between the source agency and the recipient agency.
- (b) A copy of each information sharing agreement between agencies that establishes a matching program shall be transmitted to the Judicial and Governmental Affairs Committees of the Senate and the House of Delegates of the Olbiil Era Kelulau, and shall be available to the public upon request.

Source
RPPL 9-65 § 3.

§ 211. Adverse action from a matching program.

(a) No recipient agency may make a final determination of any government benefit program, to the detriment of an individual, based off of information produced by a matching program, until the agency has independently verified the information.

(b) Before an agency may take any adverse action against an individual based on a discrepancy in records obtained by an information sharing agreement, the agency shall first:

(1) notify the individual of the discrepancy in writing within seven (7) days;

(2) state that the individual has seven (7) days to show cause as to why the agency should not take adverse action based on the discrepancy; and

(3) state the procedure for how the individual may show cause before the agency.

(c) Notwithstanding subsections (a) and (b), an agency may take any appropriate action otherwise prohibited if the agency determines there is a serious threat to public health or public safety during any notice period required by such subsections.

Source
RPPL 9-65 § 3.

§ 212. Transfer of information outside of the Republic of Palau.

(a) An agency must first notify the Minister of State and the individual before transferring any personal information of the individual to a source outside of the Republic of Palau.

(b) No personal information shall be transferred to a source outside of the Republic of Palau without consent of the individual whose personal information an agency seeks to transfer.

(c) The Minister of State may prohibit a transfer of personal information from the Republic of Palau to another country if the Minister is satisfied, on reasonable grounds, that the information will be received in another country and is likely to be transferred to a

third country where it will not be subject to a law providing comparable safeguards to privacy.

(d) In determining whether to prohibit a transfer of personal information, the Minister of State must also consider the following:

- (1) whether the transfer affects any individual;
- (2) the general desirability of facilitating the free flow of information between the Republic of Palau and other countries; and
- (3) any existing or developing international guidelines or treaties relevant to trans-border data flow.

(e) The Ministry of State shall promulgate rules and regulations consistent with this section that set forth notice requirements, a hearing and appeal process, and other procedures as necessary.

Source
RPPL 9-65 § 3.

§ 213. Civil penalties.

(a) An agency that collects, stores, uses, disseminates, or discloses a person's personal information in a manner inconsistent with this chapter is liable for an interference of privacy of that person, and subject to a fine of no more than five hundred dollars (\$500) per violation, or the actual damages caused by the breach of privacy, whichever is greater.

(b) An agency that withholds records pursuant to a lawful section 208 request is subject to a fine of no more than five hundred dollars (\$500) per violation, or the actual damages caused by the breach of privacy, whichever is greater.

Source
RPPL 9-65 § 3, modified.

§ 214. Criminal penalties.

(a) Any officer or employee of an agency, who by virtue of employment or official position, has possession of, or access to, agency records which contain individually

identifiable information the disclosure of which is prohibited by this chapter or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000).

(b) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of chapter shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000).

(c) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000).

Source

RPPL 9-65 § 3, modified.

§ 215. Cause of action and remedies.

(a) An individual may bring suit against an agency whenever the agency:

(1) makes a determination not to amend an individual's record in accordance with his or her request, or fails to make such review;

(2) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness;

(3) fails to comply with any other provision of this chapter, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual; or

(4) unduly delays making information available in response to an information request.

In addition to whatever relief the court grants the individual bringing suit, suit agency is liable for a penalty of no more than five hundred dollars (\$500) per violation of this subsection, or the actual damages caused by the breach of privacy, whichever is greater.

(b) An individual may bring suit against an agency to enjoin that agency from sharing that

individual's personal information, to require the disclosure of such personal information, order the agency to amend the individual's record in accordance with the individual's request, or provide equitable relief in such other way as the court may direct.

(c) The court may assess against the agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

Source

RPPL 9-65, modified.

§ 216. Rules and regulations.

In order to carry out the provisions of this chapter, each agency that maintains personal information shall promulgate rules, in accordance with the requirements of this chapter, which shall:

- (a) establish procedures regarding notification to individuals whose personal information is collected;
- (b) establish procedures for disclosing an individual's personal information to such individual when requested;
- (c) establish procedures for reviewing a request from an individual concerning the amendment of any personal information pertaining to the individual, for making a determination on the request, and for an appeal within the agency of an initial adverse agency determination;
- (d) establish fees to be charged, if any, to any individual for making copies of a record, excluding the cost of any search for and review of the record;
- (e) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, and instruct each person within the respective agency with respect to such rules and the requirements of this chapter, including any other rules and procedures adopted pursuant to this section, and the penalties for noncompliance;
- (f) establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or

hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

(g) establish procedures for entering into and participating in information sharing agreements and matching programs and regarding the transfer of personal information outside of the Republic of Palau;

(h) establish procedures for disclosing personal information; and

(i) establish any other rules and procedures necessary to carry out this chapter.

Source

RPL 9-65 § 3, modified.

