

**TITLE 11
BUSINESS AND BUSINESS REGULATIONS**

**Chapter 1
Unfair Business Practices**

- § 101. Definitions.
- § 102. Prohibited activities.
- § 103. Leases, sales, contracts, conditions, agreements or understandings to lessen competition.
- § 104. Contracts or agreements in violation of chapter.
- § 105. Competitive agreements.
- § 106. Criminal and civil liability of violators.

§ 101. Definitions.

In this chapter, “person or persons” includes an individual or individuals, corporations, firms, partnerships or any other association existing under or authorized by the law of the Republic.

Source

33 TTC § 301, modified.

Notes

See 2 PNCA § 102 for all references to Ministry names in this Title.

§ 102. Prohibited activities.

It is illegal for one or more persons to create or use an existing combination of capital, skill or acts the effect of which is:

- (a) to create or carry out restrictions in trade or commerce.
- (b) to limit or reduce the production, or increase the price of, merchandise or of any commodity.
- (c) to prevent competition in the manufacture, making, transportation, sale, or purchase of any merchandise, produce or commodity.
- (d) to fix at any standard or figure whereby its price to the public or consumer shall be in

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any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use, or consumption.

(e) to discriminate in price between different purchasers of commodities of like grade and quality, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce; provided that nothing herein contained shall prevent differentials in price which only make allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to be purchased, sold and delivered.

(f) to make or enter into or carry out any contract, obligation or agreement by which the persons do any of the following:

- (1) bind themselves not to sell, dispose of or transport any article or commodity below a common standard figure or fixed value.
- (2) agree to keep the price of such article, commodity or transportation at a fixed or graduated figure.
- (3) establish or set the price of any article, commodity or transportation between them or themselves and others, so as directly or indirectly to preclude free and unrestricted competition among themselves or any purchaser or consumer in the sale or transportation of any such article or commodity.
- (4) agree to pool, combine or directly or indirectly unite any interest that they may have connected with the sale or transportation of any such article or commodity that might in any way affect its price.

Source

33 TTC § 302, modified.

Notes

U. Corp. v. Shell Co., 15 ROP 137, 138, 143 (2008).

§ 103. Leases, sales, contracts, conditions, agreements or understandings to lessen competition.

It shall be unlawful for any person to lease or make a sale or contract for the sale of goods, merchandise, machinery, supplies, or commodities for use within the Republic, or to fix a price charged therefor, or discount from, or rebate upon, such price, on condition, agreement or

understanding that the lessee or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of the lessor or seller, where the effect of such lease, sale or contract for sale, or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce in the Republic.

Source
33 TTC § 303, modified.

§ 104. Contracts or agreements in violation of chapter.

Any contract or agreement in violation of this chapter is, to that extent, void and not enforceable at law or equity.

Source
33 TTC § 304.

§ 105. Competitive agreements.

It is not unlawful to enter into agreements or form an association or combination the purposes and effect of which is to promote, encourage or increase competition in any trade or industry.

Source
33 TTC § 305.

§ 106. Criminal and civil liability of violators.

(a) Any person who violates section 102 or 103 of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than five thousand dollars (\$5,000).

(b) Any person who is injured in his business, personal property, or real property by reason of another's violation of sections 102 or 103 of this chapter may sue therefor in the Trial Division of the Supreme Court, and may recover three times the damages sustained by him together with a reasonable attorney's fee and the costs of suit; provided, that the Republic and any of its political subdivisions and public agencies shall be deemed a person within the meaning of this section, and may, through the Attorney General, bring an action on behalf of the Republic, its political subdivisions or public agencies to recover the damages provided by this section, including a reasonable attorney's fee

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together with the costs of the suit.

(c) Upon conviction under this chapter of a non-citizen business, as defined in chapter 1 of Title 28 of this Code, the President may revoke such non-citizen's business permit.

Source

33 TTC § 306, modified.

Cross-reference

Chapter 1 of Title 28 is the statutory provisions on Foreign Investors Business Permits of the Foreign Relations and Trade title of this Code.

Notes

U. Corp. v. Shell Co., 15 ROP 137, 138, 143 (2008).
Ngirchechol v. Triple J Enters., 11 ROP 58, 59 (2004).

**Chapter 2
Consumer Protection**

- § 201. Short title.
- § 202. Definitions.
- § 203. Unlawful acts or practices.
- § 204. Exemptions.
- § 205. Restraint of prohibited acts.
- § 206. Private and class actions.
- § 207. Nonnegotiability of consumer paper.
- § 208. Assurances of voluntary compliance.
- § 209. Investigation authorized.
- § 210. Authority of Attorney General to issue subpoenas, administer oaths, conduct hearings, and promulgate rules and regulations.
- § 211. Service of notices, demands or subpoenas.
- § 212. Orders for enforcement of subpoenas or investigative demands.
- § 213. Civil and criminal penalties.
- § 214. Forfeiture of corporate franchise.

§ 201. Short title.

This chapter may be cited as the “Consumer Protection Act.”

Source
33 TTC § 351.

§ 202. Definitions.

- (a) “Person” means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.
- (b) “Trade” and “commerce” mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of the Republic.
- (c) “Retail establishment” means a shop, store, food market, convenience mart, department store, hardware store, liquor store, sporting goods store, or any other business

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operating within the Republic that offers retail items for sale to consumers.

Source

33 TTC § 352, modified. Subsection (c) added by RPPL 7-52 § 2.

§ 203. Unlawful acts or practices.

The following unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful:

- (a) passing off goods or services as those of another.
- (b) causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services.
- (c) causing likelihood of confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another.
- (d) using deceptive representations or designations of geographic origin in connection with goods or services.
- (e) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have.
- (f) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand.
- (g) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
- (h) disparaging the goods, services, or business of another by false or misleading representation of fact.
- (l) advertising goods or services with intent not to sell them as advertised.
- (j) advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(k) offering items to consumers through a retail establishment without disclosing the unit price of items using one of the following methods:

(1) displaying a stamp, tag, label, or sign within close proximity to the retail item, with a clear indication of the retail item to which it refers;

(2) affixing the unit price on the retail item itself;

(3) displaying a stamp, tag, or label on the shelf or display space contiguous with the area where the retail item is displayed;

(4) if the retail item is not conspicuously visible to the consumer, then by a sign or list conspicuously placed near the point of procurement; or

(5) by providing clearly displayed bar code scanners at reasonable intervals throughout the retail establishment with which consumers may scan an item and retrieve its price.

(l) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

(m) engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

(n) engaging in any act or practice which is unfair or deceptive to the consumer.

Source

33 TTC § 353, modified. A new subsection (k) added and the former subsections (k), (l), and (m) re-lettered as (l), (m), and (n) by RPPL 7-52 § 2.

Notes

Roll'em Prods. v. Diaz, 22 ROP 229, 246 (Tr. Div. 2015).

§ 204. Exemptions.

Nothing in this chapter shall apply to:

(a) actions or transactions carried out by the national government, any branch thereof or any other governmental agency; or

(b) acts done by the publisher, owner, agent, or employee of a newspaper, periodical or

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radio or television station in the publication or dissemination of an advertisement, when the owner, agent, or employee did not have knowledge of the false, misleading or deceptive character of the advertisement, did not prepare the advertisement, and did not have a direct financial interest in the sale or distribution of the advertised product or service.

Source

33 TTC § 354, modified.

§ 205. Restraint of prohibited acts.

(a) Whenever the Attorney General has reason to believe that any person is using, has used, or is about to use any method, act or practice declared in section 203 of this chapter to be unlawful, and that proceedings would be in the public interest, he may bring a civil action in the name of the Republic against such person to restrain by temporary or permanent injunction the use of such method, act or practice. The notice must state generally the relief sought and must be served at least three (3) days before the hearing of the action. The action may be brought in the Trial Division of the Supreme Court. The said court is authorized to issue temporary or permanent injunctions to restrain and prevent violations of this chapter, and such injunctions shall be issued without bond.

(b) The court may make such additional orders or judgments as may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful.

Source

33 TTC § 355, modified.

§ 206. Private and class actions.

(a) Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 203 of this chapter, may bring an action under the Courts of Republic of Palau Rules of Civil Procedure in an appropriate court of the Republic, to recover actual damages or one hundred dollars (\$100), whichever is greater. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper.

(b) Any person entitled to bring an action under subsection (a) of this section may, if the

unlawful method, act or practice has caused similar injury to numerous other persons similarly situated and if they adequately represent such similarly situated persons, bring an action on behalf of themselves and other similarly injured and situated persons to recover damages as provided for in subsection (a) of this section. In any action brought under this section, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

(c) Upon commencement of any action brought under subsection (a) of this section, the Clerk of Courts shall mail a copy of the complaint or other initial pleading to the Attorney General and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

(d) In any action brought by a person under this section, the court may award, in addition to the relief provided in this section, reasonable attorney’s fees and costs.

(e) Any permanent injunction, judgment or order of the court made under section 205 of this chapter shall be prima facie evidence in an action brought under this section that the respondent used or employed a method, act or practice declared unlawful by section 203 of this title.

Source
33 TTC § 356, modified.

§ 207. Nonnegotiability of consumer paper.

(a) If any contract for sale or lease of consumer goods or services on credit entered into between a retail seller and a retail buyer requires or involves the execution of a promissory note or instrument or other evidence of indebtedness of the buyer, such note, instrument or evidence of indebtedness shall have printed on the face thereof the words “consumer paper,” and such note, instrument or evidence of indebtedness with the words “consumer paper” printed thereon shall not be a negotiable instrument.

(b) Notwithstanding the absence of such notice on a note, instrument or evidence of indebtedness arising out of a consumer credit sale or consumer lease as described in this section, an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease. Any agreement to the contrary shall be of no force or effect in limiting the rights of a consumer under this section. The assignee’s liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Failure to imprint the words “consumer paper” on such note, instrument or

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evidence of indebtedness shall subject the seller or other responsible person to appropriate civil and criminal sanctions as provided in this chapter.

Source
33 TTC § 357.

§ 208. Assurances of voluntary compliance.

In the administration of this chapter, the Attorney General may accept an assurance of voluntary compliance with respect to any method, act or practice deemed to be violative of the chapter from any person who has engaged in or is about to engage in such method, act or practice. Any such assurance shall be in writing and shall be filed with and subject to the approval of the Supreme Court. Such assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Matters thus closed may at any time be reopened by the Attorney General for further proceedings in the public interest, pursuant to section 205 of this chapter.

Source
33 TTC § 358, modified.

§ 209. Investigation authorized.

(a) When it appears to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this chapter, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in such act or practice, he may execute in writing and cause to be served upon any person who is believed to have information, documentary material or physical evidence relevant to the alleged or suspected violation, an investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the relevant facts and circumstances of which he has knowledge, or to appear and testify or to produce relevant documentary material or physical evidence for examination, at such reasonable time and place as may be stated in the investigative demand.

(b) At any time before the return date specified in an investigative demand, or within twenty (20) days after the demand has been served, whichever period is shorter, a petition to extend the return date, or to modify or set aside the demand, stating good cause, may be filed in the Trial Division of the Supreme Court.

Source
33 TTC § 359, modified.

§ 210. Authority of Attorney General to issue subpoenas, administer oaths, conduct hearings, and promulgate rules and regulations.

To accomplish the objectives and to carry out the duties prescribed by this chapter, the Attorney General, in addition to other powers conferred upon him by this chapter, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, prescribe such forms and promulgate such rules and regulations as may be necessary, which rules and regulations upon approval of the President shall have the force of law; provided, that none of the powers conferred by this chapter shall be used for the purpose of compelling any natural person to furnish testimony or evidence which might tend to incriminate him or subject him to a penalty or forfeiture; and provided further, that information obtained pursuant to the powers conferred by this chapter shall not be made public or disclosed by the Attorney General or his employees beyond the extent necessary for law enforcement purposes in the public interest.

Source

33 TTC § 360, modified.

§211. Service of notices, demands or subpoenas.

Service of any notice, demand or subpoena under this chapter shall be made personally within the Republic, but if such cannot be obtained, substituted service therefor may be made in the following manner:

- (a) personal service thereof without the Republic; or
- (b) the mailing thereof by registered or certified mail to the last known place of business, residence or abode within or without the Republic of such person for whom the same is intended; or
- (c) as to any person other than a natural person, in the manner provided in the Courts of Republic of Palau Rules of Civil Procedure as if a complaint or other pleading which institutes a civil proceeding had been filed; or
- (d) such service as the Supreme Court may direct in lieu of personal service within the Republic.

Source

33 TTC § 361, modified.

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§ 212. Orders for enforcement of subpoenas or investigative demands.

(a) If any person fails or refuses to file any statement or report, [or to] obey any subpoena or investigative demand issued by the Attorney General, the Attorney General may, after notice, apply to the Trial Division of the Supreme Court, and, after hearing thereon, request an order:

(1) granting injunctive relief to restrain the person from engaging in the advertising or sale of any merchandise or the conduct of any trade or commerce that is involved in the alleged or suspected violation;

(2) vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of the Republic or revoking or suspending the business permit in the Republic of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and

(3) granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena or investigative demand.

(b) Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

Source

33 TTC 362, modified.

Notes

In § 212(a) the bracketed “[or to]” reads “to or” in the codified source.

§ 213. Civil and criminal penalties.

(a) Any person who violates the terms of an injunction issued under section 205 of this chapter shall forfeit and pay to the Republic a civil penalty of not more than ten thousand dollars (\$10,000) per violation. For the purposes of this section, the Supreme Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General, acting in the name of the Republic, may petition for recovery of civil penalties.

(b) In any action brought under section 205 of this chapter, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by section 203 of this chapter, the Attorney General, upon petition to the court, may recover, on behalf of the Republic, a civil penalty of not exceeding one thousand dollars (\$1,000) per violation.

(c) For the purposes of this section, a wilful violation occurs when the party committing the violation knew or should have known that his conduct was a violation of section 203 of this chapter.

Source

33 TTC § 363, modified.

§ 214. Forfeiture of corporate franchise.

Upon petition by the Attorney General, the Supreme Court may, in its discretion, order the dissolution or suspension or forfeiture of franchise of any corporation which violates the terms of any injunction issued under section 205 of this chapter.

Source

33 TTC § 364, modified.

Cross-reference

For statutory provisions regarding corporations, see chapter 1 of Title 12.

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Chapter 3 Usurious Interest

- § 301. Short title.
- § 302. Legislative findings and purposes.
- § 303. Definitions.
- § 304. Applicability of the chapter.
- § 305. Maximum rate of interest.
- § 306. Usurious interest; penalty for taking; statute of limitations.

§ 301. Short title.

This chapter may be cited as the “Usurious Interest Act of 1991.”

Source

RPPL 1-24 § 1(a), as amended by RPPL 3-63 § 1, modified.

§ 302. Legislative findings and purposes.

The Olbiil Era Kelulau hereby finds and declares the public policy of the nation to be, as follows:

(a) It is in the national interest that rates charged for the use of capital shall be within those levels commonly accepted throughout the world, and that any rate of interest exceeding those established by this chapter is violative of the national interest in promoting the economic development of the Republic and in safeguarding the health, welfare and safety of the people of the Republic.

(b) It is in the national interest to provide for both consumer and commercial rates of interest for the different financial transactions which occur in the Republic so as to promote the economic development, health, welfare and safety of the people of the Republic.

Source

RPPL 1-24 § 1(b), as amended by RPPL 3-63 § 1, modified.

§ 303. Definitions.

Unless the context clearly indicates otherwise, in this chapter:

- (a) “Annual percentage rate” shall have the same meaning given that term in the U.S. Federal Truth-in-Lending Act (15 U.S.C. § 1601 et seq.), Regulation Z of the Board of Governors of the Federal Reserve System, and the Official Staff Commentary to Regulation Z prepared by the staff of the Federal Reserve Board, and amendments to this Act, Regulation Z and such commentary.
- (b) “Commercial credit” shall mean credit extended other than consumer credit.
- (c) “Consumer credit” shall mean credit extended to a natural person primarily for a personal, family, or household purpose.
- (d) “Credit” means the right extended by the creditor to defer payment of a debt, to incur debt and defer its payment or to purchase property or services and defer payment thereof.
- (e) “Credit card” means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.
- (f) “Creditor” means a person who extends credit.
- (g) “Debtor” means a person to whom credit is extended.
- (h) “Finance charge” means the cost of consumer credit as a dollar amount, as defined in the U.S. Federal Truth-in Lending Act.
- (i) “Interest” includes interest, discount, points, loan fees and loan origination charges, if charged, contracted for, or received for the use of money but excludes other charges including but not limited to attorney’s fees, commitment fees or documentation fees.
- (j) “Person” means any natural person; partnership; corporation, foreign or domestic; clan; unincorporated entity or other entity cognizable under law.
- (k) “Prime rate” means the base rate on corporate loans at large U.S. money center commercial banks, as published in the Money Rates section of the Wall Street Journal.
- (l) “Truth-in-Lending Act” means the U.S. Federal Truth-in-Lending Act (15 U.S.C. § 1601 et seq.), Regulation Z of the Board of Governors of the Federal Reserve

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System, and the Official Staff Commentary to Regulation Z prepared by the staff of the Federal Reserve Board, and amendments to this Act, Regulation Z and such commentary.

Source

RPPL 1-24 § 2, as amended by RPPL 1-44 § 1(a) and RPPL 3-63 § 1, modified.

§ 304. Applicability of the chapter.

(a) This chapter shall apply to all creditors including but not limited to banks, savings and loan associations, credit unions and all other financial institutions doing business in the Republic.

(b) The provisions of this chapter shall apply only to credit extended after the effective date of this chapter.

Source

RPPL 1-24 § 3, as amended by RPPL 1-44 § 1(b), modified.

§ 305. Maximum rate of interest.

(a) Except as provided in this chapter, no creditor shall charge, take, receive, or reserve interest or finance charge at an annual percentage rate greater than prescribed herein. Such interest or finance charge may be computed utilizing the advance, simple, fixed, or variable manner.

(b) The maximum annual percentage rate of finance charged, taken, received or reserved on an extension of consumer credit shall be no greater than 18 percent per annum.

(c) The maximum annual percentage rate of interest charged, taken, received or reserved on an extension of commercial credit shall be no greater than four percentage points above the most recently announced prime rate. Notwithstanding any other provisions of this chapter, loans may be extended utilizing a variable interest rate. In that event the annual percentage rate may be increased or decreased during the life of the loan as adjustments in the prime rate occur, provided at no time shall the annual percentage rate be greater than four percentage points above the prime rate as it may change from time to time. In no event shall the annual percentage rate exceed 24 percent per annum. In no event shall the annual percentage rate on an extension of consumer credit be increased or decreased more than twice in any single year.

(d) Nothing in this chapter shall be construed as to prevent any person from charging, taking or receiving, in addition to lawful interest, a late charge on all or a portion of any payment due on an extension of credit which is unpaid after fifteen (15) days from the due date of such payment; provided that, such late charge does not exceed five percent of the amount overdue.

(e) Notwithstanding any other provisions of this section, an extension of credit arising from the use of a credit card shall be subject to the laws of the jurisdiction where the principal place of business of the credit card issuer is located, and not to the provisions of this chapter.

Source

RPPL 1-24 § 4, as amended by RPPL 1-44 § 1(c) and RPPL 3-63 § 1, modified.

Notes

In re Shadel, 22 ROP 154, 158 (Disc. Proc. 2015).
Berengiei M. Store v. Ngirailild, (Civil Action No. 152-83).

§ 306. Usurious interest; penalty for taking; statute of limitations.

(a) The taking, receiving, reserving or charging of interest at an annual percentage rate greater than is allowed under section 305 of this chapter shall be deemed a forfeiture of the entire interest which has been agreed to be paid on the credit extended. If the greater rate of interest has been paid, the debtor, or his legal representatives, may recover back, from the creditor in an action in the nature of an action of debt twice the amount of the interest thus paid along with reasonable attorney's fees; provided that, such action is commenced within three years from the time the usurious transactions occurred.

(b) In any action pursuant to this chapter, parties may allege any matter which would entitle them to relief or defense in equity in whole or in part, and appropriate equitable principles shall be applied in accordance with the Courts of Republic of Palau Rules of Civil Procedure.

Source

RPPL 1-24 § 5, as amended by RPPL 1-44 § 1(d), modified.

Notes

Cura v. Salvador, 11 ROP 221, 222, 223 (2004).

11 PNCA § 401 BUSINESS & BUSINESS REGULATIONS

Chapter 4 Debtor-Creditor Relations

Subchapter I General Provisions

- § 401. Application of chapter.
- § 402. Definitions.
- § 403. Obligations of creditor and debtor in exercise of rights.
- § 404. Unauthorized destruction, removal or use of property.
- § 405. Procedure if creditor fails to comply with chapter.
- § 406. Waiver of provisions of chapter.
- § 407. Rights of creditor subject to foreclosure only by procedures of chapter.

§ 401. Application of chapter.

This chapter shall apply to any agreement, regardless of its form, which is intended to give rights in personal property, including houses on land not owned individually or entirely by the party or parties purporting to give an interest in the house, as security for the performance of any obligation. Such agreements include, among others, pledges, conditional sales agreements, chattel mortgages, and leases under which ownership of personal property is to pass upon completion of the terms of the lease.

Source

(Code 1966, § 279(a).) 57 TTC § 1.

Notes

Palau Automotive v. Bai, 9 ROP 300, 302 (Tr. Div. 2002).

§ 402. Definitions.

In this chapter:

- (a) “Creditor” means any creditor, seller, lessor, or other person having rights in the property as security under an agreement subject to this chapter.
- (b) “Debtor” means any debtor, buyer, lessee, or other person having an equity in the property under an agreement subject to this chapter.

DEBTOR-CREDITOR RELATIONS 11 PNCA § 405

Source

(Code 1966, § 279(b) and (c).) 57 TTC § 2, terms put into alphabetical order and section modified.

§ 403. Obligations of creditor and debtor in exercise of rights.

Both the debtor and the creditor have an obligation to exercise their rights in the property in good faith and with regard for the rights of the other. Each must use reasonable care in the custody and preservation of the property while in his possession.

Source

(Code 1966, § 279(d).) 57 TTC § 3.

§ 404. Unauthorized destruction, removal or use of property.

Prior to completion of performance of all the terms of the agreement to be performed by the debtor, whoever maliciously or with intent to defraud shall injure, destroy or conceal the property, or remove it without the consent of the creditor from the Republic, if any, where the agreement provides that it is to be used, or shall sell, mortgage, or otherwise dispose of the property under claim of full ownership, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than six (6) months, or fined not more than one hundred dollars (\$100), or both.

Source

(Code 1966, § 279(e).) 57 TTC § 4, modified.

§ 405. Procedure if creditor fails to comply with chapter.

If the creditor fails to comply with this chapter, disposition of the property may be ordered or restrained in a civil action in court on such terms and conditions as the court deems best. If the property has been taken or disposed of by the creditor other than in accordance with this chapter, the debtor may recover his actual damages, if any, and in no event less than one fourth of the sum of all payments which have been made under the agreement, with interest at six percent a year.

Source

(Code 1966, § 279(f).) 57 TTC § 5.

Notes

Palau Automotive v. Bai, 9 ROP 300, 303 (Tr. Div. 2002).

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§ 406. Waiver of provisions of chapter.

No act or agreement of the debtor before or at the time of the making of the agreement, nor any provision or statement by the debtor in such agreement, shall constitute a valid waiver of the provisions of this chapter; except, that the agreement may stipulate that if the debtor is in default for twenty (20) days or more, the creditor may take the property without notice.

Source

(Code 1966, § 279(g).) 57 TTC § 6, modified.

§ 407. Rights of creditor subject to foreclosure only by procedures of chapter.

The rights of the debtor under an agreement subject to this section may only be foreclosed after default by one of the methods set forth in this chapter.

Source

(Code 1966, § 279(h)(1).) 57 TTC § 7.

Subchapter II Nonjudicial Foreclosure

§ 421. Property in possession of debtor.

§ 422. Property in possession of creditor.

§ 423. Procedures.

§ 421. Property in possession of debtor.

If the property is in the possession of the debtor:

(a) If the agreement provides that the creditor may take the property if the debtor is in default for twenty (20) days or more and the debtor is so in default, the creditor may take possession of the property without notice if this can be done without breach of the peace. If the creditor does so, he shall retain the property for twenty (20) days within the Republic where he took possession of it, during which period the debtor may redeem the property as provided below; thereafter, if the property has not been so redeemed, the creditor may hold the property as his own subject to the provisions of section 423 of this chapter.

(b) If the agreement does not contain the provision for taking without notice referred to in the preceding subsection, the creditor shall, not more than forty (40) nor less than twenty (20) days prior to the taking, cause written notice to be given to the debtor of the property on account of default of the debtor. The notice shall state the default and the period at the end of which the property will be taken. This notice may be given personally to the debtor or by leaving it at his usual place of abode or of business with some person not less than eighteen (18) years of age and of sound mind then residing or employed there, and, if the person with whom the notice is left states he is unable to read it, by also orally explaining the substance of it to him, if practical, in a language understood by him, otherwise in a language generally understood in the locality.

(c) If after such notice the debtor does not perform the obligations in which he has made default before the day set in such notice for taking, the creditor may take possession of the property if this can be done without breach of the peace.

(d) Unless the property can be taken without a breach of the peace either under subsections (a) or (c) of this section, the foreclosure shall proceed thereafter only by a civil action in the court under the judicial foreclosure provisions of this chapter. Nothing herein shall be construed to authorize a violation of the criminal law.

(e) Nothing in this section shall affect the right of a creditor to proceed under sections 2101 and 2102, of Title 14 of this Code simultaneously with action in accordance with this section nor shall anything herein limit the discretion of the Trial Division of the Supreme Court to order a sale authorized by section 2102 of Title 14 of this Code on such terms or notice, if any, as it deems best.

Source

(Code 1966, § 279(h)(1)(A).) 57 TTC § 51, modified.

Notes

Palau Automotive v. Bai, 9 ROP 300, 303 (Tr. Div. 2002).

Cross-reference

Sections 2101 and 2102 of Title 14 are found in chapter 21, Writs; Orders in Aid of Judgment, of the Civil Procedure title of this Code.

§ 422. Property in possession of creditor.

If the property is in the possession of the creditor:

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(a) Not more than forty (40) nor less than twenty (20) days prior to foreclosing on the property, the creditor shall cause written notice to be given to the debtor of the creditor's intention to foreclose. The notice shall state the default and the period at the end of which the property will be foreclosed. This notice may be given in the manner provided in subsection (b), section 421 of this subchapter.

(b) If after such notice the debtor does not perform the obligations in which he has made default before the day set in such notice for foreclosure, the creditor may hold the property as his own subject to the provisions of section 423 of this subchapter.

Source

(Code 1966, § 279(h)(1)(B).) 57 TTC § 52, modified.

§ 423. Procedures.

(a) If the debtor, at the time of the taking or of the foreclosure under this subchapter, has paid at least one half of the principal due under the agreement, the creditor shall sell the property at public auction, such sale to be held not more than 90 days after the taking or foreclosure. The creditor shall give to the debtor not less than 10 days written notice of the sale in the manner provided in subsection (b), section 421 of this subchapter, which notice shall not be given until the expiration of the 20 days retention period provided for in subsection (a), section 421 of this subchapter if the taking was made under such subsection. The creditor shall also give notice of the sale by posting in at least three conspicuous places within the Republic where the property is to be sold at least five days before the sale and shall make an honest attempt to obtain a fair value at the sale and, provided he does this, may himself bid for the property at the sale.

(b) The proceeds of the sale shall be applied:

- (1) to the payment of the reasonable expenses thereof,
- (2) to the payment of the reasonable expenses of taking, keeping and storing the property,
- (3) to the satisfaction of the balance due under the agreement.

Any sum remaining after the satisfaction of such claims shall be paid to the debtor. If the proceeds of the sale are not sufficient to defray the reasonable expenses thereof and also the reasonable expenses of taking, keeping and storing the property and the balance due

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under the agreement, the creditor may recover the deficiency from the debtor or anyone who has succeeded to the obligations of the debtor.

(c) If the debtor, at the time of the taking or of the foreclosure mentioned above, has not paid at least half of the principal due under the agreement, the creditor shall have the option of:

(1) notifying the debtor in the manner provided in subsection (b), section 421 of this subchapter of his election to retain the property as his own without obligation to account to the debtor and the debtor shall then be discharged of all obligations under the agreement; or

(2) selling the property in the manner provided in subsection (a) and applying the proceeds as provided in subsection (b) of this section, with the same right to recover any deficiency as therein provided.

(d) During the twenty (20) days retention period provided for in subsection (a), section 421 of this subchapter and at any other time before the creditor has disposed of the property or before the debtor's obligation has been discharged under subsection (c) of this section, the debtor may redeem the property by tendering fulfillment of all obligations due under the agreement up to the date of the tender as well as all the expenses reasonably incurred by the creditor in taking, keeping and storing the property and in arranging for the sale, and upon so doing shall become entitled to take possession of the property and to continue in the performance of the agreement as if no default has occurred. Upon written demand given by the debtor in the manner provided for notice in subsection (b), section 421 of this subchapter, the creditor shall furnish to the debtor a written statement of the sum due under the agreement and the expenses of taking, keeping and storing and in arranging for the sale. For failure to furnish such a statement within a reasonable time after demand the creditor shall forfeit to the debtor five dollars (\$5) and shall also be liable to him for all damages suffered because of such failure.

Source

(Code 1966, § 279(h)(1)(C) to (F).) 57 TTC § 53, modified.

Notes

Palau Automotive v. Bai, 9 ROP 300, 302, 303 (Tr. Div. 2002).

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Subchapter III Judicial Foreclosure

§ 431. Civil action for foreclosure authorized.

§ 431. Civil action for foreclosure authorized.

The creditor may bring a civil action for foreclosure in such manner as the court may order. If the creditor starts foreclosure under the provisions of subchapter II of this chapter, he may abandon that at any point and proceed by a civil action. After proper service on the defendant or defendants, the court may order foreclosure in such manner as it deems will best protect the rights of the parties.

Source

(Code 1966, § 279(h)(2).) 57 TTC § 101.

**Chapter 5
Sales Licenses**

**Subchapter I
General Wholesale License**

§ 501. License required.

§ 502. Sale permitted under license and register requirement.

§ 503. License fee.

§ 504. Issuance of license.

§ 505. Penalties.

§ 501. License required.

No individual, corporation or other business enterprise may sell any merchandise, goods or other products to any retailer, wholesaler or other business consumer who intends either to resell such merchandise, goods or products or use them for business needs as supplies or equipment, unless he first obtains a General Wholesale License according to the provisions of this section; except that the provisions of this section shall not apply to persons engaged in the businesses of banking, insurance, sale of securities, and public utilities.

Source

PDC § 600(a), modified.

Cross-reference

For additional statutory provisions on business licenses, see chapter 15 of Title 40; for statutory provisions on licensing of duty-free concessions, see chapter 6 of Title 28; for statutory provisions on licensing the sale of compressed air or underwater breathing equipment, see subchapter III, chapter 52 of Title 34; for complete listing of licensing provisions in this Code, see index listing, LICENSES.

§ 502. Sale permitted under license and register requirement.

(a) The General Wholesale License issued pursuant to the provisions of this section shall permit the licensee to sell any merchandise, goods or products, except alcoholic beverages, to retailers, wholesalers or other business consumers who intend either to resell such merchandise, goods or products, or use them for business needs as supplies or equipment. Any licensee who desires to sell alcoholic beverages at wholesale must obtain a wholesale alcoholic beverage license according to the provisions of the Alcoholic Beverage Control Act of chapter 10 of this Title, in addition to his or her General Wholesale License.

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(b) All individuals, corporations, or other business enterprises issued a General Wholesale License or a Wholesale Alcoholic Beverage License in accordance with the provisions of the Alcoholic Beverage Control Act of chapter 10 of this Title, or is licensed under 28 PNC, the Foreign Investment Act (“FIA”), shall be required to use a cash register or other machine for all sales, in order to tabulate the amount of all sales transactions making a permanent record for accounting and tax purposes. Any individual, corporation, or other business enterprise failing to comply with this provision shall be fined not more than five hundred dollars (\$500) per violation.

(c) All licensed retailers shall be required to use a cash register or other machine for all sales, in order to tabulate the amount of all sales transactions making a permanent record for accounting and tax purposes. Any licensed retailer failing to comply with this provision shall be fined not more than five hundred dollars (\$500) per violation.

Source

PDC § 600(b), modified. Amended by RPPL 7-34 § 2 in its entirety.

§ 503. License fee.

The fee for a General Wholesale Licensee shall be one hundred dollars (\$100) per year, and such fee shall be paid in advance for each fiscal year; provided that license fees for newly established businesses in the fiscal year shall be prorated on a quarterly basis effective as of the quarter in which the license becomes effective.

Source

PDC § 600(c), modified.

§ 504. Issuance of license.

Applications for General Wholesale Licenses or renewal of such licenses shall be made to the President or his designated representative in such form as the President may prescribe. Payment of the license fee shall be made to the Director of the Bureau of National Treasury upon submission of the application, and such fees shall be deposited in the National Treasury. Applications for renewal and payment of the license fee shall be made at least fifteen (15) days prior to the beginning of the fiscal year. The license shall be issued by the President on such form as he may prescribe, and the licensee shall display his license in such manner as the President may prescribe.

Source

PDC § 600(d), modified.

§ 505. Penalties.

Whosoever violates any of the provisions of this subchapter 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 thirty (30) days, or both.

Source
PDC § 600(e), modified.

**Subchapter II
Solicitor's License**

- § 521. Regulation of solicitors; license required.
- § 522. License fee.
- § 523. Application; procedure.
- § 524. Same; examination; revocation or suspension.
- § 525. Penalties.

§ 521. Regulation of solicitors; license required.

Every person engaged either regularly or periodically in the business of soliciting orders, options of sale, contracts or subscriptions requiring the delivery within the Republic of property or merchandise of any kind or description from places either within the Republic or outside the Republic, and not having a General Wholesale License, shall, in order to engage in business within the Republic, obtain and have in his possession a Solicitor's License permitting him to do so, issued by the President in accordance with the provisions of this subchapter.

Source
PDC § 601(a), modified.

Cross-reference

For additional statutory provisions on business licenses, see chapter 15 of Title 40; for statutory provisions on licensing of duty-free concessions, see chapter 6 of Title 28; for statutory provisions on licensing the sale of compressed air or underwater breathing equipment, see subchapter III, chapter 52 of Title 34; for complete listing of licensing provisions in this Code, see index listing, LICENSES.

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§ 522. License fee.

The fee for a Solicitor's License in the Republic shall be six hundred dollars (\$600) per annum, and shall expire three hundred and sixty-five (365) days after it is issued. The fee shall be paid to the Director of the Bureau of National Treasury in advance of the issuance of the license, and shall be deposited by the Director in the National Treasury.

Source

PDC § 601(b), modified. Amended by RPPL 7-19 § 2, modified.

§ 523. Application; procedure.

Applications for Solicitor's Licenses shall be made and filed with the President and shall include, in addition to any other information the President may require, the following information:

- (a) the name and address of the applicant, length of residence in the Republic, citizenship, and, if a corporation, the name of the corporate officers and a certified copy of the charter and articles of incorporation;
- (b) the name and addresses of all corporations, associations or persons for whom the applicant is acting or for whom the applicant is authorized to solicit orders, options of sale, contracts or subscriptions;
- (c) the kind and nature of goods, chattels or property for the sale of which the applicant proposes to solicit orders, options of sale, contracts or subscriptions;
- (d) a certified copy of the applicant's written authorization or power of attorney showing the extent of the applicant's authority to act on behalf of the corporation, association or person enumerated in subsection (b) of this section, together with proof that such authorization or power of attorney has been duly executed by the person proposing to execute the same.

Source

PDC § 601(c), modified.

§ 524. Same; examination; revocation or suspension.

The President shall examine the statements, information and documents filed with the application and any further information that may be presented to him by any person. If the President from

such examination finds that the applicant and the vendors he represents are engaged in legitimate, lawful businesses, he shall issue the license; otherwise he shall refuse to issue the license and notify the applicant in writing of his decision. The license may be revoked or suspended by the President for good cause shown to him after notice to the issuee and a hearing.

Source

PDC § 601(c), last paragraph made into separate section and modified.

§ 525. Penalties.

Whosoever engages in soliciting orders, options of sale, contracts or subscriptions in violation of any provision of this subchapter or the conditions of any license issued pursuant to this subchapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000), or imprisoned for not more than six (6) months, or both.

Source

PDC § 601(d), modified. Amended by RPPL 7-19 § 3, modified.

**Subchapter III
Peddler's License**

- § 531. Regulation of peddlers; license required.
- § 532. License fee.
- § 533. Exception.
- § 534. Application; procedure.
- § 535. Same; examination; revocation or suspension.
- § 536. Penalties.

§ 531. Regulation of peddlers; license required.

Any person either principal or agent, who engages in a temporary or transient business in the Republic, either in one locality or in traveling from place to place, selling goods, wares or merchandise which he carries with him or who otherwise acts as an itinerant vendor shall, in order to engage in such business within the Republic, obtain and have in his possession a Peddler's License permitting him to do so, issued by the President in accordance with the provisions of this subchapter.

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Source

PDC § 602(a), modified.

Cross-reference

For additional statutory provisions on business licenses, see chapter 15 of Title 40; for statutory provisions on licensing of duty-free concessions, see chapter 6 of Title 28; for statutory provisions on licensing the sale of compressed air or underwater breathing equipment, see subchapter III, chapter 52 of Title 34; for complete listing of licensing provisions in this Code, see index listing, LICENSES.

§ 532. License fee.

The fee for a Peddler's License in the Republic shall be twenty dollars (\$20) per day, and the license shall be good only for the number of days for which the license fee has been paid, and shall contain on its face a statement of its date of expiration. The fee shall be paid to the Director of the Bureau of National Treasury in advance of the issuance of the license, and shall be deposited by him in the National Treasury.

Source

PDC § 602(b), modified.

§ 533. Exception.

This subchapter shall not apply to persons selling fish, fresh fruit, flowers, vegetables, handicraft or any other goods, wares, merchandise or products grown, raised, produced or made in the Republic or indigenous to the Republic.

Source

PDC § 602(c), modified.

§ 534. Application; procedure.

Applications for Peddler's Licenses shall be made and filed with the President and shall include, in addition to any other information the President may require, the following information:

- (a) the name and address of the applicant and his citizenship;
- (b) the names and addresses of all corporations, associations or persons for whom the applicant is acting or in whose interest the applicant is acting;
- (c) the kinds of goods, wares or merchandise the applicant wishes to sell.

Source

PDC § 602(d), modified.

§ 535. Same; examination; revocation or suspension.

The President shall examine the statements, information and documents filed with the application and any further information that may be presented to him by any person. If the President from such examination finds that the applicant and any persons he represents are engaged in legitimate, lawful businesses, he shall issue the license; otherwise he shall refuse to issue the license and notify the applicant in writing of his decision. The license may be revoked or suspended by the President for good cause shown to him after notice [to] the issuee and a hearing.

Source

PDC § 602(d), subsection (3) made into two sections and modified.

Notes

In section 535 the bracketed “[to]” reads “of” in the original legislation.

§ 536. Penalties.

Whosoever violates any of the provisions of this subchapter or the terms and conditions of any license issued pursuant to this subchapter 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 six (6) months, or both.

Source

PDC § 602(e), modified.

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Chapter 6 Land Surveyors

Subchapter I General Provisions

- § 601. Short title.
- § 602. Reference to land surveyors.
- § 603. Practice of land surveying defined.
- § 604. Application of chapter.
- § 605. Duties of Minister of State.
- § 606. Disposition of fees.
- § 607. Trainees or apprentices.
- § 608. Prohibited practices; penalties.

§ 601. Short title.

This chapter may be cited as the “Land Surveyors Registration Act.”

Source
RPPL 1-33 § 1, modified.

Cross-reference

For other titles on land or property, see Title 31 on Land Planning, Title 35 on Public Lands, and Title 39 on Real and Personal Property.

§ 602. Reference to land surveyors.

Where in any law of the Republic a reference is made to a surveyor as a registered surveyor, that reference shall be read as a reference to a registered land surveyor within the meaning of this chapter.

Source
RPPL 1-33 § 2, modified.

§ 603. Practice of land surveying defined.

The practice of land surveying means a person who practices surveying within the meaning of

this chapter, either in a public or private capacity, and who does or offers to do any of the following:

- (a) locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land or any road, right-of-way, easement, reserve, etc.
- (b) makes any survey for the subdivision or re-subdivision of any tract of land.
- (c) by the use of the principles of land surveying, determines the position for any monument or reference point which marks a property line, boundary or corner, and sets, resets or replaces any such monument or reference point.
- (d) determines the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry.
- (e) practices geodetic or cadastral surveying.
- (f) determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subsections (a) through (e) of this section.
- (g) indicates, in any capacity or in any manner, by the use of the title "land surveyor," or by any other title or representation, that he practices or offers to practice land surveying in any of its branches.
- (h) procures or offers to procure land surveying work for himself or others.
- (i) manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed or practiced.

Source
RPPL 1-33 § 3, modified.

§ 604. Application of chapter.

This chapter applies only to:

- (a) surveys of the boundaries of land, or surveys for the purpose of the establishment,

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reestablishment or determination of titles to land; and

(b) any activity performed in relation to the practice of land surveying as defined in section 603 of this chapter.

Source

RPPL 1-33 § 4, modified.

§ 605. Duties of Minister of State.

The Minister of State is charged with the general administration and supervision of this chapter. Notwithstanding any other provision of law, using or allowing anyone else to use any government-owned survey equipment for private purposes shall be grounds for termination of any Ministry of State employee.

Source

RPPL 1-33 § 5, modified. Amended by RPPL 4-43 § 22(c).

§ 606. Disposition of fees.

All fees received pursuant to this chapter shall be deposited in the National Treasury for appropriation by the Olbiil Era Kelulau.

Source

RPPL 1-33 § 6, modified.

§ 607. Trainees or apprentices.

A registered land surveyor, who has a trainee, apprentice or cadet surveyor, shall permit the trainee, apprentice or cadet surveyor a reasonable time for the purpose of attending lectures or gaining practical experience which is included in the course of traineeship, apprenticeship or cadetship undertaken by the trainee, apprentice or cadet surveyor by arrangement with a registered land surveyor.

Source

RPPL 1-33 § 7.

§ 608. Prohibited practices; penalties.

(a) It shall be a misdemeanor punishable by a fine of not less than twenty five dollars (\$25) nor more than one thousand dollars (\$1,000), or imprisonment for not more than one (1) year, or both, for any person to:

- (1) practice, or offer to practice, or hold himself out as entitled to practice, land surveying except when authorized by this chapter;
- (2) use or attempt to use a certificate of registration that has expired or has been suspended or revoked;
- (3) present or use as his own the certificate of registration of another;
- (4) stamp or seal any document with the seal of a registrant after the certificate of the registrant has expired or has been suspended or revoked; or
- (5) otherwise violate any section of this chapter.

(b) It shall be a felony punishable by a fine of not more than five thousand dollars (\$5,000), or imprisonment for not more than three (3) years, or both, for any person to present any false or forged information or evidence in applying for registration under this chapter.

(c) In addition to any other remedy provided by law, upon request of the Board of Examiners, an action may be filed in the name of the national government in the Trial Division of the Supreme Court to restrain or enjoin the commission or continuance of any acts in violation of this chapter. In any such proceeding it shall be unnecessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if the relief requested were not granted.

Source

RPPL 1-33 § 8, modified.

**Subchapter II
Board of Land Surveyor Examiners**

§ 621. Creation; composition; qualifications of members.

§ 622. Removal of members; vacancies.

§ 623. Compensation of members.

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§ 624. Clerical and logistic support by Division of Lands and Surveys.

§ 625. Promulgation of rules and regulations.

§ 626. Meetings.

§ 627. Quorum; vote required to arrive at decision.

§ 628. Records; list of registered surveyors.

§ 629. Annual report.

§ 621. Creation; composition; qualifications of members.

(a) There is hereby created a Board of Land Surveyor Examiners which shall consist of five members who are citizens of the Republic appointed by the President, with the advice and consent of the Senate. The President shall designate one member as chairman.

(b) The term of office for persons who are Board members as of the effective date of this chapter shall be until June 1, 1996. Thereafter, Board members shall serve for the following staggered terms: two for a period of two years and three for a period of three years. All subsequent appointments shall be for a term of three years.

Source

RPPL 1-33 § 9, modified. Amended by RPPL 4-43 § 22(c). Subsection (b) added by RPPL 4-43 § 22(c).

§ 622. Removal of members; vacancies.

The President may remove any member of the Board for misconduct, incompetence, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the Board shall be filled by appointment by the President as provided in section 621 of this chapter.

Source

RPPL 1-33 § 10, modified.

§ 623. Compensation of members.

Members of the Board shall be reimbursed for reasonable and necessary expenses incurred in the course of their official duties.

Source

RPPL 1-33 § 11.

§ 624. Clerical and logistic support by Division of Lands and Surveys.

The Division of Lands and Surveys shall provide the Board with necessary clerical personnel, office facilities and other logistic support.

Source
RPPL 1-33 § 12.

§ 625. Promulgation of rules and regulations.

The Board is hereby authorized to make rules and regulations needed in performing its duties consistent with law. Such rules and regulations shall be subject to approval by the President of the Republic and promulgated in accordance with applicable law.

Source
RPPL 1-33 § 13.

Cross-reference
See chapter 1, the Administrative Procedure Act, of Title 6 of this Code.

§ 626. Meetings.

The Board shall meet at such times and places as it may prescribe, but shall hold at least two regular meetings in each year. The chairman may call special meetings.

Source
RPPL 1-33 § 14, divided into two sections and modified.

§ 627. Quorum; vote required to arrive at decision.

At all meetings the presence of three members shall constitute a quorum, and the concurrence of three members shall be required in arriving at any decision.

Source
RPPL 1-33 § 14, divided into two sections and modified.

§ 628. Records; list of registered surveyors.

The Board shall keep a complete record of all applications for registration together with the

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Board's action thereon and shall annually, during the month of July, prepare a list showing the names, places of business and residences of all registered land surveyors for publication. A copy of the list shall be filed with the Chief of Lands and Surveys.

Source
RPPL 1-33 § 15.

§ 629. Annual report.

The Board shall prepare a printed annual report of its activities for the past fiscal year, which shall be submitted to the President not later than the first day of December of each year.

Source
RPPL 1-33 § 16, modified.

Subchapter III Registration of Land Surveyors

- § 641. Registration required.
- § 642. Acts construed as practicing surveying.
- § 643. Qualifications; character; knowledge.
- § 644. Same; training; experience.
- § 645. Same; credits for experience.
- § 646. Reciprocity.
- § 647. Applications.
- § 648. Examinations.
- § 649. Certificate of registration; issuance; effect of issuance.
- § 650. Same; expiration and renewal.
- § 651. Same; failure to renew on time.
- § 652. Registered land surveyor's seal.
- § 653. Suspension or revocation.
- § 654. Reissuance of certificates of registration.
- § 655. Application of chapter to proprietorships, partnerships, and corporations.
- § 656. Exemptions.

§ 641. Registration required.

No person shall practice or offer to practice land surveying, or use in connection with his name,

or otherwise use, assume, or advertise, any title or description to convey the impression that he is a land surveyor, unless such person has qualified as such by registration as a land surveyor or is otherwise exempt under this chapter.

Source
RPPL 1-33 § 17, modified.

§ 642. Acts construed as practicing surveying.

A person shall be construed to practice or offer to practice land surveying within the meaning and intent of this chapter who:

- (a) practices land surveying; or
- (b) by oral or written claim or sign, advertising, letterhead, card or in any other way represents himself to be a land surveyor, or through the use of some other title implies that he is such; or
- (c) holds himself out as able to perform, or who does perform, any surveying, service or work or any other professional service designated by him as land surveying, or generally recognized as such.

Source
RPPL 1-33 § 18, modified.

§ 643. Qualifications; character; knowledge.

No person shall be eligible for registration as a land surveyor under this chapter unless he:

- (a) is of good character and repute; and
- (b) meets the professional qualifications prescribed in this chapter.

Source
RPPL 1-33 § 19, modified. Amended by RPPL 4-43 § 22(c).

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§ 644. Same; training; experience.

The following shall be considered as evidence satisfactory to the Board that the applicant is qualified for registration as a land surveyor:

- (a) graduation from a university, college, institute or school approved by the Board as being of satisfactory standing, including the completion of an approved course in surveying, and a specific record of an additional two years or more of experience in land surveying, indicating that the applicant is competent to practice land surveying, and passing the examination prescribed in section 648; or
- (b) a specific record of six years or more of experience in land surveying work indicating that the applicant is competent to practice land surveying, and passing the examination prescribed in section 648; or
- (c) certification as a land surveyor by a foreign jurisdiction, and passing the examination prescribed in section 648.

Source

RPPL 1-33 § 20. Amended by RPPL 4-43 § 22(c).

§ 645. Same; credits for experience.

In considering the qualifications of applicants as to experience under section 644 of this chapter:

- (a) Teaching of land surveying in an approved curriculum in a university, college or school approved by the Board as of satisfactory standing may be credited as experience.
- (b) Experience and training in the armed services of the United States in civil engineering or land surveying may be credited as experience.
- (c) The satisfactory completion of each year of approved curriculum in a school or college approved by the Board as being of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience under subsection (b) or (c) of section 644 of this chapter. Graduation in a curriculum other than land surveying from a college or university of recognized standing may be considered equivalent to two years of experience under this chapter; provided, that no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications.

Source

RPPL 1-33 § 21, modified.

§ 646. Reciprocity.

(a) The Board may, upon application and payment of the fee required by section 647 of this chapter, issue a certificate of registration as a land surveyor, without oral or written examination, to any person who holds a current valid certificate of registration as a land surveyor, without oral or written examination, to any person who holds a current valid certificate of registration (or the equivalent thereof) issued as such by country or political subdivision thereof, provided that the applicant's qualifications meet the requirements of this chapter.

(b) The Board may, with the consent of the Chief of Lands and Surveys, enter into a reciprocal arrangement with surveyor's registration Boards or other competent authorities of any country or political subdivision thereof:

(1) for the recognition of the status of a person authorized by that Board or competent authority to practice as a land surveyor in the country or political subdivision thereof, and for the registering of any such person as a registered land surveyor under this chapter; and

(2) for the examination of a candidate who has served under a term of cadetship or apprenticeship to a licensed or registered land surveyor and whose articles have been registered with the Board.

(c) The Board shall issue or deny within fifteen (15) working days after receipt of the application or letter of request, a certificate of registration as a land surveyor to an individual who holds a current valid certificate of registration from a United States jurisdiction.

Source

RPPL 1-33 § 22, modified. Amended by RPPL 4-43 § 22(c). Subsection (c) is added by RPPL 6-31 § 4[646(c)], modified.

§ 647. Applications.

(a) Application for registration shall be on forms prescribed and furnished by the Board and shall:

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- (1) designate the registration applied for;
- (2) show the applicant's education and a detailed summary of his technical work;
- (3) furnish not less than five references, at least three of which shall be with regard to his technical work; and
- (4) set forth such other information as the Board may prescribe.

(b) Every application shall be accompanied by an application fee of ten dollars (\$10). No refund shall be made in the event registration is denied.

Source

RPPL 1-33 § 23, modified.

§ 648. Examinations.

(a) Within sixty (60) days from the effective date of this section, the Board shall offer a written examination to all qualified applicants for registration as a land surveyor. Thereafter, the Board shall offer the examination to all qualified applicants at least once every one hundred eighty (180) days.

(b) At least forty-five (45) days prior to an examination date, the Board shall announce the date and time of the examination in the local newspaper, on the radio, and by posting an announcement at the Post Office in Koror.

(c) The examination, in addition to other matters, shall cover the procedure and rules governing the survey of public lands as set forth in the "Manual of Surveying Instructions," published by the Bureau of Land Management, United States Department of the Interior, Washington D.C., and in the "Manual of Surveying Instructions" issued by the Division of Lands and Surveys, government of the Trust Territory.

(d) Applicants who score seventy percent (70%) or higher on the examination shall be deemed to have passed it and shall be deemed registered to perform surveys in Palau.

Source

RPPL 1-33 § 24, modified. Subsections (a) and (b) amended by RPPL 4-43 § 22(c). Subsection (d) added by RPPL 4-43 § 22(c).

Notes

Subsection (d) is shown as (e) in RPPL 4-43 § 22(c) under "Section 648. Examinations.", to indicate that there is a Subsection (d) in the Code. There was no Subsection (d) in the Code prior to its addition to this section.

§ 649. Certificate of registration; issuance; effect of issuance.

- (a) The Board shall issue a certificate of registration to any applicant for registration as a land surveyor, who, having paid the application and registration fee, has satisfactorily met all the requirements of this chapter. Certificates shall show the full name of the applicant, shall have a serial number, and shall be signed by the chairman and the secretary of the Board under seal of the Board.
- (b) The certificate for a registered land surveyor shall authorize the “practice of land surveying.”
- (c) The certificate of registration, as issued by the Board, shall be prima facie evidence that the person named thereon is a registered land surveyor entitled to all the rights and privileges of such while such certificate remains unrevoked or unexpired.

Source

RPPL 1-33 § 25, modified.

Cross-reference

For other titles on land or property, see Title 31 on Land Planning, Title 35 on Public Lands, and Title 39 on Real and Personal Property.

§ 650. Same; expiration and renewal.

- (a) Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and become invalid at the end of such day unless renewed.
- (b) It shall be the duty of the Board to notify every person registered under this chapter of the date of expiration of his certificate of registration and the amount of the fee that shall be required for its renewal for one year. Such notice shall be mailed no later than the first of December. Renewal may be affected at any time during the month of December by payment of a renewal fee of ten dollars (\$10).

Source

RPPL 1-33 § 26(a) and (b), modified.

§ 651. Same; failure to renew on time.

The failure on the part of any registrant to renew his certificate annually in the month of

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December shall not deprive such person of the right of renewal, but the renewal fee to be paid after the month of December shall be increased by one dollar (\$1) for each month or fraction of a month that payment of renewal is delayed; provided that the maximum fee for delayed renewal shall not exceed fifteen dollars (\$15). The failure of the Board to notify a registrant of the date of the expiration of his certificate, or the amount of the renewal fee, shall not extend the duration of the certificate of registration.

Source

RPPL 1-33 § 26(c), modified.

§ 652. Registered land surveyor's seal.

(a) Every registrant may, upon being issued a certificate of registration, obtain a seal of a design authorized by the Board, which shall bear the registrant's name and the legend "registered land surveyor" and shall provide space for stating the serial number and date of expiration of the certificate of registration. Plans, specifications, plats and reports prepared by a registrant shall be stamped with such seal when filed with the national government during the term of the registrant's registration, and shall also show the serial number and date of expiration of such certificate of registration.

(b) It shall be a misdemeanor for anyone to stamp or seal any documents with such seal after the certificate of registration of the person named thereon has expired or has been revoked, unless such certificate shall have been renewed and reissued.

Source

RPPL 1-33 § 27, modified.

§ 653. Suspension or revocation.

The Board shall have the power, duty, and authority to investigate violations of this chapter and may suspend or revoke a certificate of registration on any of the following grounds:

- (a) the registrant is practicing in violation of this chapter; or
- (b) the certificate of registration has been obtained or that the registrant has obtained such certificate by fraud or misrepresentation; or
- (c) the certificate of registration was obtained by bribery or payment of any money except fees prescribed by this chapter; or

- (d) the registrant is falsely impersonating a practitioner or former practitioner or is practicing under an assumed or fictitious name; or
- (e) the registrant has been convicted of an offense arising from or in connection with the practice of land surveying, or any offense involving moral turpitude, in which case a certified copy of the record of conviction shall be conclusive evidence thereof; or
- (f) the registrant has violated any provision of this chapter; or
- (g) the registrant has aided and abetted in the practice of land surveying by any person not duly authorized to practice land surveying except as provided under subsection (c) of section 656 of this chapter; or
- (h) the registrant has been guilty of fraud or deceit, or of gross negligence, incompetence, or misconduct in the practice of land surveying; or
- (i) the registrant has permitted his seal to be affixed to any plans, specifications or drawings that were not prepared by him or under his personal supervision, or by his employee or subordinate.

Proceedings under this section may be initiated upon complaint by any person or by the Board. All charges shall be in writing and sworn to by the person making them. All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board within three months after the date on which they have been proffered. The time and place for such hearing shall be fixed by the Board, and a copy of the charges together with a notice of the time and place of hearing, shall be personally served upon or mailed to the last known address of such registrant at least thirty (30) days before the date fixed for the hearing. At any hearing, the registrant shall have the right to appear personally and have counsel, to cross-examine witnesses appearing against him and to produce evidence and witnesses in his own defense.

Source

RPPL 1-33 § 28, modified.

§ 654. Reissuance of certificates of registration.

- (a) The Board for reasons it deems sufficient may reissue a certificate of registration to any person whose certificate has been revoked provided three or more members of the Board vote in favor of such reissuance.

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(b) A new certificate of registration may be issued to any person whose certificate has been revoked, lost, destroyed, or mutilated, subject to the rules of the Board and upon payment of a fee of twenty dollars (\$20).

Source
RPPL 1-33 § 29.

§ 655. Application of chapter to proprietorships, partnerships, and corporations.

(a) The practice of land surveying may be performed by employees of a proprietorship, partnership, or corporation engaged in construction, manufacturing, transportation, distribution, or communications insofar as such land surveying is involved in its operations, provided that it is performed by, or under the supervision of, a land surveyor in responsible charge, registered under this chapter.

(b) The practice or offer to practice land surveying for the public, as defined in section 603 of this chapter, by individuals registered under this chapter through a corporation as officers, employees or agents, is permitted subject to the provisions of this chapter, and provided that all personnel who act in its behalf as land surveyors in responsible charge are registered under this chapter, or are persons lawfully practicing under section 656 of this chapter. In case this practice is done through a corporation organized after the effective date of this chapter, it shall be required at all times that the president of the corporation and a majority of the officers and directors are registered land surveyors, and further, that said corporation shall have been issued a certificate of authorization by the Board as provided in this chapter.

(c) A corporation desiring a certificate of authorization shall file with the Board an application, using a form provided by the Board, listing the names and addresses of all officers and board members of the corporation, and also, of the individual or individuals duly registered to practice land surveying who shall be in responsible charge, and other information required by the Board. The same form, giving the same information, must accompany the annual renewal fee. In the event there shall be a change in any of these persons during the year, such change shall be designated on the same form and filed with the Board within 30 days after the effective date of said change. If all of the requirements of this section are met, the Board may issue a certificate of authorization to such corporation.

(d) No corporation authorized to practice land surveying under this chapter shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by

reason of its compliance with the provisions of this section, nor shall any individual practicing land surveying be relieved of responsibility for services performed by reason of his employment or relationship with such corporation. All final drawings, specifications, plans, reports or other papers or documents involving the practice of land surveying which shall have been prepared or approved for the use of such corporation, or for delivery by it to any person, or for public record, shall be dated and bear the signature and seal of the land surveyor who prepared or approved them.

Source

RPPL 1-33 § 30, modified.

§ 656. Exemptions.

This chapter shall not apply to:

- (a) a person not a resident of and having no established place of business in the Republic, practicing or offering to practice land surveying in the Republic, when such practice does not extend in the aggregate more than thirty (30) days in any calendar year; provided, that such person is legally qualified by registration to practice such profession in the state or territory of his residence and in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter;
- (b) a person not a resident of and having no established place of business in the Republic, or who has recently become a resident thereof, practicing or offering to practice land surveying in the Republic for more than thirty (30) days in any calendar year, if he has filed an application for a certificate of registration with the Board and has paid the required fee, such exemption to continue only for such time as the Board requires for the consideration of the application for registration; provided, that such person is legally qualified to practice such profession in the country, state or territory of his residence and in which the requirements or qualifications for obtaining a certificate are not lower than those specified in this chapter;
- (c) an employee or subordinate of a person holding a certificate of registration under this chapter or an employee or a person exempted from registration by subsections (a) and (b) of this section; provided, that the work of such employee or subordinate does not include final designs or decisions and is under the direct responsibility and supervision of a person holding a certificate of registration under this chapter or a person exempted from registration by subsections (a) and (b) of this section;

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- (d) officers, employees or members of the armed forces of the United States, as long as their practice of land surveying is limited to that work specifically authorized by the armed forces;
- (e) the practice of any legally recognized profession other than that of land surveyor.

Source
RPPL 1-33 § 31, modified.

Subchapter IV Register of Land Surveyors

- § 671. Register required; contents; prima facie evidence of status.
- § 672. Public inspection.
- § 673. Alteration and amendment.

§ 671. Register required; contents; prima facie evidence of status.

The Board shall, record in a book to be kept for the purpose and to be known as the register of land surveyors[,] the names and addresses of all registered land surveyors, together with the detail and dates of the qualifications in respect of which they are registered by the Board of Land Surveyor Examiners. Every entry in the register shall be signed by the Chairman of the Board. A copy of an entry in the register, purporting to be certified by the Chairman of the Board as a true copy, is prima facie evidence that the person named therein is a registered land surveyor.

Source
RPPL 1-33 § 32. Amended by RPPL 4-43 § 22(c).

Notes
The bracketed “[,]” inserted by the Code Commission, modified.

§ 672. Public inspection.

The register of land surveyors shall be opened to public inspection upon payment of a fee of one dollar (\$1).

Source
RPPL 1-33 § 33.

§ 673. Alteration and amendment.

The Board shall from time to time make such alterations and amendments in the register as are necessary for the purpose of making the register an accurate record of the names, addresses and qualifications of registered land surveyors.

Source

RPPL 1-33 § 34. Amended by RPPL 4-43 § 22(c).

Cross-reference

For other titles on land or property, see Title 31 on Land Planning, Title 35 on Public Lands, and Title 39 on Real and Personal Property.

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Chapter 7 Notaries Public

Subchapter I General Provisions

- § 701. Appointment.
- § 702. Term and removal.
- § 703. Reporting change of status.
- § 704. Rules and regulations.
- § 705. Application and qualification for commission as notary public.
- § 706. Oath required.
- § 707. Filing and certification of commission, seal and signature.
- § 708. Official bond.
- § 709. Agreement to accept service of process.
- § 710. Liabilities of notary and surety on bond.
- § 711. Compliance with chapter required; penalties.

§ 701. Appointment.

The President may in his discretion appoint and commission such numbers of notaries public for the Republic as he shall deem necessary for the public good and convenience.

Source

(Code 1966, § 1075.) 31 TTC § 201(1), modified.

§ 702. Term and removal.

The term of office of a notary public shall be two years from the date of his commission, unless sooner removed by the President on recommendation of the Attorney General made on findings of cause after due hearing; provided, that after due hearing the commission of a notary public may be revoked by the President in any case where any change shall occur in such notary's office, occupation or employment which in the judgment of the President renders the holding of such commission no longer necessary for the public good and convenience.

Source

(Code 1966, § 1075.) 31 TTC § 201(2), modified.

§ 703. Reporting change of status.

Each notary shall, upon any change in his office, occupation or employment, forthwith report the same to the Attorney General.

Source

(Code 1966, § 1075.) 31 TTC § 201(3), modified.

§ 704. Rules and regulations.

(a) The Attorney General, with the approval of the President, shall have power to prescribe such rules and regulations having the force and effect of law as he may deem advisable concerning the appointment and duties of notaries public and the administration of this chapter.

(b) The Attorney General shall file a copy of such rules and regulations with the Clerk of Courts.

Source

(Code 1966, § 1082.) 31 TTC § 202, modified.

§ 705. Application and qualification for commission as notary public.

Except as otherwise provided in this chapter, application for a commission as notary public for the Republic shall be submitted to the Attorney General and must be accompanied by two letters of recommendation. Every person appointed a notary public must be, at the time of his appointment, of good character, at least twenty-five (25) years of age, and a permanent resident of the Republic, who has resided in the Republic for at least three years, or a United States citizen, resident in the Republic and employed by the United States government or by a contractor engaged in work for the United States government in the Republic.

Source

(Code 1966, § 1076.) 31 TTC § 203(1), modified.

§ 706. Oath required.

Every person appointed a notary public shall, before acting in that capacity, take and subscribe to an oath for the faithful discharge of his duties, which oath may be taken before a judge, a clerk of courts, or other official authorized to administer oaths. This oath shall be executed in duplicate.

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The original shall be filed in the Office of the Attorney General and a duplicate original filed in the Office of the Clerk of Courts.

Source

(Code 1966, § 1076.) 31 TTC § 203(2), modified.

§ 707. Filing and certification of commission, seal and signature.

(a) It shall be the duty of each person appointed and commissioned a notary public under the provisions of this chapter to forthwith file a literal or photostatic copy of his commission, an impression of his seal and a specimen of his official signature with the Clerk of Courts. Thereafter, the Clerk of Courts, when so requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal and specimen of official signature is filed in his office.

(b) The Clerk of Courts shall charge and receive a fee of one dollar (\$1) for filing a copy of a commission and a fee of twenty-five cents (\$0.25) for filing each certificate of authentication.

Source

(Code 1966, §§ 1078 and 1083.) 31 TTC § 204, modified.

§ 708. Official bond.

Each notary public forthwith and before entering upon the duties of his office may, at the discretion of the President, be required to execute at his own expense, an official surety bond in a sum not exceeding one thousand dollars (\$1,000).

Source

(Code 1966, § 1079.) 31 TTC § 205(1), modified.

§ 709. Agreement to accept service of process.

The obligee of each bond shall be the Republic and the condition contained therein shall be that the notary public will well, truly and faithfully perform all the duties of his office which are then and may thereafter be required, prescribed or defined by law or by any rule or regulation made under the express or implied authority of any law of the Republic, and all duties and acts are undertaken, assumed or performed by the notary public by virtue or color of his office. The surety on any such bond shall be a surety company approved by the President. The notary public

by accepting his commission, and the surety company by issuing the bond, thereby agree to accept service of process for any purpose. After approval, the bond shall be deposited and kept in the Office of the Attorney General, who will certify to the Clerk of Courts that the bond has been accepted and filed in proper form.

Source

(Code 1966, § 1079.) 31 TTC § 205(2), modified.

§ 710. Liabilities of notary and surety on bond.

For the official misconduct of a notary public or breach of any of the conditions of his official bond, he and the surety on his official bond shall be liable to the party injured thereby for all damages sustained. Such party shall have a right of action in his own name upon such bond and may prosecute the same to final judgment and execution.

Source

(Code 1966, § 1080.) 31 TTC § 206.

§ 711. Compliance with chapter required; penalties.

(a) No person shall be qualified to act as a notary public or shall enter upon any of the duties of such office, or offer or assume to perform any such duties until he shall have fully complied with the requirements of this chapter.

(b) Any person wilfully violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, such person shall be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment for not more than one (1) year, or both. Nothing in this section shall be construed to restrict or to do away with any liability for civil damages.

Source

(Code 1966, § 1081.) 31 TTC § 207, modified.

**Subchapter II
Powers and Duties**

§ 751. Generally.

§ 752. Required seal.

§ 753. Required records; form and effect of granted copies or certificates.

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§ 754. Disposition of records.

§ 751. Generally.

A notary public has the power and is authorized to administer oaths and affirmations, receive proof and acknowledgement of writings, and present and protest commercial paper. A notary public may act officially anywhere in the Republic but shall, before so acting in any district, comply with the provisions of section 707, subchapter I of this chapter.

Source

(Code 1966, § 1084; P. L. No. 4C-27, § 2.) 31 TTC § 251, modified.

§ 752. Required seal.

(a) Every notary public shall constantly keep a seal of office, which may be a rubber stamp or impression seal, whereon shall be engraved his name, and the words “Notary Public” and “Republic of Palau.” He shall authenticate all of his official acts, attestations, certificates and instruments therewith.

(b) Upon resignation, death, expiration of term of office without reappointment, removal from or abandonment of office, or change in residence from the Republic, he shall immediately deliver his seal to the Attorney General, who shall deface or destroy the same. By failing for sixty (60) days to comply with the above requirement, the notary public, his executor or administrator, shall forfeit to the Republic not more than two hundred dollars (\$200), in the discretion of the court, to be recovered in an action to be brought by the Attorney General on behalf of the Republic.

Source

(Code 1966, § 1077.) 31 TTC § 252, modified.

§ 753. Required records; form and effect of granted copies or certificates.

Every notary public shall record at length in a book of records all acts, protests, depositions, and other things noted by him or done in his official capacity. All copies or certificates granted by him shall be under his hand and notarial seal, and shall be received as evidence of such transactions.

Source

(Code 1966, § 1085.) 31 TTC § 253, modified.

§ 754. Disposition of records.

(a) The records of each notary public shall each year on the thirtieth of June and upon the resignation, death, expiration of term of office, removal from or abandonment of office, or change of residence from the Republic be deposited with the Clerk of Courts.

(b) By a failure for sixty (60) days to comply with the requirement of this section, the notary public, his executor or administrator shall forfeit to the Republic not less than ten dollars (\$10) nor more than one hundred dollars (\$100), in the discretion of the court, in an action brought therefor by the Attorney General on behalf of the Republic.

Source

(Code 1966, § 1086.) 31 TTC § 254, modified.

**Subchapter III
Fees**

§ 761. Fees; schedule.

§ 762. Same; notaries not entitled to fees.

§ 761. Fees; schedule.

Every notary public, except as provided in section 762 of this chapter, shall be entitled to demand and receive the following fees:

- (a) noting the protest of mercantile paper, one dollar (\$1);
- (b) each notice and certified copy of protest of mercantile paper, one dollar (\$1);
- (c) noting any protest other than of mercantile paper, two dollars (\$2);
- (d) each notice and certified copy of protest other than of mercantile paper, two dollars (\$2);
- (e) each deposition, or official certificate, two dollars (\$2);
- (f) administration of oath, including the certificate of such oath, twenty five-cents (\$0.25);

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- (g) affixing the certificate of such oath to each duplicate original instrument beyond four, fifteen cents (\$0.15);
- (h) taking any acknowledgment, fifty cents (\$0.50) for each party signing; and
- (i) affixing to each duplicate original, beyond one of any instrument acknowledged before him, his certificate of acknowledgement, twenty-five cents (\$0.25) for each person making such acknowledgment.

Source

(Code 1966, § 1087.) 31 TTC § 255, modified.

§ 762. Same; notaries not entitled to fees.

A notary public who is also a paid employee of the United States, or the government of the Republic, or of any state administration, and is permitted to perform services as notary public during the working hours for which he is paid by one of these governments, shall not be entitled to demand or receive any fees for services performed as notary public during such hours or for such services performed at any other time which are in connection with or in aid of his regular employment.

Source

(Code 1966, § 1088.) 31 TTC § 256, modified.

**Chapter 8
Taxi Regulations**

- § 801. Definitions.
- § 802. Requirements for taxi drivers.
- § 803. Taxi driver identification card; display.
- § 804. Signs.
- § 805. Notice of fares.
- § 806. Maps.
- § 807. Conduct of business.
- § 808. Health certificate.
- § 809. Driving record.
- § 810. Penalty.

§ 801. Definitions.

In this chapter, unless the context requires otherwise:

- (a) “Taxi” means any motorized vehicle driven upon the public streets or roads for the purpose of transporting passengers in return for the payment of money or services, but does not include buses.
- (b) “Treasurer” means the Director of the Bureau of National Treasury.

Source

PDC § 902(a), as amended by PL 5-2-44 § 1, modified.

§ 802. Requirements for taxi drivers.

No person shall drive or operate a taxi in the Republic unless he is a citizen of the Republic, at least twenty-one (21) years of age, and has obtained a special taxi driver identification card from the Director of the Bureau of Public Safety. The issuance of such card shall also be approved in writing by the chief executive officer of the state in which the person intends to operate a taxi.

Source

PDC § 902, as amended by PL 5-2-44 § 1, modified.

Cross-reference

For statutory provisions on business licenses, see chapter 15 of Title 40.

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§ 803. Taxi driver identification card; display.

Taxi driver identification cards shall contain the following information:

- (a) name and address;
- (b) date of birth;
- (c) blood type;
- (d) height and weight;
- (e) distinguishing marks or scars;
- (f) full-faced picture (two inch by two inch);
- (g) signature of person and issuing officer;
- (h) date of issuance;
- (i) name of parent, guardian or next of kin; and
- (j) identification card number.

In addition to the information listed above, such taxi driver identification card shall clearly state in letters not smaller than three fourth (3/4) inches in height that the holder thereof is registered as a taxi driver. Such taxi driver identification card shall be displayed upon the dashboard or in such conspicuous place in the taxi where it can be easily seen at all times the taxi is in operation.

Source

PDC § 902(c), as amended by PL 5-2-44 § 1, rewritten to incorporate the provisions of PDC § 709(b) and modified.

§ 804. Signs.

Every person who obtains retail license as may be required by applicable law to permit him to operate a vehicle as a taxi shall display said license beside his taxi identification card and shall, before such vehicle is operated as a taxi, display the word "taxi" with a lightable sign of such standard size and type as may be required by applicable state law upon the top of the vehicle.

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Source

PDC § 902(b), as amended by PL 5-2-44 § 1, modified.

§ 805. Notice of fares.

No taxi shall be operated on the public streets or roads unless a printed schedule of fares for passengers is displayed beside the taxi identification card. No fare shall be charged to passengers except as established in accordance with law, or as may be established in accordance with law, or as may be established by the taxi driver in the absence of such law. Such schedule shall be in the Palauan, English and Japanese languages with the listed fares in American monetary units.

Source

PDC § 902, as amended by PL 5-2-44 § 1.

§806. Maps.

Every taxi operated on the public streets or roads of Palau shall conspicuously display a map showing the roads and streets upon which the taxi operates and showing the major centers for administration, recreation, hospitals, hotels, and such other facilities as the taxi driver may wish to display. Such maps shall be obtained from the Palau Tourist Commission and shall be printed in the Palauan, English and Japanese languages.

Source

PDC § 902, as amended by PL 5-2-44 § 1, modified.

§ 807. Conduct of business.

No taxi driver during the course of operating his taxi shall consume or permit to be consumed within his taxi alcoholic beverages. No taxi driver shall operate his taxi while in an intoxicated state.

Source

PDC § 902(d), as amended by PL 5-2-44 § 1.

Cross-reference

For statutory provisions regarding driving under the influence of intoxicating liquor, see chapter 6 of Title 42.

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§ 808. Health certificate.

Before a taxi driver shall obtain an identification card, he shall first obtain a statement or certificate of health by the public health officials that he is free from contagious disease. Such statement or certificate shall be attached to the application for the identification card by the Director of the Bureau of Public Safety. Any forgery or falsification of the statement or certificate shall be grounds for revocation of the taxi identification card. Such certificate or statement shall be renewed every six months and deposited with the Director of the Bureau of Public Safety.

Source

PDC § 902, as amended by PL 5-2-44 § 1, modified.

§ 809. Driving record.

Any person convicted within any two month period of any three moving violations of the motor traffic laws of the Republic shall be prohibited from operating a taxi for a period of one year following the date of the third conviction.

Source

PDC § 902, as amended by PL 5-2-44 § 1, modified.

Cross-reference

For motor traffic laws, see Title 42 on Vehicles.

§ 810. Penalty.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100) and/or revocation of his taxi identification card for a period not to exceed three (3) months. The Director of the Bureau of Public Safety shall maintain a record of all such revocations and shall not issue a new identification card to a person who has been four times convicted of violating a provision of this section.

Source

PDC § 902(e), as amended by PL 5-2-44 § 1, modified.

**Chapter 9
Tour Operators**

- § 901. Regulation of tour operators.
- § 902. License fee.
- § 903. Application; procedure.
- § 904. Same; examination; revocation or suspension.

§ 901. Regulation of tour operators.

Every person, natural or corporate, engaged either regularly or periodically in the business of providing tour services limited to and within the Republic must first obtain and have in his possession a Tour Operator’s License permitting him to do so, issued by the President in accordance with the provisions of this section.

Source

PL 5-8-5 § 1(a), modified.

Cross-reference

For additional statutory provisions on business licenses, see chapter 15 of Title 40; for statutory provisions on licensing of duty-free concessions, see chapter 6 of Title 28; for statutory provisions on licensing the sale of compressed air or underwater breathing equipment, see subchapter III, chapter 52 of Title 34; for complete listing of licensing provisions in this Code, see index listing, LICENSES.

§ 902. License fee.

The fee for a Tour Operator’s License in the Republic shall be one hundred fifty dollars (\$150) per annum, and shall expire on June 30 of each fiscal year. The Director of the Bureau of National Treasury may prorate the fee on a quarterly basis. The fee shall be paid to the Director of the Bureau of National Treasury in advance of the issuance of the license; such fee shall be deposited in the National Treasury.

Source

PL 5-8-5 § 1 (b), as amended by PL 6-7-9 § 1, modified.

§ 903. Application; procedure.

Applications for Tour Operator’s Licenses shall be made and filed with the President and shall include, in addition to any other information the President may require, the following

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information:

- (a) the name and address of the applicant, length of residence in the Republic, citizenship and if a corporation, the names of the corporate officers and a certified copy of the charter and articles of incorporation;
- (b) the names and addresses of all corporations, associations or persons for whom the applicant is associated with; and
- (c) the kind and nature of services which the applicant proposes to provide.

Source

PL 5-8-5 § 1(c), divided into two sections and modified.

§ 904. Same; examination; revocation or suspension.

The President shall in consultation with the Palau Tourist Commission examine the statements, information, and documents filed with the application and any other information by the applicant or any other person. If the President is satisfied that the applicant is qualified to publicly provide services as a tour agent, he shall issue the license; otherwise he shall refuse to issue the license and shall notify the applicant in writing of his decision. The license may be revoked or suspended by the President for good cause shown to him after notice to the licensee has been duly made and a hearing conducted wherein the licensee was afforded an opportunity to be heard.

Source

PL 5-8-5 § 1(c), divided into two sections and modified.

ALCOHOLIC BEVERAGE CONTROL ACT 11 PNCA § 1002

Chapter 10 Alcoholic Beverage Control Act

Subchapter I General Provisions

- § 1001. Short title.
- § 1002. Definitions.
- § 1003. Religious exemption.
- § 1004. State option.
- § 1005. State law.

§ 1001. Short title.

This chapter may be cited as the “Alcoholic Beverage Control Act.”

Source

PDC § 300, modified. Amended by RPPL 4-25 § 1(1). Amended by RPPL 9-6 § 2.

Cross-reference

For statutory provisions regarding driving under the influence of intoxicating liquor, see chapter 6 of Title 42.

Notes

RPPL 9-6 §1 reads: Legislative Findings. It was the intent of RPPL No. 8-27 to divide the “Alcoholic Beverage and Tobacco Products Control Act” as set forth in Chapter 10 of Title 11 of the *Palau National Code*, into two separate Chapters; one addressing control of alcoholic beverages and one addressing control of tobacco products. Since RPPL No. 8-27 became law, the World Health Organization, the Palau Code Commission, and the Office of the Attorney General, among others, have identified clerical errors, admissions, and inconsistencies in RPPL No. 8-27. As such, the Olbiil Era Kelulau finds it necessary to amend several sections of Chapter 10 of Title 11 of the *Palau National Code* and several sections of RPPL No. 8-27 in order to fully accomplish the original intent of RPPL No. 8-27.

The name of the original act was specified in PDC § 300 as the “Alcoholic Beverage Control Act”. RPPL 4-25 § 1(1) amended the code stating, “This chapter may be cited as the ‘Alcoholic Beverage and Tobacco Products Control Act’.” RPPL 4-25 amended only portions of the original “Alcoholic Beverage Control Act.”

§ 1002. Definitions.

Unless the context otherwise requires, in this chapter:

- (a) “Alcoholic beverages” means beer and malt beverages, distilled spirits, wine and every liquid or solid which contains one-half of one percent (.05%) or more of alcohol by

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volume, and which is fit for drinking purposes, either alone or combined with other substances, but shall not include any liquid or solid which is prescribed by a medical officer or other medical personnel or is sold as medicine.

(b) “Beer and malt beverages” means any beverage containing not more than fifteen percent (15%) alcohol by volume obtained by a process of alcoholic fermentation of grain, hops and malt in water.

(c) “Bureau” means the Bureau of Commercial Development of the Ministry of Human Resources, Culture, Tourism, and Development.

(d) “Director” means the Director of the Bureau of Commercial Development.

(e) “Club” means any organization for objects of a social, fraternal, patriotic, political, recreational or athletic nature, or the like, but not for pecuniary gain, having a regular membership. “Club” also means the establishment so operated and the premises thereof.

(f) “Fiscal Year” means the year commencing on October 1 and ending on September 30.

(g) “Licensee” means any person to whom a license to sell alcoholic beverages has been granted in accordance with the provisions of this chapter.

(h) “Minor” means any person under the age of twenty-one (21) years.

(i) “Person” means any single individual, partnership, corporation, or other association of individuals, or of any group or combination of the above acting together or as a unit.

(j) “Premises” means the place of business including the entire building and the area within its boundaries, or as defined by the Bureau on the license issued.

(k) “Public place” means any place, indoors or outdoors, within the Republic except a private dwelling.

Source

PDC §301. Amended by PL 7-3-32 § 1; § 301(h) omitted as unnecessary; terms put into alphabetical order and section modified. Amended by RPPL 4-25 § 1(2). Subsections (c), (d) and (j) amended to change “Board” to “Bureau” by RPPL 5-7 § 34(8)(a) on 10/3/97 effective 10/1/97. Subsection (l) is repealed by RPPL 9-6 § 7.

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§ 1003. Religious exemption.

Nothing in this chapter shall be construed to restrict or prohibit the use of wines or other alcoholic beverages as part of a recognized religious service.

Source
PDC § 302, modified.

§ 1004. State option.

By popular referendum conducted according to the standards of state law or constitution, a state may determine whether the importation and sale of alcoholic beverages in the state shall be permitted; provided that a state may designate the type of alcoholic beverages which may or may not be sold in the state. If the qualified voters of the state opt to make the sale and importation of alcoholic beverages illegal within that state, then it will be the responsibility of the state to enforce such an ordinance through its own police force or by such other legal means as are available.

Source
PDC § 303, modified.

§ 1005. State law.

Nothing in this chapter shall preclude any state from enacting any ordinance which is not in conflict with the provisions of this chapter or the regulations issued pursuant thereto.

Source
PDC § 304, modified.

Subchapter II Bureau of Commercial Development

§§ 1011 - 1014. [Repealed]

§ 1015. Powers and duties of Bureau of Commercial Development regarding alcoholic beverage.

§ 1016. Appointment of inspectors.

§ 1017. [Repealed]

§ 1018. Records and reports.

§ 1019. [Repealed]

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§§ 1011 - 1014. [Repealed]

Source

PDC § 305(a) and (b), combined and modified. Amended by RPPL 4-25 § 2(1). Sections 1011 thru 1014 repealed by RPPL 5-7 § 34(8)(b)(c)(d) and (e) on 10/3/97 effective 10/1/97.

§ 1015. Powers and duties of Bureau of Commercial Development regarding alcoholic beverage.

In addition to any powers and duties prescribed by law, regulation, or lawful executive order, the Bureau shall have the following powers and duties:

- (a) The Bureau shall have the power to license the sale of alcoholic beverages in the Republic, and to suspend, revoke and reinstate such license;
- (b) The Bureau shall issue regulations not inconsistent with the provisions of this chapter, and may amend or repeal them as it deems necessary to carry out the purpose and intent of this chapter and to enable it to exercise its duties and powers. Such regulations shall be promulgated pursuant to the provisions of the Administrative Procedures Act of Title 6, Chapter 1 of this Code and when issued shall have the force and effect of law;
- (c) The Bureau shall have the power to prescribe the character and manner of keeping books and records by licensees, common and private carriers and such other persons as are necessary to enable the Bureau to exercise its powers and duties under this chapter;
- (d) The Bureau shall prescribe the form of all applications for licenses or renewal of licenses and other papers it shall require, including, but not limited to, verification of the information contained in such applications. It shall also prescribe the place and manner for the posting and displaying of licenses by licensees;
- (e) The Bureau shall fix the hours between which the licensed premises of any class or classes may regularly be open for business, provided that until such time as the Bureau shall exercise this power, no licensee shall sell, serve, or permit any person to consume any alcoholic beverage on the premises licensed except during the following hours every day of the week:
 - (1) wholesaler: 7:00 a.m. to 5:00 p.m.;
 - (2) package distributor: 7:00 a.m. to midnight;

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- (3) bar-restaurant: 7:00 a.m. to 2:00 a.m.;
- (4) cabaret or club: 4:00 p.m. to 2:00 a.m.;
- (5) special events hours as specified by the license.

Unless a greater penalty is set by regulation, persons who serve, sell or permit any person to consume alcoholic beverages and persons who consume alcoholic beverages on any licensed premises outside the hours permitted by the license shall be charged with a misdemeanor and fined not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000). Licensees from whose premises alcoholic beverages are served outside such hours shall also be subject to sanctions as set by regulation to be promulgated by the Bureau.

(f) The Bureau may limit the number of licensees of any class within the Republic or in any given locality, when in the judgment of the Bureau such limitations are in the public interest;

(g) The Bureau shall recommend to the Olbiil Era Kelulau such legislation as the Bureau believes is necessary to enable it to exercise its powers and duties, and such legislation related to the consumption and sale of alcoholic beverages which the Bureau believes is in the public interest;

(h) The Bureau shall have the power to investigate violations, enforce fines, and bring license suspension, revocation and non-renewal actions pursuant to the provisions of this chapter.

Source

PDC § 305(f), § 305(f)(8) made into separate § 1016 and section modified. Amended by RPPL 4-25 § 2(3). “Board” amended to “Bureau” by RPPL 5-7 § 34(8)(f) on 10/3/97 effective 10/1/97. Subsection (e) amended by RPPL 6-41 § 1, modified. Subsection (e)(3), (e)(4) and the last paragraph is amended by RPPL 7-49 § 2. Amended by RPPL 8-27 § 22.

Notes

The Code Commission substituted “midnight” for “12:00 a.m.” which appeared in the amending language for subsection (e) in RPPL 6-41 § 1. The previous wording of subsection (e) read “12:00 p.m. midnight” 11 PNCA § 1042(c) read “12:00 midnight” which has also been changed to read “midnight”.

§ 1016. Appointment of inspectors.

The Bureau shall have the power to appoint Alcoholic Beverage Control Inspectors and delegate

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to them the authority and powers of the Bureau under sections 1081 and 1082 of this chapter.

Source

PDC § 305(f)(8), modified. Amended by RPPL 4-25 § 2(4). “Board” amended to “Bureau” by RPPL 5-7 § 34(8)(g) on 10/3/97 effective 10/1/97. Amended by RPPL 9-6 § 4.

§ 1017. [Repealed]

Source

PDC § 305(g), modified. Repealed by RPPL 5-7 § 34(8)(h) on 10/3/97 effective 10/1/97.

§ 1018. Records and reports.

The Bureau shall keep records of all its proceedings and business, including the number, class, and location of premises for all licenses issued, denied, suspended, or revoked. These records shall be open to public inspection. The Bureau shall render a report to the President and Olbiil Era Kelulau no later than thirty (30) days after the end of each fiscal year, setting forth its alcoholic beverage control activities for the preceding fiscal year, based on such records. In addition, the Bureau shall provide the President and Olbiil Era Kelulau, at the end of each month, a list of all applications received, licenses issued or denied, and disciplinary actions taken.

Source

PDC § 305(h), modified. Amended by RPPL 5-7 § 34(8)(I) on 10/3/97 effective 10/1/97. Amended by RPPL 8-27 § 22.

§ 1019. [Repealed]

Source

PDC § 305(I), modified. Repealed by RPPL 5-7 § 34(8)(j) on 10/3/97 effective 10/1/97.

Subchapter III Licensing

§ 1031. License required.

§ 1032. Issuance of licenses.

§ 1033. Classes of licenses.

§ 1034. License fees.

§ 1035. Licenses for multiple activities; separate places of business.

§ 1036. License application form.

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- § 1037. License application; deposit of fees.
- § 1038. Review of license application.
- § 1039. Period of issue.
- § 1040. Notification of issuance.
- § 1041. Distribution of license fees.
- § 1042. Prohibitions against licensing.
- § 1043. Restrictions on licenses.
- § 1044. Appeal of decision to deny license; public hearing.

§ 1031. License required.

No person shall sell alcoholic beverages in the Republic without a valid license issued by the Bureau according to the provisions of this chapter. The license shall permit the licensee to engage only in such activities as the license shall explicitly permit.

Source

PDC § 306(a), modified. Amended by RPPL 4-25 § 3(1). Amended by RPPL 5-7 § 34(8)(k) on 10/3/97 effective 10/1/97. Amended by RPPL 8-27 § 22.

Cross-reference

For additional statutory provisions on business licenses, see chapter 15 of Title 40; for complete listing of licensing provisions in this Code, see index listing, LICENSES.

§ 1032. Issuance of licenses.

Licenses to sell alcoholic beverages, wholesale or retail, may be issued or reissued by the Board to any person residing in the Republic, provided that any person applying for a license meets the requirements as stated in this chapter.

Source

PDC § 306(b), modified. Amended by RPPL 4-25 § 3(2). Amended by RPPL 8-27 § 22.

§ 1033. Classes of licenses.

Separate licenses shall be issued for each of the following types of activities:

- (a) Wholesale alcoholic beverage license -- which license shall permit the licensee to sell such alcoholic beverages as are permitted by law to licensed retailers holding one or more of the classes of retail alcoholic beverage licenses described in this subsection for resale

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by such licensed retailers; provided that such a license shall be issued only to a person holding a valid wholesalers license as required under chapter 15 of Title 40 of this Code.

(b) Retail alcoholic beverage licenses -- retail alcoholic beverage licenses shall be of the following types:

(1) Bar-restaurant license -- which license shall permit the licensee to sell alcoholic beverages to consumers for consumption only on the premises where sold; provided that such a license shall be issued only to a person holding a valid restaurant license or other retail license required under applicable national or state law.

(2) Package distributor license -- which license shall permit the licensee to sell alcoholic beverages to consumers for consumption off the premises where sold; provided that such license shall be issued only to a person holding a valid retail store license or other retail license as may be required by applicable national or state law.

(3) Cabaret license -- which license shall permit the licensee to sell alcoholic beverages to consumers for consumption only on the premises where sold, and where an orchestra, band, or other live entertainment, to include karaoke entertainment, is provided for the patrons provided that such a license shall be issued only to a person holding a valid restaurant license or other retail license as may be required by applicable national or state law.

(4) Club license -- which license shall permit the licensee to sell alcoholic beverages to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by such club; provided that such a license shall be issued only to a person holding such retail licenses as may be required by applicable national or state law.

(5) Special events license -- which license shall permit the licensee, who shall be either a nonprofit organization or the holder of a valid bar-restaurant, cabaret, or club license, to sell alcoholic beverages for consumption on the site of any special event for a period not exceeding seventy-two (72) hours. An organization or licensee can obtain a special events license only twice in one calendar year.

Source

PDC § 306(c), modified. Amended by RPPL 4-25 § 3(3). Subsection (b)(3) amended by RPPL 5-9 § 1(a). Subsections (c) and (d) are repealed by RPPL 9-6 § 7.

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§ 1034. License fees.

The fees for licenses of the several classes shall be as follows, the same being per annum except as otherwise indicated:

- (a) wholesale alcoholic beverage license: two hundred fifty dollars (\$250);
- (b) bar-restaurant license: one hundred twenty-five dollars (\$125);
- [(c)] package distributor license: sixty two dollars and fifty cents (\$62.50);
- (d) cabaret license: two hundred fifty dollars (\$250);
- (e) club license: one hundred twenty-five dollars (\$125);
- (f) special events license: twenty five dollars (\$25) per issue.

Source

PDC § 306(d), as amended by PL 7-3-32 § 2 and RPPL 4-25 § 3(4), modified. Amended by RPPL 9-6 § 6, modified.

Notes

The bracketed subsection [(c)] above refers to tobacco distributor and should be repealed.

§ 1035. Licenses for multiple activities; separate places of business.

- (a) A person engaged in two or more of the activities set forth in section 1033 must obtain a license for each activity in which he is engaged, except that a person who has a valid cabaret license need not acquire a bar-restaurant license.
- (b) A separate and appropriate license must be obtained for each separate place of business.

Source

PDC § 306(e) and (f), modified.

§ 1036. License application form.

Applications for license or renewals thereof shall be submitted in a form prescribed by the Bureau and shall include, but not be limited to, the following information:

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- (a) the applicant's name;
- (b) the name of the business;
- (c) the location of the business premises;
- (d) the name and citizenship of all persons owning an interest in the business;
- (e) the applicant's age; and
- (f) the class of license desired.

Source

PDC § 306(g), modified. "Board" amended to "Bureau" by RPPL 5-7 § 34(8)(l) on 10/3/97 effective 10/1/97.

§ 1037. License application; deposit of fees.

The license application or application for renewal shall not be processed by the Bureau unless the applicant has deposited the full amount due for his license with the National Treasury.

Source

PDC § 306(h), modified. Amended by RPPL 5-7 § 34(8)(m) on 10/3/97 effective 10/1/97.

§ 1038. Review of license application.

Upon receipt of an application for an original license or renewal license and certification from the National Treasury that a deposit of fees has been made and from the Bureau of Revenue, Customs and Taxation that the applicant is not delinquent in the payment of any taxes on the sale of alcoholic beverages, the Bureau shall schedule a public hearing to review the applicant's application. Public announcement of such hearing shall be made at least five days in advance, stating the time, place and purpose of the hearing, the name of the applicant, the location of the premises, the class of license requested, and any other information the Bureau may deem pertinent. At such hearing the applicant shall attend to answer questions from the Director or his designee and members of the public concerning the application, and any interested persons may attend and present comments and questions. If more than one application has been received, the Bureau may in its discretion review several applications at the same hearing. In reviewing an application for a license, the Bureau shall thoroughly investigate to determine whether the applicant and the premises qualify for the class of license for which the application is made, and whether all the terms and conditions of this chapter and the regulations issued pursuant thereto

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are met. Upon completion of the review of the application, the Bureau shall consider the application, and if it is found that the applicant and the premises meet the qualifications for issuance of the license, a license shall be issued by the Bureau. A decision by the Bureau to disapprove any application for an original or renewal license shall be made in writing setting forth the reason for disapproval. This report shall be submitted to the President and to the applicant within five days of the time when such decision was made.

Source

PDC § 306(I), modified. Amended by RPPL 4-25 § 3(5). Amended by RPPL 5-7 § 34(8)(n) on 10/3/97 effective 10/1/97. Amended by RPPL 8-27 § 22.

§ 1039. Period of issue.

Licenses shall be issued for a period not to exceed one year. Each license shall expire on the last day of the fiscal year in which issued; it shall be renewable thereafter unless suspended or revoked according to law. Applications for renewal of a license shall be received, approved, and duly issued prior to the first day of the fiscal year. Any sale of alcoholic beverages after the first day of the new fiscal year without a proper license shall constitute a violation of this chapter.

Source

PDC § 306(j), modified.

§ 1040. Notification of issuance.

Upon approval of an application for a license and issuance of such license by the Bureau, the Bureau shall notify the President, the Director of the Bureau of Public Safety, and the chief executive officer of the state in which the premises is located, of the name of the licensee, the class of license issued, and the location of the license issued.

Source

PDC § 306(k), modified. "Board" amended to "Bureau" by RPPL 5-7 § 34(8)(o) on 10/3/97 effective 10/1/97.

§ 1041. Distribution of license fees.

The wholesale alcoholic beverage license fees collected pursuant to this chapter shall be deposited in the National Treasury. The fees collected from the classes of retail alcoholic beverage licenses issued pursuant to this chapter shall be deposited in the treasury of the state in which the premises are located within thirty (30) days after their collection. In any case in which the Bureau disapproves an application for an original license or renewal license, the Director of

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the Bureau of National Treasury shall return the license fee deposited with him to the applicant. The Director of the Bureau of National Treasury shall keep a record of all fees collected pursuant to this chapter and shall submit a report to the Olbiil Era Kelulau each year during its October regular session summarizing such collections and payments.

Source

PDC § 306(l), modified. RPPL 4-25 § 3(6), modified. Amended by RPPL 5-7 § 34(8)(p) on 10/3/97 effective 10/1/97. Amended by RPPL 8-27 § 22.

Commission Comment

The wording of 11 PNC § 1041 was held to be in error and revised in the case of Koror v. Brell, Civil Action No. 149-88.

§ 1042. Prohibitions against licensing.

The following prohibitions against licensing shall exist in the Republic:

- (a) No license shall be issued or reissued to a person whose license has previously been revoked until one year has elapsed from the date of revocation, nor shall a license be reissued to a person whose license is suspended at that time;
- (b) No license shall be issued for premises in any state or part thereof where the Board has determined that the granting of an additional license of that class in that area will not be in the public interest;
- (c) No establishments with a cabaret license may operate within one hundred (100) meters of any elementary school, church, or area where such business activities are prohibited by state or national law, except establishments with a cabaret license, including karaoke bars and restaurants, that were in operation prior to January 1, 2006, and had a valid liquor license, may continue to operate within one hundred (100) meters of any elementary school or church after 6:00 p.m. in accordance with law.
- (d) No license shall be renewed or reissued for any person who is delinquent in the payment of taxes on the sale of alcoholic beverages that are payable by him under the provisions of Division 2 of Title 40 of this Code.

Source

PDC § 306(m), as amended by PL 6-8-37 § 1, modified. Amended by RPPL 4-25 § 3(7). Subsection (c) amended by RPPL 5-9 § 1(b). Subsection (c) amended by RPPL 7-13 § 29. Subsection (c) amended by RPPL 7-18 § 2. Subsection (d) is amended by RPPL 8-27 § 22.

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§ 1043. Restrictions on licenses.

Licenses shall be obtained only as prescribed in this chapter and shall not be transferrable from the licensee to any other person. A licensee is limited only to the privileges conferred by the license as stated in this chapter. The license is valid only for the conduct of business on the premises as specified in the application for the license.

Source

PDC § 306(n), modified.

§ 1044. Appeal of decision to deny license; public hearing.

Any applicant whose application for an original license or renewal of a license has been disapproved by the Bureau may appeal such decision by notifying the Bureau in writing within fifteen (15) days after receiving notice of such decision by the Bureau. Upon receipt of such notice by an applicant, the Bureau within fifteen (15) days shall schedule a public hearing to consider the matter, and shall notify the applicant of such hearing at least ten (10) days in advance of such hearing. The applicant shall have the right to appear before the Bureau, may present witnesses, and may be represented by counsel. At such hearing the Bureau Director or his designee shall have the power to subpoena witnesses and documents and administer oaths. The Bureau shall notify the applicant of its findings and decision within five (5) days of the hearing.

Source

PDC § 306(o), modified. Amended by RPPL 5-7 § 34(8)(q) on 10/3/97 effective 10/1/97.

Subchapter IV Conduct and Standard of Business

- § 1061. Sale by wholesaler.
- § 1062. Records from importers.
- § 1063. Safe premises.
- § 1064. Employment of minors.
- § 1065. Keeping unauthorized beverages.
- § 1066. Bringing unauthorized beverages in premises.
- § 1067. Intoxicated persons.
- § 1068. Sale or distribution to minors; purchase, possession, or consumption by minors.
- § 1069. Minor on premises.
- § 1070. Use by employees.
- §§ 1071 - 1074. [Repealed]

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§ 1061. Sale by wholesaler.

No person may sell any alcoholic beverages to any licensed wholesaler or to any licensed retailer holding one or more of the classes of retail alcoholic beverage license described in section 1033(b) of this chapter without first obtaining a wholesale alcoholic beverage license according to the provisions of this chapter. Any wholesaler so licensed shall not sell or transfer any alcoholic beverages to any licensed retailer or other licensed wholesaler without invoicing the licensee's name, license number, the quantity of beverages sold, and the signature of the licensee or his agent acknowledging receipt of the goods. One copy of such invoice shall be retained by the licensee seller, and another copy shall be given to the licensee purchaser. All such invoices shall be retained by both parties for a period of three years, and shall be available at all times for inspection by the Bureau.

Source

PDC § 307(a), modified. Amended by RPPL 5-7 § 34(8)(r) on 10/3/97 effective 10/1/97.

§ 1062. Records from importers.

Any importer duly licensed under the provisions of this Code who imports alcoholic beverages into the Republic shall furnish the Bureau and the Director of the Bureau of National Treasury with copies of bills of lading, invoices, survey reports, and any other information the Bureau or the National Treasury may require for all alcoholic beverages imported into the Republic. Said copies shall be provided monthly, and shall be submitted by the tenth of the following month.

Source

PDC § 307(b), modified. Amended by RPPL 5-7 § 34(8)(s) on 10/3/97 effective 10/1/97.

§ 1063. Safe premises.

The Bureau may prescribe by regulation the arrangement, construction, equipping, lighting, and sanitary facilities of licensed premises which will make safe and sanitary premises, if not otherwise prescribed by law.

Source

PDC § 307(c), modified. Amended by RPPL 5-7 § 34(8)(t) on 10/3/97 effective 10/1/97.

§ 1064. Employment of minors.

A licensee shall not employ any person under the age of twenty-one (21) years in or about that

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portion of the premises which is used for the serving and consumption of alcoholic beverages.

Source

PDC § 307(d), modified.

§ 1065. Keeping unauthorized beverages.

A licensee shall not sell or keep upon the licensed premises or permit to be consumed on the licensed premises any alcoholic beverages other than those in which he is authorized to deal by his license.

Source

PDC § 307(e), modified.

§ 1066. Bringing unauthorized beverages in premises.

Any person bringing alcoholic beverages upon the premises operated by a licensee, including locally manufactured alcoholic beverages, or who consumes them thereon so as to cause a violation of section 1065 shall be guilty of violating this chapter.

Source

PDC § 307(f), modified.

§ 1067. Intoxicated persons.

A licensee, or any of his employees, shall not sell or give or permit to be sold or given away any alcoholic beverages to any obviously intoxicated person.

Source

PDC § 307(g), modified.

Cross-reference

For statutory provisions regarding driving under the influence of intoxicating liquor, see chapter 6 of Title 42.

§ 1068. Sale or distribution to minors; purchase, possession, or consumption by minors.

No person in or about, or from a licensed premises shall offer to sell, give or otherwise distribute alcoholic beverages to minors. The following persons shall be liable to all penalties provided by law for violation of this section:

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- (a) any person, including the minor, who actually participates in, or aids and abets in a violation of this section.
- (b) the licensee(s) of the establishment from which the alcoholic beverages are offered to be sold, given or in which the alcoholic beverages are consumed, irrespective of said licensee's knowledge or lack of knowledge of the violation and irrespective of said licensee's presence or absence from the premises at the time of the violation.
- (c) the manager or employee in charge of the premises at the time of the violation, irrespective of said person's knowledge or lack of knowledge of the violations.

A reasonable belief on the part of the violator that the person in question is twenty one (21) years of age, based on the production of an identification card which shows the person to be at least twenty one (21) years of age, may be considered in mitigation of penalty but shall not be considered a defense to liability under this section.

Source

PDC § 307(h), as amended by PL 7-3-32 § 3, modified.

§ 1069. Minor on premises.

- (a) No minor shall enter or remain upon the premises of any licensed cabaret or club unless accompanied by a parent or a legal guardian.
- (b) The licensee, manager, or employee in charge of any cabaret or club shall, in the event that a person violates the above section, immediately order and require that person to leave the premises, and upon the failure or refusal of said person to leave the premises shall immediately notify the police.
- (c) The licensee shall be responsible for any violation of subsection (b) of this section irrespective of his knowledge or lack thereof of the violation and irrespective of his presence at or absence from the premises at the time the violation occurs.
- (d) The manager or employee in charge of the premises at the time of the violation shall be responsible for any violation of subsection (b) of this section irrespective of his knowledge or lack thereof of the violation.
- (e) A reasonable belief on the part of the violator that the person in question is over twenty one (21) years of age, based on the production of an identification card which

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shows the person to be at least twenty one (21) years of age, may be considered in mitigation of penalty but shall not be considered a defense to liability under this section.

Source

PDC § 307(I), as amended by PL 7-3-32 § 4, modified.

§ 1070. Use by employees.

No employee, owner, manager or agent of any licensee shall consume or be permitted to consume any alcoholic beverages while on duty on such licensed premises, nor shall any such person be on or be permitted to be on such premises while intoxicated.

Source

PDC § 307(l), modified.

Cross-reference

For statutory provisions regarding driving under the influence of intoxicating liquor, see chapter 6 of Title 42.

§ 1071. [Repealed]

Source

RPPL 4-25 § 4(1), modified. Repealed by RPPL 8-27 § 23.

§ 1072. [Repealed]

Source

RPPL 4-25 § 4(2). Repealed by RPPL 8-27 § 23.

§ 1073. [Repealed]

Source

RPPL 4-25 § 4(3). Repealed by RPPL 8-27 § 23.

§ 1074. [Repealed]

Source

RPPL 4-25 § 4(3). Repealed by RPPL 8-27 § 23.

11 PNCA § 1081 BUSINESS & BUSINESS REGULATIONS

Subchapter V Violation, Enforcement and Penalties

- § 1081. Enforcement authority of Bureau of Public Safety.
- § 1082. Inspection by Bureau of Commercial Development and the Bureau of Public Safety.
- § 1083. Grounds for revocation and suspension of licenses.
- § 1084. Procedure for the revocation or suspension of licenses; public hearing.
- § 1085. Criminal and civil penalties.
- § 1086. Miscellaneous prohibited acts involving alcoholic beverages.
- § 1087. Disposition of revenues collected from fines imposed for distribution and consumption of intoxicating beverages in public places.
- §§ 1088 - 1089. [Repealed]

§ 1081. Enforcement authority of Bureau of Public Safety.

The Bureau of Public Safety shall have the power to issue citations and make arrests for violations of this chapter or regulations issued pursuant thereto. The Bureau of Public Safety shall promptly notify the Bureau of Commercial Development of any citation issued or arrest made for violation(s) of this chapter or regulations issued pursuant thereto.

Source

PDC § 308(a), modified. Amended by RPPL 5-7 § 34(8)(u) on 10/3/97 effective 10/1/97.

Cross-reference

For statutory provisions regarding driving under the influence of intoxicating liquor, see chapter 6 of Title 42.

§ 1082. Inspection by the Bureau of Commercial Development and the Bureau of Public Safety.

The Bureau of Commercial Development and the Bureau of Public Safety shall have the right at all times and without notice and without legal process to visit and have immediate access to every part of the premises of every licensee for the purpose of making an examination and inspection of the licensee's books and records and manner of conducting business during the hours in which business is being conducted.

Source

PDC § 308(b), modified. Amended by RPPL 5-7 § 34(8)(v) on 10/3/97 effective 10/1/97.

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§ 1083. Grounds for revocation and suspension of licenses.

The Bureau may suspend or revoke a license of any class on any of the following grounds:

- (a) the continuation of a license would be contrary to the public interest;
- (b) the violation of, or causing or permitting a violation of, or a failure or refusal by a licensee to comply with any provision of this chapter or regulations issued pursuant thereto;
- (c) the misrepresentation of a material fact by the applicant in obtaining or renewing a license; or
- (d) the plea or judgment of “guilty” by the licensee to any public offense involving moral turpitude.

Source

PDC § 308(c), modified. “Board” amended to “Bureau” by RPPL 5-7 § 34(8)(w) on 10/3/97 effective 10/1/97.

§ 1084. Procedure for the revocation or suspension of licenses; public hearing.

When the Bureau of Public Safety or the Bureau of Commercial Development finds, learns, believes or receives information which indicates that any of the grounds for suspension or revocation of a license listed in section 1083 exists in the case of any licensee, the Bureau of Public Safety shall conduct an investigation and shall report the findings and conclusions of such investigation to the Bureau of Commercial Development in writing within seven (7) days after the completion of such investigation. If such investigation indicates that there is reasonable cause to believe that one or more of the grounds for revocation or suspension may exist, the Bureau shall, within fifteen (15) days after the receipt of the report of the investigation, schedule a public hearing on the matter. The Bureau shall notify the licensee under investigation of the alleged violation or offense and the time and place of the hearing at least ten (10) days in advance of such hearing. The licensee under investigation shall have the right to appear before the Bureau, may present witnesses and may be represented by counsel. At such hearing the Director or his designee shall have the power to subpoena witnesses and documents and to administer oaths. The Bureau shall notify the licensee, the President, and the chief executive officer of the state in which the premises are located of its findings and decision in writing within five (5) days of the hearing, and such decision shall take effect immediately upon such notification and shall remain in effect until its expiration.

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Source

PDC § 308(d), modified. Amended by RPPL 5-7 § 34(8)(x) on 10/3/97 effective 10/1/97.

§ 1085. Criminal and civil penalties.

(a) Whoever violates, causes, or permits to be violated, or fails to or refuses to comply with any provisions of sections 1031, 1061 to 1070 or 1082 or 1083(b) shall be fined not more than five hundred dollars (\$500), nor less than one hundred dollars (\$100), or imprisoned not more than one (1) year, or both.

(b) Any person who violates a regulation promulgated by the Bureau pursuant to this chapter shall be liable for such criminal and/or civil penalty as is specified in the regulation; provided no such criminal penalty shall exceed five hundred dollars (\$500) or six (6) months in jail.

(c) Any person who violates other sections of this chapter or other public laws involving alcoholic beverages shall be liable for such civil or criminal penalties as are provided therein.

(d) Criminal penalties for any violation shall be in addition to, and not as a substitute for civil penalties provided by law.

(e) Within sixty (60) days of the effective date of RPPL 4-25, the Minister of Justice or his designee shall promulgate regulations regarding sections [1071(b), 1072, 1073, 1074,] 1082, and 1083(b) of Title 11 of the PNCA; no person shall be prosecuted under these sections until ninety (90) days after the Minister of Justice promulgates the regulations.

Source

PDC § 310, as amended by PL 7-3-32 § 6, modified. Amended by RPPL 4-25 §§ 4(4) and 5(1), modified. Subsection (b) amended by RPPL 5-7 § 34(8)(y) on 10/3/97 effective 10/1/97.

Notes

The bracketed sections [1071, 1072, 1073 & 1074] in subsection (e) above were repealed by RPPL 8-27 § 23.

§ 1086. Miscellaneous prohibited acts involving alcoholic beverages.

(a) Furnishing alcoholic beverages to minors -- no person shall offer to sell, give, or otherwise distribute to or procure for a minor any alcoholic beverage, at any place. Any person who violates this subsection shall be imprisoned for not less than twenty four (24) hours nor more than one (1) year and shall be fined not less than one hundred dollars

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(\$100) nor more than five hundred dollars (\$500). This penalty shall be in addition to any penalty imposed pursuant to section 1085 of this Code.

(b) Purchase, possession or consumption of alcoholic beverages by minors -- no minor shall purchase, possess, receive or consume any alcoholic beverage. Any person who violates this subsection shall be imprisoned for not less than twenty four (24) hours nor more than one (1) year and shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). This penalty shall be in addition to any penalty imposed pursuant to section 1085 of this Code.

(c) Distribution and consumption of intoxicating beverages in public place -- no person may distribute or consume any alcoholic beverages in any public place in the Republic other than:

- (1) places licensed by the Bureau, to serve liquor on the premises;
- (2) the rock islands; and
- (3) places designated pursuant to regulation of the Bureau.

Any person who violates this subsection shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or shall be imprisoned for not more than thirty (30) days, or both.

Source

PL 7-3-32 § 7, modified. Amended by RPPL 5-7 § 34(8)(z) on 10/3/97 effective 10/1/97.

§ 1087. Disposition of revenues collected from fines imposed for distribution and consumption of intoxicating beverages in public places.

One half of the revenues of each fine collected as a result of a violation of 11 PNCA 1086(c) shall, after deposit in the National Treasury, be paid out to the government of the state in which the violation occurred.

Source

RPPL 2-37 § 16, modified.

§§ 1088 - 1089. [Repealed]

Source

RPPL 4-25 § 5(2)(3), modified. Repealed by RPPL 8-27 § 23.

11 PNCA § 1091 BUSINESS & BUSINESS REGULATIONS

Subchapter VI Locally Manufactured Alcoholic Beverages

- § 1091. Restrictions on sale.
- § 1092. Restrictions on manufacturing.
- § 1093. Applicable sales tax.

§ 1091. Restrictions on sale.

No person shall sell locally manufactured alcoholic beverages in the Republic either at wholesale or retail unless he complies with the licensing requirements and other provisions of this chapter, and no person who is a manufacturer of alcoholic beverages shall also sell locally manufactured alcoholic beverages at retail.

Source
PDC § 309(a), modified.

§ 1092. Restrictions on manufacturing.

No person may manufacture, distill, make or otherwise produce alcoholic beverages in the Republic without a valid Alcoholic Beverage Manufacturing License issued by the Bureau in accordance with the provisions of this chapter. The Bureau, after consultation with the Bureau of Health Services, shall establish and promulgate regulations governing the local manufacture of alcoholic beverages, including but not limited to, standards and requirements as to sanitation, health, facilities and equipment, ingredients, manufacturing process, alcoholic content, and labeling. In addition, the Bureau shall require that periodic inspections and tests be conducted by the Bureau of Health Services to insure compliance with the provisions of this section and the regulations issued pursuant to this chapter. The fee for such license shall be one hundred dollars (\$100) per annum, and it shall be credited to the National Treasury. The application procedure for such license and other licensing requirements is outlined in subchapter III of this chapter.

Source
PDC § 309(b), modified. Amended by RPPL 5-7 § 34(8)(aa) on 10/3/97 effective 10/1/97.

§ 1093. Applicable sales tax.

Locally manufactured alcoholic beverages which are manufactured and sold in accordance with the provisions of this chapter shall be subjected to any taxes on the sale of alcoholic beverages

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under Division 2 of Title 40 of this Code.

Source

PDC § 309(c), modified.

Commission Comment

Division 2 of Title 40 of this Code is the Unified Tax Act.

11 PNCA § 1101 BUSINESS & BUSINESS REGULATIONS

Chapter 11 Export Incentive Act

- § 1101. Short title.
- § 1102. Declaration of policy.
- § 1103. Definitions.
- § 1104. Tax incentives.
- § 1105. Application for tax exemption.
- § 1106. Obligation of exporters; record keeping; entry and inspection.

§ 1101. Short title.

This chapter shall be known and may be cited as the “Export Incentive Act.”

Source
RPPL 2-20 § 1, modified.

§ 1102. Declaration of policy.

It is the policy of the Republic to actively encourage, promote, and diversify exports of services, products and materials to the fullest extent possible, and to develop new markets for Palauan products in order to attain a rising standard of living and employment, increase foreign exchange earnings, hasten the economic development of Palau, and to make the nation economically self-sufficient.

Source
RPPL 2-20 § 2, modified.

§ 1103. Definitions.

For purposes of this chapter:

- (a) “Copra” means dried coconut meat;
- (b) “Copra products” refers to and includes, but is not limited to, copra, copra oil and any products manufactured or produced which contain copra or copra oil or any of its derivatives;

(c) “Export broker” means any person, corporation, partnership, or other business entity engaged in the purchasing of export copra or copra products, and fishery products from export copra or copra producers, or fishery product producers, and the selling of these products to purchasers abroad, to other export brokers or to foreign markets, businesses, tourists and foreign travelers;

(d) “Export producer” means any person, corporation, partnership, or other business entity engaged in the manufacture or processing of export copra or copra products and fishery products and the selling abroad of its export copra or copra products, and fishery products, or the selling of such products to an export broker who subsequently exports such products, or the selling of such products to another export producer who utilizes such products as direct inputs in products subsequently manufactured and exported, or the selling of such products to foreign markets, businesses, tourists, and foreign travelers;

(e) “Export sales” means revenues from copra and fishery products sold and exported directly by an export producer, or export broker, or revenues from export copra and fishery products sold by an export producer to another export producer or export broker who subsequently exports the same, or revenues from export copra and fishery products sold by an export producer or export broker to foreign tourists, markets, businesses, and foreign travelers; provided, however, that sales of export copra or fishery products to an export producer or export broker shall only be deemed export sales when actually exported by the latter. Exportation of products on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee;

(f) “Fishery products” means migratory fish and products derived from migratory fish and does not include fish that inhabit reef areas and waters landward of reef areas.

Source

RPPL 2-20 § 3, terms put into alphabetical order and section modified.

§ 1104. Tax incentives.

Revenues of export producers, export brokers, and service exporters derived from export sales and otherwise subject to payment of gross revenue tax under chapter 12 of Title 40 of this Code shall be exempt from such gross revenue tax and from any successor sales or profits tax which hereafter may be imposed unless otherwise provided by law. Salaries, or any portion thereof, attributable to export sales shall not be attributed to revenues otherwise derived in determining the amount of taxes otherwise payable. This section shall apply to revenue earned from export sales for a period of five (5) years, from the date that this chapter became law.

11 PNCA § 1104 BUSINESS & BUSINESS REGULATIONS

Source

RPPL 2-20 § 4, modified.

Cross-reference

Division 2 of Title 40 of this Code is the Unified Tax Act. "Gross revenue" is defined in § 1002(o) of chapter 10 of Title 40.

Commission Comment

This Act was signed into law on August 15, 1986.

§ 1105. Application for tax exemption.

All export copra and fishery products producers, or export copra and fishery products brokers who wish to avail themselves of the tax incentive set forth in section 1104 of this chapter must make an application to the Chief of the Division of Revenue and Taxation explaining in detail the nature of the business to be conducted and the volume of business expected or projected.

Source

RPPL 2-20 § 6, modified.

Cross-reference

Division 2 of Title 40 of this Code is the Unified Tax Act.

§1106. Obligation of exporters; record keeping; entry and inspection.

(a) Every export copra and fishery producer, export copra and fishery broker shall keep full records and inventories, satisfactory to the Minister of Finance of the Republic, of all:

- (1) its financial transactions, assets, liabilities, and funds related to the conduct of exporting copra and fishery products;
- (2) copra and fishery products exported by it;
- (3) copra and fishery products, manufactured, or processed by it in the Republic; and
- (4) copra and fishery products held by it in the Republic.

(b) The Minister of Finance or any authorized representative of the Minister, shall be entitled at all reasonable times to enter and inspect the premises and records of export

copra and fishery products producers and export copra and fishery brokers for the purpose of ascertaining whether the provisions of this chapter are being complied with.

Source

RPPL 2-20 § 5, modified.

Cross-reference

For statutory provisions on export controls, see chapter 2 of Title 28. For statutory provisions on the licensing of copra trade, see chapter 3 of Title 28.

11 PNCA § 1201 BUSINESS & BUSINESS REGULATIONS

Chapter 12 Off-Shore Banking Act [Repealed]

§ 1201 - § 1212. [Repealed]

Source

RPPL 1-32 §§ 1, 3, 4, 6, 7, 9 and 10, modified. RPPL 1-32 § 2; § 2(a) and § 2(e) deleted as unnecessary; terms put into alphabetical order; and section modified. RPPL 4-28 § 2(b). Repealed by RPPL 4-54 § 1 effective 9/13/97.

Cross-reference

Chapter 1, Title 28 of this Code governs foreign investors business permits; chapter 3 of Title 11 of this Code governs usurious interest; and chapter 5 of Title 26 of this Code governs commercial bank disclosures. Statutory provisions on corporations and the Registrar of Corporations is found in chapter 1 of Title 12.

Commission Comment

Sections 1203(l), 1207(a), 1207(b), 1210(a), 1210(b), and 1210(c) suspended by High Commissioner on the basis that these sections are inconsistent with the provisions of the Trusteeship Agreement and applicable United States laws and reporting act. Further, the suspended provisions could lead to obstruction of criminal investigations of United States law enforcement personnel in contravention of section 1(a) of United States Public Law 90-123 and to the frustration of United States court orders in contravention of section 101, Title 1, United States Public Law 86-449. See, telegram from High Commissioner Janet J. McCoy to President Haruo I. Remeliik, dated June 23, 1982.

Notes

“The Republic Off-Shore Banking Act” became effective on December 30, 1994.

Kruger v. Social Sec. Bd., 5 ROP Intrm. 91, 93 (1995).

**Chapter 13
Public Accountants**

- § 1301. Legislative findings and purposes.
- § 1302. Definitions.
- § 1303. Board of Accounting established.
- § 1304. Members.
- § 1305. Terms of Office.
- § 1306. Appointments to fill vacancies, vacancies not to impair power.
- § 1307. Disclosure of interest, disqualifications.
- § 1308. Board duties and power.
- § 1309. Suspension and revocation of licenses.
- § 1310. Saving clauses.
- § 1311. Penalties.
- § 1312. Enforcement.

§ 1301. Legislative findings and purposes.

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

- (a) It is in the national interest, to protect the Republic and the Republic’s citizens, that individuals and firms be licensed to practice public accounting and hold themselves out to the public to practice as Certified Public Accountants.
- (b) The purpose of this chapter is to establish licensing procedures for public accountants and to require all persons practicing accounting in the Republic of Palau to be licensed.

Source
RPPL 3-71 § 1, modified.

§ 1302. Definitions.

As used in this chapter:

- (a) “Board” means a Board of Accounting in the Republic of Palau created by this chapter.

11 PNCA § 1302 BUSINESS & BUSINESS REGULATIONS

(b) “Certified Public Accountant” means a person licensed by the Board (as hereinafter defined) or licensed or recognized as a certified public accountant by any Board of Accountancy in the United States or any of its jurisdictions.

(c) “Public Auditor” means Public Auditor of the Republic of Palau.

Source

RPPL 3-71 § 2, terms put into alphabetical order and section modified.

§ 1303. Board of Accounting established.

There is hereby established a Board of Accounting consisting of five members, four members to be appointed by the President with the advice and consent of the Senate and the Public Auditor who shall serve as Chairman. The Board may meet regularly as it deems necessary. The Board shall establish its own rules of procedures for the conduct of its business.

Source

RPPL 3-71 § 3.

§ 1304. Members.

The President of the Republic shall make appointments to all vacancies on the Board within 60 days of the effective date of this chapter, and all subsequent appointments shall be made within 45 days should a vacancy occur for any reason or should the preceding appointments be rejected by the Senate. Members of the Board shall not serve beyond the expiration of their term unless reappointed and reconfirmed by the Senate. The President of the Republic shall have the power to remove any Board member for cause.

Source

RPPL 3-71 § 4, modified.

§ 1305. Terms of Office.

The terms of office of members of the Board appointed by the President of the Republic shall be three years for two members and two years for two members.

Source

RPPL 3-71 § 5.

§ 1306. Appointments to fill vacancies; vacancies not to impair power.

(a) Any vacancy on the Board shall be filled for the unexpired term of said vacancy in the same manner as originally filled.

(b) Vacancies on the Board, so long as there shall be three members in office, shall not impair the powers of the Board to execute the functions of the Board, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

Source

RPPL 3-71 § 6, modified.

§ 1307. Disclosure of interest; disqualification.

Any Board member who has any financial or personal interest, direct or indirect, in any matter pending before the Board shall disclose such interest to the Board and shall take no part in the discussion of any such matter nor vote thereon.

Source

RPPL 3-71 § 7, modified.

§ 1308. Board duties and power.

The Board shall be empowered to license persons to be Certified Public Accountants in the Republic of Palau, and to establish reasonable fees for examination, admission, and annual licenses to practice. All fees received shall be deposited in the National Treasury. Examinations shall be offered at least annually if requested and if Palau receives approval as a testing site by the American Institute of Certified Public Accountants. The Board shall, to the maximum extent it considers practical considering the circumstances of Palau, adopt the policies and procedures incorporated in the Model Accountancy Act published by the American Institute of Certified Public Accountants.

Source

RPPL 3-71 § 8, modified.

§ 1309. Suspension and revocation of licenses.

The Board, for good cause consisting of violation of this statute, or of other laws of the Republic

11 PNCA § 1309 BUSINESS & BUSINESS REGULATIONS

of Palau during a Certified Public Accountant's professional work, or of rules, standards, or ethics adopted pursuant to section 1308 of this chapter, may suspend or revoke the license of a Certified Public Accountant; provided, however, that the Board shall afford the Certified Public Accountant written notice of the charges and opportunity to answer them. The vote of a majority of the Board then in the office shall be required for any decision to suspend or revoke a license. Any Certified Public Accountant whose license has been revoked, or suspended for more than thirty (30) days, may appeal to the Trial Division of the Supreme Court of the Republic of Palau, claiming that the action of the Board was not supported by substantial evidence.

Source

RPPL 3-71 § 9, modified.

§ 1310. Saving clause.

Any person who is certified by any Board of Accountancy in the United States or its jurisdictions may practice public accounting in the Republic provided that such person pays admission fees and obtains a public accounting license.

Source

RPPL 3-71 § 10.

§ 1311. Penalties.

Any person who willfully violates the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment for a period not exceeding one (1) year or a fine not to exceed five thousand dollars (\$5,000.00) or both.

Source

RPPL 3-71 § 11, modified.

§ 1312. Enforcement.

The Attorney General of the Republic of Palau shall be responsible for enforcement of this chapter.

Source

RPPL 3-71 § 12, modified.

Chapter 14
Gaming Businesses

§ 1401. Definitions.

§ 1402. Authority of President to grant concession.

§ 1403. Mandatory terms of Concession Agreements.

§ 1401. Definitions.

(a) “Internet Digits Lottery Game Business” means a business which maintains and operates a lottery game in which players pay money via a credit card, enter a wager amount, and choose numbers in sequence through the internet or other interactive computer service.

(b) “Virtual Pachinko Business” means a business which maintains and operates on a computer software program that simulates a pachinko game and that may be accessed by multiple users through the internet or other interactive computer service.

Source

RPPL 5-45 § 1(a).

§ 1402. Authority of President to grant concession.

Upon promulgation of rules and regulations implementing this section, the Minister of Finance, at the direction and with the approval of the President, shall be authorized to grant up to two (2) Virtual Pachinko Concessions (“Pachinko Concession”) and execute Pachinko Concession Agreements with, any person or entity (“Operator”) to organize and operate a Virtual Pachinko Business, and to grant up to two (2) Internet Digits Lottery Game Concessions (“Internet Digits Concession”) for the operation of internet digits lottery games within the Republic, provided that:

(a) The term of each Concession Agreement shall not exceed ten (10) years, provided the term may be extended for up to an additional five (5) years upon agreement by the Minister of Finance, at the direction and with the approval of the President, and the Operator.

(b) Each Concession Agreement shall provide for a minimum annual Concession fee of four percent (4%) of the gross revenue realized from the operation of each Virtual Pachinko Business or Internet Digits Lottery Game Business in Palau. The fee shall be

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due quarterly, on or before the thirtieth day following the close of each quarter, plus an annual license fee of forty five thousand dollars (\$45,000) per year payable in advance of each fiscal year, provided that the first payment of this annual license fee shall be paid upon the execution of a Concession Agreement.

(c) For purposes of section 1402 of this chapter, “gross revenue” means the total amount of money received by the Operators from the Pachinko Concessions and from the Internet Digits Concessions, less any payouts to pachinko or internet digits lottery winners and less the entire amount paid in salaries to citizen employees who are residents of the Republic. The Operators of the Pachinko Concessions and Internet Digits Concessions shall provide to the Republic statements on a monthly basis, certified under penalty of perjury, attesting to the gross revenues and payout amounts to winners in each concession and the amount of salaries paid out to citizen employees who are residents of the Republic.

(d) The Operators shall maintain at all times the financial capability to pay their obligations. The Operators shall submit to the Minister of Finance on an annual basis a financial audit demonstrating the financial capability of the Concessions, and shall, at the discretion of the Minister of Finance, at the direction and with the approval of the President, be subject to an outside audit to determine financial capability. Financial capability shall be determined by establishing whether the business’ assets are able to cover its liabilities.

(e) There shall be established by each Concession Agreement a limit on the amount of money (expressed in U.S. Dollars) each player may spend during each session of play.

(f) The Operators shall comply with all licensing and permitting requirements.

(g) The Operators shall offer no games other than Pachinko or Internet Digits Lottery Game respectively.

(h) The Operator shall implement appropriate controls to make it impossible for a computer located in Palau to access the internet site or sites of the Virtual Pachinko Business and the Internet Digits Lottery Game Business. The Palau National Communication Corporation is required to block the internet site or sites of the Virtual Pachinko Business and the Internet Digits Lottery Game Business to deny access by any computer located in Palau.

(i) Should any Concession fail to meet the requirements set out by this chapter or any

express requirement contained in the individual Concession Agreement, the Minister of Finance shall notify such Concession of impending revocation. If the failure on the part of the Concession is not remedied within the amount of time deemed appropriate by the Minister of Finance, the Minister of Finance may revoke the Concession Agreement at the direction and with the approval of the President.

(j) The Operator of any concession under this section shall, within one year after the effective date of the Concession Agreement, commence operations of the concession. Should any Operator fail to meet this requirement, the Concession agreement shall become null and void.

(k) Once Pachinko concessions have been granted and operation is imminent or ongoing, the Minister, at the direction and with the approval of the President, may create a virtual Pachinko control office in Palau, if such an office becomes necessary to manage the Pachinko concessions and their compliance with rules and regulations promulgated pursuant to this Section.

Source

RPPL 5-45 § 1(a), modified. Amended by RPPL 5-46 § 3. Amended by RPPL 8-21 § 2, modified. RPPL 8-54 § 2 amends the first paragraph and subsections (a) to (h), modified.

§ 1403. Mandatory terms of Concession Agreements.

In negotiating the terms of a Concession Agreement pursuant to this chapter, the Minister of Finance, at the direction and with the approval of the President, shall obtain substantially the following terms:

(a) Each Concession shall be nontransferable, except that a Concession may be transferred with the prior written consent of the Minister of Finance, after a determination by the Minister, with the approval of the President, that it is in the best interest of the Republic. Payments of gross revenue due to the Republic under the Agreement shall be made quarterly, on or before the thirtieth day following the close of each quarter. The payments of the forty five thousand dollars (\$45,000) annual license fee due to the Republic under the Agreement shall be made in advance of each fiscal year, provided that the first payment of the annual license fee shall be paid upon the execution of the Concession Agreement. The Minister of Finance shall negotiate reasonable terms. Payments due to the Republic under the Agreement shall be made six (6) months after the commencement of operations pursuant to the Agreement and every six (6) months thereafter. The President shall negotiate reasonable terms regarding default. When a

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payment to the Republic is made, the operator of the Concession shall provide a detailed written accounting of revenues and expenses relating to the Concession for the period for which payment is made.

(b) The courts of the Republic of Palau shall have exclusive jurisdiction over all matters or claims arising under the Concession Agreement and all claims made by players of internet pachinko or the internet digits lottery game.

(c) The Republic of Palau shall be immune from liability for any claim made by a player of any game authorized pursuant to a Concession Agreement under this chapter, or by any government within the jurisdiction of which the gambling, games authorized pursuant to this chapter are prohibited. The operator of a Concession shall provide a competent legal counsel or counsels to the Republic and hold the Republic harmless in any action made by any players against the operator of a Concession under this chapter or by any government. The Republic shall have the right to retain legal counsel of its own choosing to defend any claims.

(d) The operator of a Concession granted under this chapter shall provide annual reports to the President regarding all details of operations, revenues, payouts, and any pending and potential legal claims against the operator. The operator shall further provide complete annual financial statements on the game authorized under a Concession Agreement, and such financial statements shall be audited by an independent auditor who is a certified public accountant licensed in the United States of America or the Republic of Palau. Reports under this subsection shall be delivered to the President not later than the beginning of the Republic's fiscal year.

(e) The President shall report to the Olbiil Era Kelulau in writing at least every two (2) years regarding all details of operations, revenues, payouts, and any pending and potential legal claims against the operator. The President's report shall further include an evaluation of the benefits to the Republic of the games authorized pursuant to a Concession Agreement and an assessment of whether the restrictions against participation by Palauan citizens are effective.

(f) After granting a Concession under this chapter, the President shall submit complete copies of the Concession Agreement to the presiding officers of the Olbiil Era Kelulau, and such copies are deemed to be public documents.

(g) Each Concession Agreement extended for an additional term beyond the original term shall be subject to unilateral termination by law upon sixty (60) days notice if the

Olbiil Era Kelulau finds on the basis of substantial evidence that termination would be in the best interest of the Republic.

(h) If, after a Concession is granted pursuant to this chapter, it is determined on the basis of evidence admissible in the Courts of the Republic that any officer or director of the operator of the Concession has been convicted of a felony in any jurisdiction, or that any officer or director is under indictment for a felony in any jurisdiction, the Concession Agreement shall be deemed to be null and void ab initio. The Republic may waive the operation of this subsection if the felony conviction or indictment is for a charge unrelated to the business authorized under the Concession Agreement.

Source

RPPL 5-45 § 1(a). Amended by RPPL 8-21 § 3, modified. Amended in its entirety by RPPL 8-54 § 3, modified.

Notes

RPPL 8-21 § 5 reads: Regulations. The Minister of Finance shall, within 90 days of enactment of this Act and in accordance with 6 PNC Chapter 1, the Administrative Procedure Act, promulgate rules and regulations implementing Section 3 of this Act.

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Chapter 15 Anti-Price Gouging Act

- § 1501. Purpose; prohibited acts.
- § 1502. Definitions.
- § 1503. Determination of excessive price.
- § 1504. Penalties.
- § 1505. Civil action.

§ 1501. Purpose; prohibited acts.

During any abnormal disruption of the market for consumer goods and services vital and necessary for the health, safety, and welfare of consumers, no party within the chain of distribution of such consumer goods or services shall sell or offer to sell any such goods or services for an unconscionably excessive price.

Source

RPPL 6-22 § 3, modified.

Notes

RPPL 6-22 is referred to as the “Anti-Price Gouging Act of 2002.” Section 2 of the Act reads: Legislative findings: The Olbiil Era Kelulau finds that during periods of abnormal disruption of the market caused by strikes, tropical storms, power failures, severe shortages, or other extraordinary adverse circumstances, some parties within the chain of distribution of consumer goods or commodities have taken unfair advantage of consumers by charging grossly excessive prices for essential consumer goods and services. In order to prevent any party within the chain of distribution of any consumer goods or commodities from taking unfair advantage of consumers during abnormal disruptions of the market, the Olbiil Era Kelulau declares that the public interest requires that such conduct be prohibited and made subject to civil penalties.

§ 1502. Definitions.

In this Chapter:

- (a) “Abnormal disruption of the market” means any change in the market, whether actual or imminently threatened, resulting from stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or a change in the market associated with a state of emergency declared by the President of the Republic;

(b) “Consumer goods and services” means those goods and services used, bought, or rendered primarily for personal, family, or household purposes. Consumer goods and services shall also include repairs made by a party within the chain of distribution of consumer goods on an emergency basis as a result of an abnormal disruption of the market.

(c) “Reasonable business justification” means evidence of increased costs that are beyond the control of a person who becomes a defendant under this chapter.

Source

RPPL 6-22 § 4, modified.

§ 1503. Determination of excessive price.

Whether a price is unconscionably excessive is a question of law for the court.

(a) The court’s determination that a violation of this chapter has occurred shall be based on whether:

(1) the price increase of specific goods or a specific service occurring within thirty (30) days after an abnormal disruption of the market is more than twenty five percent (25%) over the price immediately before the disruption; or

(2) a price increase of less than twenty five percent (25%), in circumstances described in subsection (a)(1), lacks reasonable business justification.

(b) In any proceeding commenced pursuant to this chapter, prima facie proof that a violation has occurred shall include evidence that the amount charged is more than twenty five percent (25%) over the price of the goods or services which were the subject of the transaction and their value measured by the price at which such consumer goods or services were sold or offered for sale by the defendant in the usual course of business immediately prior to the onset of the abnormal disruption of the market; or

(c) A defendant may rebut a prima facie case with evidence that additional costs not within the control of the defendant were imposed on the defendant for the goods or services.

(d) Claims under this chapter may be made against all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor, or retail seller

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of consumer goods or services or both sold by one party to another when the product sold was located in the Republic prior to the sale.

Source
RPPL 6-22 § 5, modified.

§ 1504. Penalties.

Where a violation of this chapter is alleged to have occurred, the attorney general may apply, on notice of five days, for an order enjoining or restraining commission or continuance of the alleged unlawful acts. In any such proceeding, upon conviction of the defendant, the court shall impose a civil penalty not to exceed ten thousand dollars (\$10,000) on each defendant and order restitution to aggrieved consumers. In determining the amount of restitution to be paid by a convicted party, the court may consider economic factors that would reasonably justify the defendant's charging a price less than twenty five percent (25%) greater than the price charged immediately prior to the abnormal disruption of the market.

Source
RPPL 6-22 § 6, modified.

§ 1505. Civil action.

Any person may bring a suit in the Supreme Court, on his behalf and on behalf of all others similarly situated, for the recovery of the difference between the prevailing retail price before the abnormal disruption of the market and the amount paid in excess of such price, plus five hundred dollars (\$500), and shall be entitled to reasonable attorneys' fees.

Source
RPPL 6-22 § 7, modified.

**Chapter 16
Recycling Program**

- § 1601. Definitions.
- § 1602. Recycling Program.
- § 1603. Declaration of authority.
- § 1604. Recycling Fund.
- § 1605. Deposit fee.
- § 1606. Deposit beverage refund.
- § 1607. Redemption centers.
- § 1608. Deposit beverage distributors, registration and record keeping requirements.
- § 1609. Rules and regulations.
- § 1610. Appropriation.
- § 1611. Payment.
- § 1612. Procedure.
- § 1613. Presumption.
- § 1614. Prepayment.
- § 1615. Reusable water containers; tour operators.
- § 1616. Reusable meal containers; tour operators.
- § 1617. Lien on property.
- § 1618. Civil penalty.
- § 1619. Criminal penalty.

§ 1601. Definitions.

Unless the context clearly indicates otherwise, the following meanings shall apply to this chapter:

- (a) “Deposit Beverage” means any liquid intended for human consumption. The term “deposit beverage” does not include a liquid which is ingested for medicinal purposes only.
- (b) “Deposit Beverage Container” means the individual, separate, glass, polyethylene terephthalate, high density polyethylene, or metal container of any size that is used for containing, at the time of sale to the consumer, a deposit beverage intended for consumption in the Republic.
- (c) “Deposit Beverage Distributor” means a person who is a manufacturer of beverages in deposit beverage containers in the Republic, or who imports and engages in the sale of

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filled deposit beverage containers to a dealer or consumer. The term does not include airlines and shipping companies that merely transport deposit beverage containers, unless said containers are deposited in Palau.

(d) “Import” means to buy, bring, or accept delivery of deposit beverage containers from an address, supplier, or any entity outside of the Republic.

(e) “Importer” means any person who buys, brings, or accepts deliver of deposit containers from outside the Republic for sale or use within the Republic.

(f) “Minister” means the Minister of Public Infrastructure and Industries.

(g) “Ministry” means the Ministry of Public Infrastructure and Industries.

(h) “Redeemer” means a person, other than a dealer or distributor, who demands the refund value in exchange for the empty deposit beverage container.

Source

RPPL 7-24 § 2, modified. Subsections (a) and (b) are amended by RPPL 10-31 § 2.

Notes

RPPL 10-31 § 3 reads: Ministry of Public Infrastructure, Industries and Commerce Plan for Recycling Other Waste. Within six (6) months of the enactment of this bill into law, the Ministry of Public Infrastructure, Industries and Commerce shall develop and submit a plan to the Olbiil Era Kelulau to either recycle (if recyclable) or safely dispose of (in an environmentally friendly manner) other material not covered in this Act.

§ 1602. Recycling Program.

There is hereby established a Recycling Program in the Republic of Palau. The purpose and aim of the Recycling Program is to create a self-supported, safe and efficient system of disposal of beverage containers and other recyclable waste throughout Palau.

Source

RPPL 7-24 § 3, modified. Amended by RPPL 10-42 § 23.

§ 1603. Declaration of authority.

(a) The Ministry shall have the duty and authority to administer the Recycling Program. Such authority includes, but is not limited to, the administration of the Recycling Fund, the hiring of employees and contractors and consultants, the purchasing and selling of

property and services, the leasing or obtaining interests in land on behalf of the national government, the receipt of donations and contributions, and the entering into agreements to further the purposes of the Recycling Program.

(b) As the responsible agency for the Republic of Palau, the Ministry may, from time to time, delegate or contract out the administration of the Recycling Program to other governmental agencies of the national government, state governments or private companies; PROVIDED that the ultimate responsibility and authority for the Recycling Program shall rest with the Minister of Public Infrastructure and Industries.

Source

RPPL 7-24 § 4, modified.

§ 1604. Recycling Fund.

(a) There is hereby established a revolving fund within the National Treasury that shall be known as the “Recycling Fund,” to be maintained by the Ministry of Finance, separate and apart from other funds of the National Treasury. Independent records and accounts shall be maintained in connection therewith.

(b) All revenue received from deposit fees received pursuant to this chapter, or the sale of beverage containers under the provisions of this chapter, appropriations by the Palau legislature, any grants, donations and contributions to the Recycling Program, and any interest or income earned on the money in the Recycling Fund shall be deposited into the Recycling Fund.

(c) Except when specific requirements are imposed by law or by the grantor or donor, the Recycling Fund shall first be applied to the expenses attributable to the administration of the Recycling Program, then to payments required under [§ 1606] of this chapter, then to a reserve to cover anticipated and unanticipated future expenses of the program. The Ministry may also use the money to:

(1) Fund administrative, audit, and compliance activities associated with the collection and payment of the deposits and handling fees of the deposit beverage container fee and deposit program;

(2) Conduct recycling education, plastics educations programs consistent with 11 PNC [§ 2104], and demonstration projects;

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- (3) Promote recyclable market development activities; and
- (4) Fund solid waste management construction, operations, and maintenance activities.

(d) Money in the fund is hereby authorized and is hereby appropriated and may be obligated or expended without further legislative action for the purposes stated in this chapter.

(e) The Minister shall, not later than ninety (90) days after the close of each fiscal year, submit to the President and Olbiil Era Kelulau (OEK) a complete report showing its activities under the Recycling Program and the use and condition of the Recycling Fund, and such other matters that the Ministry deems appropriate. The activities concerning the Recycling Fund shall be examined by the Public Auditor at least annually, and the report of such examination shall be supplied to the President and the OEK.

Source

RPPL 7-24 § 5, modified. Subsections (a), (b) and (c) amended by RPPL 10-14 § 3. Subsection (c) amended by RPPL 10-42 § 24, modified.

Notes

The bracketed [§ 1606] in subsection (c) replaced “§ 1605” in the original legislation, and also, the bracketed [§ 2104] in subsection (c)(2) replaced “§ 2103” in the original legislation as per Code Commission.

§ 1605. Deposit fee.

A beverage distributor shall pay to the Ministry a deposit beverage container fee on each deposit beverage container manufactured in or imported to the Republic. The fee shall be imposed only once on the same beverage container. The fee shall be ten cents (\$0.10) per beverage container. The Ministry shall evaluate the amount of deposit beverage containers recovered during the first six months of the fully implemented deposit beverage container deposit program and recommend to the OEK any modification in the fee structure necessary to meet the deposit beverage container deposit program funding requirements. This section shall become effective four months after the effective date of this chapter.

Source

RPPL 7-24 § 6, modified.

§ 1606. Deposit beverage refund.

Using the monies in the Recycling Fund, the Minister shall purchase beverage containers for five cents (\$0.05) per container. Beverage containers may only be purchased through redemption centers established pursuant to section 1607 of this chapter. The Minister shall sell beverage containers for recycling at market prices. This section shall become effective four months after the effective date of this chapter.

Source

RPPL 7-24 § 7, modified.

§ 1607. Redemption centers.

- (a) To facilitate the return of empty beverage containers, the Ministry shall establish one or more redemption centers at which empty beverage containers may be returned and payment received. Any person may operate a redemption center subject to the approval of the Minister.
- (b) The application for approval of a redemption center shall be filed with the Ministry and contain such information as the Ministry may require.
- (c) The approval of a redemption center may contain such terms and conditions as the Ministry deems appropriate. Such terms and conditions may differ among redemption centers and may be altered or amended from time to time as the situation warrants. Using the money in the Recycling Fund, the Minister may provide compensation not to exceed twenty five cents (\$0.025) per container to the redemption centers for their services.
- (d) The Minister may withdraw the right to serve as a redemption center at any time for noncompliance with the terms and conditions of this chapter, or the rules and regulations adopted pursuant to section 1609 of this chapter.

Source

RPPL 7-24 § 8, modified.

§ 1608. Deposit beverage distributors, registration and record keeping requirements.

Four months after the effective date of this chapter, all deposit beverage distributors operating within the Republic shall register with the Ministry, using forms prescribed by the Ministry, and shall notify the Ministry of any changes in address or other information previously submitted.

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(a) After this chapter is enacted, any person who desires to conduct business in the Republic as a new deposit beverage distributor shall register with the Ministry no later than one month prior to the commencement of the business.

(b) All deposit beverage distributors shall maintain records reflecting the manufacture of their beverages in deposit beverage containers as well as the importation of deposit beverage containers. The records shall be made available, upon request, for inspection by the Ministry; provided that any proprietary information obtained by the Ministry shall be kept confidential and shall not be disclosed to any other person, except:

- (1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision herein, or
- (2) Under an order issued by a court.

Source

RPPL 7-24 § 9, modified.

§ 1609. Rules and regulations.

(a) The Minister may promulgate, amend and enforce appropriate rules and regulations to carry out the duties and powers set forth herein, which may include, but are not limited to, provisions governing:

- (1) The collection, purchase, sale or other disposal of beverage containers;
- (2) The type and condition of the beverage containers that may be redeemed;
- (3) The methods and requirements for the redemption of the beverage containers;
- (4) All matters concerning the operation of redemption centers;
- (5) The prohibition of importing empty beverage containers for the purpose of redeeming them in Palau; and
- (6) Other matters necessary for the administration of this chapter.

The power of the Minister to establish such rules and regulations is subject to the powers of the Minister of Finance to establish rules and regulations regarding the collection of the deposit fee and the establishment and operation of the Recycling Fund as set forth in

section 1614 of this chapter.

(b) The Minister of Finance shall promulgate, amend and enforce appropriate rules and regulations regarding the collection of the deposit fee and the establishment and operation of the Recycling Fund. All rules and regulations established under this chapter shall be adopted pursuant to the Administrative Procedures Act.

Source

RPPL 7-24 § 10, modified.

§ 1610. Appropriation.

The sum of one hundred thousand dollars (\$100,000) is hereby authorized to be appropriated for expenditure and obligation for Fiscal Year 2007 for the purpose of providing start-up funds for the Palau Recycling Program, for the collection of deposit containers already on the island and for the exercise of the powers and duties set forth herein. Such sums shall be deposited into the Recycling Fund and shall be administered in accordance with this chapter. Any unexpended or unobligated balance of this appropriation shall not lapse at the end of the fiscal year.

Source

RPPL 7-24 § 11, modified.

§ 1611. Payment.

The deposit fee levied under section 1605 of this chapter shall attach as follows:

- (a) If intended for resale, at the time of the first retail sale in Palau; and
- (b) If intended for personal use, at the point of import.

All deposits that have attached during a calendar month shall be paid to National Treasury on or before the fifteenth day of the succeeding month and shall be administered by the Minister of Finance. Deposit fee revenues not paid within the time specified shall be considered delinquent.

Source

RPPL 7-24 § 12, modified.

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§ 1612. Procedure.

The first seller of beverages subject to the deposit fee under this chapter shall keep accurate records of all sales of the beverages subject to this chapter, and shall provide the Ministry of Finance with supporting documents to substantiate the accuracy of all reports filed.

Source
RPPL 7-24 § 13, modified.

§ 1613. Presumption.

It shall be presumed that all beverage containers are subject to the deposit fee imposed by this chapter until the contrary is proved, and the burden of proving that a beverage container is not subject to the deposit fee shall be upon the seller.

Source
RPPL 7-24 § 14, modified.

§ 1614. Prepayment.

The first seller of beverage containers shall have the option of prepaying all deposit fees due under this chapter in accordance with regulations issued by the Minister of Finance.

Source
RPPL 7-24 § 15, modified.

§ 1615. Reusable water containers; tour operators.

All tour operators licensed pursuant to 11 PNC § 901 shall provide their customers with a reusable alternative to disposable plastic or polystyrene cups, water bottles, and drinking straws, whether through the provision of a reusable water dispenser, the provision of reusable individual water containers and straws, or other means.

Source
RPPL 10-30 § 4.

§ 1616. Reusable meal containers; tour operators.

All tour operators licensed pursuant to 11 PNC § 901 shall provide their customers with a

reusable alternative to disposable plastic or polystyrene food containers, whether through the provision of reusable containers, the provision of reusable dishes, or other means.

Source
RPPL 10-30 § 4.

§ 1617. Lien on property.

All deposit fees imposed under this chapter shall be a lien upon any property of the person obligated to pay the deposit fees and may be collected by levy upon such property in the same manner as the levy of an execution.

Source
RPPL 7-24 § 16, modified.

Notes
This section was formerly designated as § 1615 and was re-numbered by RPPL 10-30 § 4.

§ 1618. Civil penalty.

All deposit fees due under this chapter shall be subject to a penalty of five percent (5%) of the unpaid fees due per month or portion thereof that such fees remain unpaid.

Source
RPPL 7-24 § 17, modified.

Notes
This section was formerly designated as § 1616 and was re-numbered by RPPL 10-30 § 4.

§ 1619. Criminal penalty.

Any person who knowingly, willfully and unlawfully violates or refuses to comply with any provision of this chapter, or with any regulation duly issued by the Minister of Finance or the Minister of Public Infrastructure and Industries for the enforcement of this chapter shall, upon conviction thereof, be imprisoned for not more than ninety (90) days and/or fined not more than five hundred dollars (\$500). The criminal penalties are in addition to the civil penalties that may be due under this chapter.

Source
RPPL 7-24 § 18, modified.

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Notes

This section was formerly designated as § 1617 and was re-numbered by RPPL 10-30 § 4.

**Chapter 17
Tobacco Control Act**

- § 1701. Short title.
- § 1702. Definitions.
- § 1703. License required; period of effectiveness.
- § 1704. Classes of tobacco licenses.
- § 1705. License fees.
- § 1706. Licenses for multiple activities; separate places of business.
- § 1707. Licensing limitations.
- § 1708. License application, review, denial and appeal.
- § 1709. Regulations.
- § 1710. Posting licenses and signs.
- § 1711. Tobacco or e-cigarette advertising, promotion and sponsorship prohibited.
- § 1712. Prohibition on vending machine sales.
- § 1713. Restrictions on smoking tobacco in public places.
- § 1714. Prohibition of smoking on airline flights between points in Palau.
- § 1715. Illicit trade in tobacco products.
- § 1716. Enforcement.
- § 1717. Law enforcement exemption.
- § 1718. Penalties.
- § 1719. License revocation.
- § 1720. Disposition of collected fines and fees.
- § 1721. Prohibitions on distribution, purchasing, importing, exporting, and manufacturing:
- § 1722. Prohibition on sale, distribution, importing, and manufacturing of e-cigarettes for commercial purposes.
- § 1723. Purchase, possession or consumption of electronic cigarettes.

§ 1701. Short title.

This chapter may be cited as the “Tobacco Control Act.”

Source
RPPL 9-6 § 8.

§ 1702. Definitions.

Unless otherwise stated:

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- (a) “Adult care facility” means all land, buildings, structures and improvements within the boundaries of any real property which is used primarily for the care of adults with special needs or senior citizens.
- (b) “Childcare facility” means all land, buildings, structures and improvements within the boundaries of any real property which is used primarily for childcare.
- (c) “Commercial purpose” is the intent to obtain direct or indirect financial gain from the sale, distribution, exportation, importation, or manufacture of tobacco.
- (d) “Distribute” means to sell, give, serve, supply, exchange, convey, consign, deliver, furnish, or transfer tobacco to another for a commercial purpose, or as a sample, gift, or prize with or without consideration.
- (e) “Due diligence” means conducting a reasonable, state-of-the-art investigation for the purpose of ascertaining whether a legal or natural person is complying with or can reasonably be expected to comply with all applicable laws and regulations relating to the elimination of illicit trade in tobacco products.
- (f) “E-cigarette” means any product or product component (refill liquids, cartridges, capsules, electronic devices, or other components exclusively of use for e-cigarettes) designed to deliver nicotine and/or other chemicals to the user via an aerosol or vapor by heating a solution that a user inhales, but does not include any device or component with a legitimate medical or scientific purpose. For purposes of this subsection, a medical or scientific purpose is legitimate if the device or component is to be utilized by the Belau National Hospital or by a private medical clinic, dentistry office, or other similar entity, or by a legitimate scientific enterprise or organization.
- (g) “Educational facility” means all land, buildings, structures, and improvements within the boundaries of any real property, which is used primarily for educational purposes.
- (h) “Elaus” means a whole or divided betel nut that is distributed singly either already prepared with all the additives such as lime, leaf, and tobacco or with additives to be added by the consumer.
- (i) “Employer” means any person, partnership, corporation, including a municipal corporation, or non-profit entity, which employs the services of one or more individual persons.

- (j) “Enclosed” Area/Place/Space means all space between a floor and ceiling which is enclosed on all sides by solid wall or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, “office landscaping” or similar structures.
- (k) “Healthcare facility” means all land, buildings, structures, and improvements within the boundaries of any real property, which is used primarily for medical or healthcare purposes, including diagnosis, prevention and treatment of diseases or physical and mental disabilities.
- (l) “Manufacture” means to fabricate, process or package and/ or label tobacco for commercial purposes.
- (m) “Minister of Finance” means Minister of Finance or his or her designee.
- (n) “Minor” is a person younger than twenty-one (21) years of age.
- (o) “Person” means any individual, partnership, corporation, or other association of individuals, or of any group or combination of the above acting together or as a unit, and includes any proprietor, firm, partnership, corporation, franchise, organization, agency, association or institution.
- (p) “Purchase” means to obtain tobacco for money or other valuable consideration.
- (q) “Smoking” means inhaling, exhaling or handling ignited tobacco.
- (r) “Sports facility” means all land, buildings, structures, and improvements within the boundaries of any real property which is used primarily for the general public to engage in sporting activities such as to assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
- (s) “Tobacco” means the processed leaves of plants from the genus *Nicotiana* or species *tabacum* used for smoking, chewing or as snuff, and includes all products which contain tobacco in any form in an amount that is more than an incidental ingredient or component and that is intended for human consumption and may include all parts and materials, such as filters, rods and similar matter; or any product other than tobacco that contains nicotine in an amount that is more than incidental and is intended for human consumption, including but not limited to nicotine water, nicotine candy, e-cigarettes and dissolvable

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tobacco .

Source

RPPL 8-27 § 2. Amended by RPPL 9-6 § 9 to add a new subsection (l) and re-lettered subsequent definitions. A new subsection (f) is added and subsequent subsections re-lettered accordingly by RPPL 11-27 § 2.

§ 1703. License required; period of effectiveness.

- (a) No person shall distribute, export, import or manufacture tobacco in the Republic without a valid license issued by the Minister of Finance in accordance with the provisions of this chapter and regulations promulgated thereunder.
- (b) No person shall distribute tobacco products for resale to any person who does not have a valid tobacco license.
- (c) No person shall be issued a distributor license under this chapter without a business license authorized under 40 PNC § 1501 as a prerequisite to engage in business in the Republic.
- (d) All tobacco licenses authorized under this chapter shall expire at the end of the [calendar] year.

Source

RPPL 8-27 § 3, modified.

Notes

RPPL 9-6 § 10 re-number section 3 of RPPL 8-27 to section 4.

The bracketed [calendar] in subsection (d) read “fiscal” in the original legislation and is changed to “calendar” as complying with likely intention of the legislation.

§ 1704. Classes of tobacco licenses.

The Minister of Finance is authorized to issue tobacco licenses as follows:

- (a) Tobacco Distributor License-Retail: permitting distribution of tobacco to consumers.
- (b) Tobacco Distributor License-Wholesale: permitting distribution of tobacco to only persons in the Republic of Palau with a valid tobacco retail license issued pursuant to this chapter.

(c) Tobacco Distributor License-Import: permitting importation of tobacco into the Republic of Palau for commercial purposes.

(d) Tobacco Manufacturer's License: permitting fabrication, processing or packaging and/or labeling tobacco products.

Source

RPPL 8-27 § 4.

Notes

RPPL 9-6 § 10 re-numbered section 3 of RPPL 8-27 to section 4. Section 4 of RPPL 8-27 entitled "Class of tobacco licenses" should have been changed to section 5 and the rest of sections renumbered accordingly.

§ 1705. License fees.

(a) The initial license fees shall be:

(1) Tobacco Distributor License-Retail: fifty dollars (\$50)

(2) Tobacco Distributor License-Wholesale: one hundred fifty dollars (\$150)

(3) Tobacco Distributor License-Import: two hundred dollars (\$200)

(4) Tobacco Manufacturer License: two hundred dollars (\$200)

(b) Fees for licenses that become effective after the beginning of the calendar year shall be prorated on a quarterly basis.

Source

RPPL 8-27 § 5, modified. Subsection (b) is amended by RPPL 9-6 § 11.

§ 1706. Licenses for multiple activities; separate places of business.

(a) A person engaged in two or more of the activities set forth in section 1705 of this chapter must obtain a license for each activity.

(b) A separate and appropriate license must be obtained for each separate place of business.

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Source

RPPL 8-27 § 6, modified.

§ 1707. Licensing limitations.

Licenses shall be issued only in accordance with this chapter and regulations promulgated thereunder. Licenses are not transferable. A licensee is limited to engaging in only the commercial activities licensed as stated in the licensing document, and any regulations promulgated thereunder. The license is valid only for the conduct of business on the premises as specified in the application for the license.

Source

RPPL 8-27 § 7, modified.

§ 1708. License application, review, denial and appeal.

(a) The Minister of Finance shall review applications for tobacco retail, wholesale, and import licenses and renewal licenses and approve or deny each application. The Minister of Finance shall maintain a list of all licenses issued and denied, which shall be made available for inspection, by any person during regular business hours. The list shall include at a minimum the name of the licensee, the class of license, the premises licensed, the date of initial issuance, and the date(s) of any suspension(s) or revocation(s), if any, and any information deemed relevant by the Minister.

(b) Each application shall be accompanied by a non-refundable application fee in an amount set by this chapter and regulations promulgated thereunder. No license shall be processed unless the applicant has deposited the full amount due for the license and the non-refundable application fee with the National Treasury.

(c) If a license cannot be granted because the application lacks sufficient information or further information is needed, the Minister of Finance shall immediately inform the applicant in writing of the information required within fifteen (15) calendar days of receiving the application. Such notice shall be documented and kept in the licensee's application file.

(d) Applicants denied a license may appeal the denial to the Trial Division of the Supreme Court in accordance with Title 6 of the Palau National Code, the Administrative Procedures Act.

(e) Applicants denied a license may reapply at any time.

Source

RPPL 8-27 § 8, modified. Subsection (c) is amended by RPPL 9-6 § 12, modified.

§ 1709. Regulations.

(a) The Minister of Finance shall promulgate regulations prescribing:

(1) the process to apply for a retail, wholesale or import tobacco license or renewal license, the information to be included in license application forms, the cost of license application fees, and the procedure for collecting these fees;

(2) criteria upon which license applications will be denied or approved;

(3) records and documents which a licensed business must maintain relating to the business's licensed activities;

(4) dimensions, characteristics and wording for signs licensed establishments must post related to the prohibition of sales to minors and for signs warning of tobacco-related diseases pursuant to section 1710 of this chapter;

(5) areas where smoking shall be restricted in enclosed places of employment pursuant to section 1713(a) of this chapter;

(6) measures to identify, investigate and prevent illicit trade in tobacco products pursuant to section 1715(b) of this chapter.

(b) All regulations promulgated under this chapter shall be promulgated pursuant to the provisions of the Administrative Procedures Act of Title 6, Chapter 1 of this Code and when issued shall have the force and effect of law.

(c) The Minister of Finance shall promulgate all regulations within one hundred eighty (180) days of the enactment of this law. Regulations on illicit trade shall be updated within one hundred eighty (180) days of ratification of the WHO Protocol on Illicit Trade.

Source

RPPL 8-27 § 9, modified. Subsection (a)(4),(5) & (6) are amended by RPPL 9-6 § 13, modified.

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§ 1710. Posting licenses and signs.

Every person licensed under sections 1704(a), 1704(b), 1704(c) and 1704(d) of this chapter shall post the original license(s) in a conspicuous place on the licensed premises and shall post signs regarding the prohibition of sales to minors and regarding tobacco-related health issues. The Minister of Finance shall promulgate regulations regarding the signs pursuant to section 1709 of this chapter.

Source

RPPL 8-27 § 10, modified. Amended by RPPL 9-6 § 14, modified.

Notes

RPPL 9-6 § 10 re-numbered section 3 of RPPL 8-27 to section 4. Section 4 of RPPL 8-27 entitled "Class of tobacco licenses" was not re-numbered or repealed. Section 5 of RPPL 8-27 entitled "License Fees" remained section 5 by RPPL 9-6 § 11.

§ 1711. Tobacco or e-cigarette advertising, promotion and sponsorship prohibited.

(a) No person shall advertise or otherwise promote any tobacco or e-cigarette, brand, manufacturer or seller by any means, directly or indirectly, that is intended to have or is likely to have the direct or indirect effect of promoting the purchase or use of tobacco or e-cigarettes or a tobacco brand, or of promoting a tobacco or e-cigarette manufacturer or seller. For purposes of this section, advertisements and promotions include words, messages, mottos, slogans, letters, numbers, pictures, images, graphics, sounds, or any other auditory, visual, or sensory matter, in whole or part, that are commonly identified or associated with a tobacco or e-cigarette, brand, manufacturer, or seller. This prohibition includes a total ban on any display and on the visibility of tobacco or e-cigarette products at points of sale, but does not include the broadcast of television, radio, or electronic streaming or similar programming generated from outside Palau.

(b) Notwithstanding the provisions of subsections (a), the exposure of tobacco or a tobacco package at the Palau National Airport in any store selling tobacco duty free shall be allowed.

(c) Brand-stretching prohibited.

(1) No person shall advertise, display for sale or distribution, or distribute any non-tobacco or e-cigarette item that contains any writing, picture, image, graphic, message, or other matter, in whole or part, that is commonly identified or associated with a tobacco or e-cigarette brand, manufacturer, or seller. For the purposes of this provision, non-tobacco items include but are not limited to such

things as clothes, caps, bags, umbrellas, ashtrays, matches, lighters, coasters, dishes, display racks, clocks, or sales counter mats.

(2) No person shall display any name, writing, picture, image, graphic, message, or other matter, in whole or part, that is commonly identified or associated with tobacco brand, manufacturer or seller on a building, such as a club, restaurant, stadium or other place, which is not primarily a tobacco business.

(3) No person shall manufacture or distribute any product designed for or likely to appeal to children that evokes an association with a tobacco or e-cigarette product, including but not limited to, candy or gum cigarettes or other sweets or snacks in the form of tobacco or e-cigarette products.

(d) Tobacco or e-cigarette sponsorships prohibited. No person shall cause the tobacco or e-cigarette sponsorship of any event. For purposes of this section sponsorship means the public attribution, acknowledgment, association or identification, for commercial purposes, of a tobacco or e-cigarette manufacturer, brand, or product with, on, or in connection with:

(1) an entertainment, sporting, recreational, educational, cultural, or other public event or work;

(2) a person or team participating in such an event or work, including his or her equipment, clothing and accessories;

(3) a service provided or contribution made by a tobacco or e-cigarette manufacturer or seller; or

(4) a building, institution, stadium, organization or other entity that is not a tobacco or e-cigarette manufacturer or seller.

(e) Tobacco or e-cigarette sweepstakes, contests, rebates, prohibited. The operator of a business or a distributor of tobacco or e-cigarette products may not:

(1) supply or distribute tobacco or e-cigarettes free of charge or furnish tobacco or e-cigarettes for promotional purposes of any kind to consumers;

(2) reduce the retail price of tobacco or e-cigarettes on the basis of quantity, than

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as part of regular marketing operations, or offer tobacco or e-cigarettes as a gift, prize, or free of charge in exchange for a coupon or otherwise without charge, or grant a rebate on the market price of tobacco or e-cigarettes to consumers;

(3) offer consumers gifts, cash prizes, giveaways or a right to participate in a lottery, contest, sweepstakes or game or any other form of benefit, as consideration for a purchase of tobacco or e-cigarettes or on presentation of proof of purchase of tobacco or e-cigarettes.

Source

RPPL 8-27 § 11, modified. Amended in its entirety by RPPL 11-27 § 3, modified.

§ 1712. Prohibition on vending machine sales.

It shall be unlawful to use a vending machine to distribute, attempt to distribute or purchase any tobacco products.

Source

RPPL 8-27 § 12. Amended by RPPL 9-6 § 15.

§ 1713. Restrictions on smoking tobacco in public places.

(a) Smoking restricted in enclosed places of employment.

(1) Smoking shall be prohibited in all enclosed places of employment, including all government owned or leased or funded offices, facilities and vehicles, enclosed indoor areas of airports, auditoriums, banquet facilities and meeting rooms, restaurants, bars/clubs, hotels/motels, lobbies, movie theaters and entertainment venues, private offices, commercial office buildings, elevators, hallways, cafeterias, employee lounges, stairs, restrooms, company vehicles, commercial buses, taxis, other public conveyances, and all other enclosed facilities, except as provided in section 1713(a)(2).

(2) The prohibition described in section 1713(a)(1), above, shall not apply to the following establishments or areas:

(A) Guest room accommodations in a hotel, motel, or similar transient lodging establishment. Hotels may designate smoking and non-smoking guest rooms at their discretion.

(B) Medical research or treatment sites, if smoking is integral to the research and treatment being conducted.

(C) Private residences, except for private residences licensed as family day care homes, during the hours of operation as family day care homes and in those areas where children are present.

(D) House boats, or other vessels or ships which individuals use as a personal living residence.

(E) Any outdoor area of a restaurant, bar, club, hotel, or motel, provided the outdoor area is not enclosed.

(F) Any portion of a restaurant, bar, club, hotel or motel which is designated as allowing smoking and in which the smoking area is structurally separated from the non-smoking area and vented in a manner to prevent circulation of air from the smoking area into the non-smoking area.

(b) The smoking of tobacco products is prohibited, without exception, within the interiors, and on or about the indoor and outdoor premises or grounds of:

(1) all educational facilities;

(2) all sports facilities;

(3) all childcare and adult care facilities;

(4) all healthcare facilities in the Republic; and

(5) all areas within the designated property or compound in which functions, conferences, or events related to education/school, sports, childcare, adult care or healthcare are being carried out.

Source

RPPL 8-27 § 13, modified.

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§ 1714. Prohibition of smoking on airline flights between points in Palau.

(a) No person shall smoke any tobacco product on board the aircraft of any flight that takes off and lands within Palau, from the point of embarkation to the point of debarkation, for the duration of the flight.

(b) Notwithstanding any other provision of this section, the prohibition in this section shall be enforced by the airline personnel operating the aircraft in the same manner as any other rule or regulation authorized to be enforced by airline personnel in regard to passenger behavior on board aircraft.

Source

RPPL 8-27 § 14.

§ 1715. Illicit trade in tobacco products.

(a) All forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and contraband cigarettes are prohibited.

(b) The government of the Republic of Palau, as appropriate and in accordance with national law, will promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and sub-regional levels to combat illicit trade of tobacco products.

Source

RPPL 8-27 § 15.

§ 1716. Enforcement.

Enforcement of this chapter shall be through the issuance of citations for violations.

(a) The enforcement of this chapter shall primarily be the responsibility of the Bureau of Public Safety of the Ministry of Justice;

(b) The Bureau of Public Health in the Ministry of Health and Human Services, the Bureau of Public Safety of the Ministry of Justice and the Bureau of Revenue, and Customs and Taxation of the Ministry of Finance will have the ability to enforce either

independently, collaboratively, and/or conjunctively sections 1710, 1711, 1712 and 1713.

(c) Responsibility for enforcement of sections 1703, 1706, 1707, 1715, and violations involving import and export contained in section 1721 will primarily be with the Bureau of Revenue, Customs and Taxation of the Ministry of Finance and assisted by the Bureau of Public Safety of the Ministry of Justice.

Source

RPPL 8-27 § 16, modified. Subsections (b) & (c) are amended by RPPL 9-6 § 16, modified.

§ 1717. Law enforcement exemption.

No person, including minors, shall be held criminally or civilly liable for engaging in conduct which would otherwise constitute a violation of this chapter if the conduct is in furtherance of an active law enforcement investigation authorized in writing by the Minister of Justice or to determine the rate of tobacco sales violations. This exemption applies if such person is:

- (a) a law enforcement officer; or
- (b) acting at the direction of a law enforcement officer; or
- (c) a participant in a survey to determine rate of sale violations.

Source

RPPL 8-27 § 17, modified.

§ 1718. Penalties.

(a) License, records, sign, and vending machine violations:

(1) Every person who violates, assists in violating, or fails or refuses to comply with:

(A) Sections 1703, 1706, 1707, and 1712 and regulations promulgated under section 1709(a)(3) shall be fined up to five thousand dollars (\$5,000) but not less than one thousand dollars (\$1,000), or imprisoned not more than fifteen (15) days or both, and shall be required to pay the appropriate license fee, if any;

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(B) Section 1710 of this chapter shall be fined up to five hundred dollars (\$500) but not less than one hundred dollars (\$100), or imprisoned not more than seven (7) days, or both.

(2) The criminal penalties imposed under this section shall be in addition to any civil penalty imposed under law or regulation.

(b) Advertising:

(1) Every person who violates, assists in violating, or fails or refuses to comply with:

(A) Section 1711 shall be fined up to twenty thousand dollars (\$20,000) but not less than one thousand dollars (\$1,000), or imprisoned not more than thirty (30) days, or both; except in the case of an individual, he or she shall be fined up to one hundred dollars (\$100) but not less than twenty five dollars (\$25).

(2) The criminal penalties imposed under this section shall be in addition to any civil penalty imposed under law, or any remedial action mandated by statutes, regulation, or court of competent jurisdiction.

(3) It shall not be a defense to section 1711 and 1721 that the management official did not have knowledge of the violation or was not present on the premises at the time the violation occurred.

(c) Smoking in places of employment, in schools, sports facilities, child or adult care facilities, and healthcare facilities. Every person who violates section 1713 (a) or (b) shall be fined up to one hundred dollars (\$100) but not less than twenty five dollars (\$25).

(d) Smoking on airline flights. Every person who violates, assists in violating, or fails or refuses to comply with section 1714 shall be fined up to one thousand dollars (\$1,000) but not less than one hundred dollars (\$100) or imprisoned not more than seven (7) days or both.

(e) Prohibitions on distribution, purchasing or manufacturing. Any person including a tobacco products license holder or his or her employee, manager or agent or any other person who violates a prohibition of section 1721 shall be fined up twenty thousand dollars (\$20,000) but not less than one thousand dollars (\$1,000) or imprisoned not more

than thirty (30) days, or both.

(f) Threats of harm. Every person or entity that retaliates with threats of physical or economic harm against: (1) someone who is implementing or complying with provisions of this chapter; or (2) someone asserting his or her right to a smoke-free environment; or (3) someone reporting any violation under this chapter shall be fined up to five thousand dollars (\$5,000) but not less than one thousand dollars (\$1,000), or imprisoned not more than fifteen (15) days, or both.

(g) Illicit trade in tobacco products. A person who violates, assists in violating, or fails or refuses to comply with section 1715 shall be fined up to fifty thousand dollars (\$50,000), or imprisoned not more than five (5) years, or both. Any contraband, counterfeit or illicit tobacco product may be seized by any person authorized to issue citations and make arrests pursuant to section 1716, and destroyed without compensation to the producer, owner, shipper or any other person according to promulgated regulations and procedures.

Source

RPPL 8-27 § 18, modified. Subsections (a),(b),(d) and (e) are amended by RPPL 9-6 § 17, modified.

§ 1719. License revocation.

(a) In addition to any court-imposed sanction, the Minister of Finance shall revoke a license issued under this chapter if the licensee:

- (1) is cited two times for violations of this chapter within the same fiscal year;
- (2) misrepresents a material fact in obtaining a license;
- (3) is convicted of a felony; or
- (4) fails to maintain records as required pursuant to this chapter.

(b) Fees for a license shall not be refunded if a license is revoked.

Source

RPPL 8-27 § 19.

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§ 1720. Disposition of collected fines and fees.

All fines and license fees collected pursuant to this chapter shall be deposited in the National Treasury. In any case in which the Bureau disapproves an application for an original license or renewal license, the Director of the Bureau of the National Treasury shall return the license fee deposited with the National Treasury to the applicant. The Director of the Bureau of National Treasury shall keep a record of all fees collected pursuant to this chapter and shall submit a report to the Olbiil Era Kelulau each year during its October regular session summarizing such collections and payments.

Source
RPPL 8-27 § 20.

§ 1721. Prohibitions on distribution, purchasing, importing, exporting, and manufacturing:

- (a) No person shall distribute, export, import, purchase, use or display tobacco:
 - (1) using mail order or internet sales;
 - (2) inside, or within the premises of any childcare, healthcare, educational, or sports facility;
 - (3) for sale in such a way that a consumer may handle any tobacco directly prior to purchase without the assistance of a sales clerk or other employee of the seller;
 - (4) unless it is contained in an original package;
 - (5) as free samples, in return for the purchase of sales of goods, or as part of any giveaways;
 - (6) to any individual who is under twenty-one (21) years of age; including offering to purchase tobacco for a minor;
 - (7) to any individual who does not present a driver's license or other generally accepted means of identification that describes the individual as twenty-one (21) years of age or older, contains a likeness of the individual, and appears on its face to be valid, unless the licensee or employee knows the person to be at least thirty (30) years of age;

- (8) using or employing any minor to handle any tobacco product;
 - (9) in single units or pieces, or small packets (less than twenty (20) cigarettes) that increase the affordability of such products to minors.
- (b) No person shall distribute rolling papers to any minor;
- (c) No person shall sell *elaus* to any minor;
- (d) Compliance with the provisions of this chapter shall not be construed so as to relieve tobacco manufacturers or sellers of any common law or statutory duty to fully warn consumers of all dangers associated with tobacco use, nor shall it be admissible as evidence in any action under 14 PNCA chapter 34.

Source

RPPL 8-27 § 21, modified. Amended by RPPL 9-6 § 18, modified.

§ 1722. Prohibition on sale, distribution, importing, and manufacturing of e-cigarettes for commercial purposes.

- (a) No person or commercial enterprise shall sell, distribute, import, or manufacture e-cigarettes for any commercial purpose.
- (b) Any person who purposefully or knowingly violates this section by importing e-cigarettes, or by purposefully, knowingly, or recklessly selling or distributing them to any minor, or to a person who he knows will supply them to a minor, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for up to one (1) year, or fined not more than twenty thousand dollars (\$20,000), or both.
- (c) Any person who purposefully or knowingly violates this section, except as set forth in subsection (b) of this section, shall be guilty of a petty misdemeanor and upon conviction thereof shall be imprisoned for a period of up to one (1) month, or fined not more than one thousand dollars (\$1,000), or both.
- (d) It shall be rebuttably presumed that any person found to be in possession of multiple e-cigarettes possesses them for commercial sale or distribution.
- (e) The Minister shall cause to be posted at all entry ports to the Republic of Palau signage summarizing section 1722 (a), (b), and (c), and informing all incoming persons

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that e-cigarettes may be surrendered by any incoming traveler. Any traveler who voluntarily surrenders any e-cigarettes at such points shall not be convicted for the import of such pursuant to this section.

Source

RPPL 11-27 § 4, modified.

§ 1723. Purchase, possession or consumption of electronic cigarettes.

No person shall purchase, possess, or consume an electronic cigarette within the Republic of Palau. Any person who violates this section shall, upon conviction for the first time, be subject a civil fine of up to fifty dollars (\$50). The maximum fine shall increase to two hundred dollars (\$200) upon the second conviction, and four hundred (\$400) upon their third conviction. Any subsequent convictions shall be a petty misdemeanor, punishable by a fine of up to five hundred dollars (\$500) or incarceration for up to twenty-four hours. Upon any conviction, all electronic cigarettes found to be in possession of such person shall be confiscated and destroyed.

Source

RPPL 11-27 § 4, modified.

**Chapter 18
Petroleum Act**

**Subchapter I
General Provisions**

- § 1801. Short title.
- § 1802. Application.
- § 1803. Interpretation.
- § 1804. Definitions.

§ 1801. Short title.

This chapter shall be formally known and may be cited as “The Petroleum Act of the Republic of Palau” or simply the “Petroleum Act”.

Source

RPPL 8-37 Chapter 1 § 3, modified.

Notes

RPPL 8-37 § 1 reads: Legislative Findings. The Olbiil Era Kelulau hereby finds that, in order to carry out the authority vested in it by the Constitution, Article IX, Sec. 5(12) “to regulate the ownership, exploration and exploitation of natural resources,” including all mineral resources, it is imperative that the Olbiil Era Kelulau enact a comprehensive petroleum law prescribing the procedures and the manner by which its legislative power is to be exercised, executed or otherwise implemented. The Olbiil Era Kelulau further finds that it is essential to set forth, apportion, allocate and otherwise reconcile, in specific provisions of the comprehensive petroleum law, the rights and obligations of the National Government and individual State Governments constitutionally conferred upon them as follows:

(a) the National Government “...shall have exclusive ownership and shall exercise its sovereign rights to conserve, develop, exploit, explore and manage at a sustainable manner, all living and non-living resources within its exclusive economic zone and its continental shelf...” (Constitution, Article I, Sec. 2 (a) of the Constitution, as amended in 2008);

(b) “Each state shall have exclusive ownership of all living and non-living resources, except highly migratory fish, within the twelve (12) nautical mile territorial sea, provided, however, that traditional fishing rights and practices shall not be impaired” (Constitution, Article I, Sec.2(b), as amended in 2008), and

(c) “Each state shall be entitled to revenues derived from exploration and exploitation of all living and non-living resources, except highly migratory fish, and fines collected for violation of any law within the marine area extending from the land to twelve (12) nautical miles seaward from the traditional baselines.” (Constitution, Article XII, Sec. 6(a)), and

(d) “The national government shall be entitled to all revenues derived from the exploration and exploitation of all living and non-living resources, except highly migratory fish, and fines collected for violation of any law beyond the areas owned by the state.” (Constitution, Article XII, Sec.6(b)).

RPPL 8-37 § 2 reads: Intent and Purpose. The intent and purpose of this Act is to establish a comprehensive,

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national petroleum law, incorporating international guidelines, standards and practices in the petroleum field, that will promote the prudent development and effective regulation of petroleum operations and related activities within the Territory in fulfillment of the national government's responsibility for "...conservation of a beautiful, healthful and resourceful natural environment; promotion of the national economy; protection of the safety and security of persons and property; promotion of the health and social welfare of the citizens..." in accordance with Article VI of the Constitution.

§ 1802. Application.

This chapter applies to all petroleum operations within the Territory notwithstanding any terms or conditions contained in any lease, license, agreement or other arrangements issued or entered into prior to the enactment of this chapter.

Source

RPPL 8-37 Chapter 1 § 4, modified.

§ 1803. Interpretation.

All references to this chapter, the regulations and applicable law shall include any amendment, variation, modification or replacement as may be made to same from time to time.

Source

RPPL 8-37 Chapter 1 § 5, modified.

§ 1804. Definitions.

In this Petroleum Act, the following words or terms shall have the meanings as they are defined hereunder:

- (a) "Act" means the Petroleum Act of the Republic of Palau, enacted by the Olbiil Era Kelulau, together with the regulations hereunder.
- (b) "Affiliate" means, in respect of a person, a person that controls, is controlled by, or is under the common control of, such person.
- (c) "Applicable law" means this chapter, together with any act, regulation, by-law, code, rule or enactment lawfully enacted and promulgated by a government, and any international convention or treaty to which a government is a signatory, having application to any matter which may be incidental to a matter dealt with pursuant to this

chapter.

(d) “Appraisal” means the activities carried out following a discovery pursuant to a license with the objective of better defining the extent of the reservoir in order to determine commerciality, and which may include drilling appraisal wells, running depth tests, collecting geological samples and reservoir fluids, together with the acquisition, study and processing of geological and other data.

(e) “Approved person” means a person having the necessary experience, technical competence, financial resources, legal standing and other qualifications to undertake certain petroleum operations as reflected by an approval of such person by the Ministry, to undertake such petroleum operations, whether in connection with the grant of a license, permit, or other approval required under applicable law.

(f) “Arms length” means a relationship between two or more persons where no person in such relationship is an affiliate of, or exercises control over, or otherwise shares any joint interest with any other person in such relationship.

(g) “Block” means a specified area of land or water or both land and water, within the Territory, determined in accordance with the regulations, as delineated on the reference map.

(h) “Bureau of Revenue, Customs and Taxation” means the Bureau of Revenue, Customs and Taxation within the Ministry of Finance, or such successor public authority as may be designated by the National Government to perform similar functions and activities.

(i) “Closed area” shall have the meaning set forth in subchapter VII, section 1861.

(j) “Code of Ethics” means the Code of Ethics Act, 33 PNCA chapter 6.

(k) “Commercial discovery” means a discovery which, as determined in accordance with the regulations and the provisions of the relevant license, can be exploited commercially in accordance with accepted practices and standards within the international petroleum industry.

(l) “Constitution” means the Constitution of the Republic of Palau ratified on July 9, 1980 and entered into force on January 1, 1981, amended in the 1993 and the 2008 constitutional referenda.

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(m) “Control” means the power of a person to secure the right to manage or operate another person, either:

(1) by holding of the number of shares necessary for voting power, or the possession of such voting power, entitling the person with voting power to make decisions for the person in question; or

(2) by virtue of the articles of association conferring such power to a person to make decisions for another person on behalf of the person who actually holds the number of shares necessary for voting power or possesses such voting power.

(n) “Crude oil” means crude mineral oil and all hydrocarbons which are produced at the wellhead in a liquid state at atmospheric pressure or obtained from natural gas by condensation or extraction.

(o) “Decommissioning” means, in respect of a licensed area or part thereof, the dismantling, abandonment, transfer, removal and disposal of facilities used in petroleum operations in such licensed area or part thereof and the remediation of the environment affected by such petroleum operations to the natural or pre-existing state in accordance with this chapter and applicable law.

(p) “Delivery point” means the point of measurement of petroleum for the purposes of valuation as defined in the development plan or the license. For greater certainty, the delivery point shall be:

(1) if petroleum is exported, the terminal point of export;

(2) if petroleum is sold in the domestic market:

(A) the entry point into any refinery, gas treatment facility, natural gas liquefaction facility or similar facility; or

(B) the measurement point agreed between the licensee and the Minister in respect of sales under subchapter VIII.

(q) “Development” means activities carried out in order to achieve production pursuant to a production license issued in respect of a development area, which may include:

(1) geophysical, geological and reservoir studies and surveys;

(2) drilling of production and injection wells; and

(3) the design, construction, installation, connection and initial testing of facilities and related activities necessary to produce and operate said wells, to take, save, treat, handle, store, transport and deliver petroleum.

(r) “Development plan” means the program and cost estimate of upstream activities to be undertaken by a licensee in respect of a specified area within a production license, prepared in accordance with the regulations.

(s) “Development area” means an area, and depths or formations if applicable, which encompasses one or more commercial discoveries, bounded by lines of latitude, longitude and, where applicable, coastline as established with reference to the discovery area.

(t) “Discovery” means a discovery of petroleum in a reservoir in which petroleum has not previously been found that is recoverable at the surface at a flow measurable by conventional petroleum industry testing methods.

(u) “Discovery area” means the area encompassing one or more discoveries, which shall be designated by geographical co-ordinates, and by depths or geological formations if appropriate.

(v) “Downstream activities” means all petroleum operations other than upstream activities.

(w) “Environmental assessment” means the document prepared by a licensee in accordance with applicable law.

(x) “Environmental impact statement” means the document prepared by a licensee in accordance with applicable law.

(y) “Exploration” means those activities carried out within the Territory, and which include prospecting and are intended to lead to the better knowledge of the petroleum potential of a given area, the drilling and testing of wells that may lead to a discovery, and the appraisal of such discovery.

(z) “Exploration period” shall have that meaning set forth in subchapter IV, section 1833.

(aa) “Facilities” means all items, equipment, structures, buildings and infrastructure used

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directly or indirectly in the conduct of petroleum operations.

(bb) “FOB” means free on board as defined by the International Chamber of Commerce, international commerce terms (INCOTERMS), and designates contracts requiring the seller to deliver goods on board a vessel at the named port of origin. The buyer is responsible for the carriage, freight, insurance and other costs and risk related to the cargo from the ship’s rail onward.

(cc) “Foreign licensee” means a licensee with a place of incorporation other than the Republic.

(dd) “Good oil field practice” means any practice, action, procedure, method, industry standard, specification or code of conduct which is generally applied by the international petroleum industry as good, safe, efficient and necessary in the carrying out of petroleum operations and may include, without limitation, any practice, procedure or specification which has been approved by internationally recognized organizations, together with the exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from persons subject to this chapter under comparable conditions and circumstances and acting in light of known facts or facts which should reasonably have been known at the time, all as more specifically set forth in the regulations.

(ee) “Government” means the national government or the state government as applicable and “governments” means both of them.

(ff) “Inter-Governmental Committee” shall have the meaning set forth in subchapter III, section 1824.

(gg) “LIBOR” means the rate per annum, rounded upwards, if necessary, to the nearest 1/10th of one percent (1%), appearing as the London Interbank Offered Rate for deposits in U.S. Dollars as published in the World Interest Rates section of the Financial Times newspaper.

(hh) “License” means a license issued pursuant to this chapter substantially in the form of the model licenses contained in the regulations.

(ii) “Licensee” means the holder of a license.

(jj) “Licensed area” means an area subject to a license.

(kk) “Licensing round” means any competitive tendering or bidding round relating to selected blocks or specified areas within the Territory initiated by the Minister for the purpose of granting licenses to approved persons.

(ll) “Market price” means the price used in the valuation of crude oil and natural gas.

(mm) “Ministry” means the entity designated by an executive order of the President of the Republic to administer the Petroleum Act consistent with the statutes contained herein.

(nn) “Minister” means the individual in charge of the “Ministry” that is designated by an executive order of the President of the Republic to administer the Petroleum Act consistent with the statutes contained herein.

(oo) “Model licenses” mean those licenses setting forth the terms and conditions governing the performance of petroleum operations within the Territory, as set forth in the regulations.

(pp) “Natural gas” means all hydrocarbons and inerts that, at atmospheric conditions of temperature and pressure, are in a gaseous state, including wet mineral gas, dry mineral gas, casing head gas and residue gas remaining after the extraction, separation, treatment and processing of liquid hydrocarbons from wet gas, but not crude oil.

(qq) “National Government” means the government of the Republic of Palau, acting through its appropriate representatives, officials or ministers, in accordance with, and pursuant to, the Constitution.

(rr) “Operator” means, in respect of:

(1) a study license, an exploration license or a production license where the licensee is comprised of more than one person, the person designated to carry out some or all of the petroleum operations in the licensed area; and

(2) any other business license, permit or authorization, the license holder.

(ss) “Person” includes any individual, corporation, partnership, joint venture or other commercial entity.

(tt) “Petroleum” means crude oil and natural gas and any other naturally occurring

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hydrocarbon or mixture of such hydrocarbons, whether in a gaseous, liquid or solid state, together with other substances produced in association with such hydrocarbons.

(uu) “Petroleum operations” means all activities and operations relating to:

- (1) the exploration, development, production, processing, refining, transportation, storage, sale, marketing and disposal of petroleum; and
- (2) the construction, installation, operation, and decommissioning of facilities.

(vv) “Production” means the activities involved in the extraction of petroleum including without limitation, planning, scheduling, controlling, measuring, testing, gathering, treatment, field separation, transportation, storing and dispatching of petroleum from a reservoir to the delivery point.

(ww) “Profitability index” means, for each license, either:

- (1) the ratio of cumulative after tax receipts to cumulative capital expenditure and operating costs; or
- (2) the target rate of return on licensee’s investment in a development area; or
- (3) such other criteria as may be provided for in the regulations.

(xx) “Prospecting” means those operations carried out within the Territory, through the use of geological, geochemical or geophysical methods, as well as the processing, analysis and interpretation of data so acquired, and regional studies and mapping, or other activities with a view to locating petroleum deposits, including the obtaining of piston core samples but explicitly excluding any other form of drilling or coring.

(yy) “Petroleum register” shall have that meaning set forth in subchapter III, section 1825.

(zz) “Public official” means an employee, former employee or public official, as defined pursuant to the Code of Ethics Act, 33 PNCA chapter 6.

(aaa) “Reference map” means that map of the Territory, prepared in accordance with the regulations, and which shall:

- (1) be divided into blocks according to a grid system conforming to the regulations and accepted international standards and norms of graticulation;
- (2) identify all areas subject to a license together with a description of the type, date, and holder of such license;
- (3) identify all areas which are not subject to a license; and
- (4) set forth any other information required pursuant to the regulations.

(bbb) “Regulations” shall mean those rules, guidelines, policies and codes by the Ministry or any other competent authority regarding the administration, management, environmental, health and safety, and oversight of petroleum operations, as provided for by applicable law.

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

(ddd) “Reservoir” means a porous and permeable underground formation containing an individual and separate natural accumulation of producible petroleum that is confined by impermeable rock and/or water barriers and is characterized by a single natural pressure system.

(eee) “Royalty” means a crude oil royalty, or a natural gas royalty, or both of them, as determined pursuant to subchapter VIII, section 1875.

(fff) “State Government” means the government of each state of the Republic, acting through its appropriate representatives, officials or ministers, in accordance with, and pursuant to, the Constitution.

(ggg) “Sub-contractor” means such contractors and consultants as licensee may engage to conduct petroleum operations pursuant to a license; provided, however, that at all times licensee shall provide appropriate oversight, direction and supervision of such sub-contractors in accordance with good oil field practices and shall remain liable for the actions and inaction of sub-contractors in accordance with this chapter, the regulations and applicable law.

(hhh) “Taxable person” means a person that carries out petroleum operations or any other activities subject to this chapter.

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(iii) “Taxable profits” means the profits derived from petroleum operations, less all deductions permitted pursuant to this chapter, a license, or any applicable law.

(jjj) “Territory” means all terrestrial and oceanic areas over which the Republic of Palau has sovereignty and jurisdiction which “...consist of all the islands, atolls, reefs, and shoals that have traditionally been in the Palauan archipelago, including Ngeruangel Reef and Kayangel Island in the north and Hatohobei Island (Tobi Island) and Hochaihie (Helen’s Reef) in the south and all land areas adjacent and in between, and also consist of the internal waters and archipelagic waters within these land areas, the territorial waters around these land areas and the airspace above these land and water areas extending to a two hundred (200) nautical mile exclusive economic zone, unless otherwise delimited by bilateral agreements or as may be limited or extended under international law.” (Constitution, Article I § (1)(a)), and shall include the Republic of Palau’s continental shelf areas as determined by the United Nations Commission on the Limits of Continental Shelf (UNCLOS) as set forth in Article I, § 1(a) and Article I, § 2(a) of the Constitution and any modification thereof.

(kkk) “Upstream activities” means all activities and operations relating to:

- (1) the exploration, development, production, field separation, transportation, storage, sale or disposal of petroleum, excluding any transportation or other operations beyond the point of export, or in the case of petroleum which is processed within the Republic, beyond the entry point into any refinery, gas treatment facility, natural gas liquefaction facility or similar facility;
- (2) the construction or installation or operation of facilities directly related to these activities; and
- (3) the decommissioning of any facilities directly related to these activities.

Source

RPPL 8-37 Chapter 1 § 6, modified.

**Subchapter II
Title to Petroleum**

- § 1811. National government rights.
- § 1812. State government rights.
- § 1813. Prohibitions.
- § 1814. Petroleum operations by the national government.
- § 1815. Paramountcy.

§ 1811. National government rights.

In accordance with, and pursuant to, the Constitution:

(a) the Olbiil Era Kelulau shall regulate the ownership, exploration and production of natural resources together with matters regarding navigation, shipping and the use of navigable waters, within the territory; and

(b) all title, right, interest and sovereign ownership in and to petroleum which is beyond the twelve (12) mile limit of the territorial seas of each state but within the territory, shall vest with the national government, together with all revenues derived therefrom.

Source

RPPL 8-37 Chapter 2 § 1, modified.

§ 1812. State government rights.

In accordance with, and pursuant to, the Constitution, all title, right, exclusive interest and sovereign ownership in and to petroleum on and under land territory and internal waters within a state and within the twelve (12) mile limit of the territorial seas of each state, shall vest with such state's government; provided, however, that traditional fishing rights and practices shall not be impaired.

Source

RPPL 8-37 Chapter 2 § 2, modified.

§ 1813. Prohibitions.

No person shall:

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- (a) conduct petroleum operations within the territory except in accordance with this chapter; or
- (b) acquire title to petroleum unless it has been lawfully recovered pursuant to a license issued in accordance with this chapter and any action or activities to the contrary shall be punishable pursuant to subchapter IX and applicable law.

Source

RPPL 8-37 Chapter 2 § 3, modified.

§ 1814. Petroleum operations by the national government.

The Minister, or such other public authority or publicly owned corporation, or similar entity as may be designated or established by the national government, may conduct petroleum operations within the territory, subject to those state government's rights set forth under subchapter II section 1812.

Source

RPPL 8-37 Chapter 2 § 4, modified.

§ 1815. Paramountcy.

- (a) In the event of any conflict or inconsistency between this chapter and the regulations, this chapter shall prevail.
- (b) In the event of any conflict or inconsistency between this chapter together with the regulations, and any terms or conditions contained in a license, this chapter together with the regulations shall prevail.
- (c) In the event of any conflict or inconsistency between this chapter and provisions of any applicable law, unless specifically provided to the contrary in the applicable law, this chapter shall prevail.

Source

RPPL 8-37 Chapter 2 § 5, modified.

**Subchapter III
Administration**

- § 1821. National government.
- § 1822. State governments.
- § 1823. The Ministry: functions, duties, powers and responsibilities.
- § 1824. The Inter-Governmental Committee: duties, powers and membership.
- § 1825. The petroleum register.
- § 1826. The petroleum data base.

§ 1821. National government.

The national government is hereby empowered to perform, and shall be responsible for, the oversight, supervision, coordination and administration of the following activities:

- (a) establishing the Inter-Governmental Committee in accordance with subchapter III, section 1824;
- (b) in consultation with the Environmental Quality Protection Board, declaring, classifying or declassifying an area within the territory as closed area pursuant to subchapter VII, section 1861; and
- (c) exercising all other powers and functions assigned to the national government under this chapter.

Source

RPPL 8-37 Chapter 3 § 1, modified.

§ 1822. State governments.

Each state government is hereby empowered to perform, and shall be responsible for, the oversight, supervision, coordination and administration of the following activities:

- (a) in consultation with the Environmental Quality Protection Board, declaring, classifying or declassifying an area as closed area pursuant to subchapter VII, section 1861; and
- (b) exercising such other or additional powers and functions as may be necessary to give

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effect to the objectives of this chapter within the jurisdiction of such state.

Source

RPPL 8-37 Chapter 3 § 2, modified.

§ 1823. The Ministry: functions, duties, powers and responsibilities.

(a) The Ministry, acting through the Minister, is hereby empowered to perform, and shall be responsible for, the oversight, supervision, coordination and administration of the following activities:

- (1) administering this chapter;
- (2) monitoring petroleum operations within the territory;
- (3) formulating and implementing policies relating to petroleum and its development within the territory, including policies for the promotion of private investment in petroleum operations;
- (4) developing, formulating, issuing and enforcing the regulations;
- (5) supervising any public agencies and publicly-owned corporations which regulate or carry out petroleum operations;
- (6) chairing the Inter-Governmental Committee established in accordance with subchapter III, section 1824;
- (7) overseeing licensing rounds and license tender procedures;
- (8) subject to the approval process described in subchapter IV, sections 1833, 1834 and 1835, issuing licenses;
- (9) administering, enforcing and terminating licenses as provided for in this chapter;
- (10) approving the assignment of licenses, with the prior approval of the Inter-Governmental Committee;
- (11) receiving monthly reports from the Bureau of Revenue, Customs and

Taxation regarding all rental fees and royalties collected by such bureau pursuant to this chapter;

(12) dividing the territory into blocks in accordance with the regulations; and

(13) exercising such other or additional powers and functions as may be necessary to give effect to the objectives of this chapter.

(b) The Minister shall:

(1) organize the Ministry, and appoint such administrative and technical staff and advisors as may be determined to be necessary, in a manner consistent with internationally accepted petroleum industry standards and on the basis of appropriate qualifications, capability and experience;

(2) develop, formulate and issue the model licenses;

(3) develop, formulate and issue tender procedures and bidding terms in respect of licensing rounds;

(4) subject to the approval process described in subchapter IV, sections 1833, 1834 and 1835, negotiate licenses; and

(5) have the power to delegate to any public official, agency, advisor or consultancy, any of the functions assigned to him under this chapter.

Source

RPPL 8-37 Chapter 3 § 3, modified.

§ 1824. The Inter-Governmental Committee: duties, powers and membership.

(a) There is hereby established a committee to be known as the “Inter-Governmental Committee” responsible for the oversight, supervision, coordination and administration of the following activities:

(1) reviewing and approving the terms and conditions of the model licenses, all bid documents to be issued by the Minister in connection with a licensing round, the terms of bidding, and the bid analysis criteria;

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(2) receiving, reviewing and evaluating all bids and applications made for all exploration licenses and all production licenses as applicable;

(3) selecting all successful bids made for all exploration licenses and all production licenses;

(4) rejecting all unsuccessful bids and applications made for all exploration licenses and all production licenses;

(5) approving the terms and conditions of all exploration licenses and all production licenses;

(6) approving or rejecting all applications for the assignment, or transfer of licenses; and

(7) providing advice and recommendations regarding matters relating to petroleum operations and this chapter, when requested to do so by the Minister.

(b) The Inter-Governmental Committee shall consist of the following voting members:

(1) for matters relating to a licensed area or proposed licensed area located beyond the contiguous zone extending twenty-four (24) nautical miles from the baseline, and without prejudice to its ownership rights under subchapter II, section 1811:

(A) the Minister of Public Infrastructure and Industries;

(B) the Minister of Finance;

(C) the Attorney General;

(D) the Minister of Human Resources, Culture, Tourism, and Development; and

(E) the Minister of Health and Human Services;

(2) for matters related to a licensed area or proposed licensed area located in the territory of a state and in the contiguous zone up to twenty-four (24) nautical miles from the baseline, and without prejudice to its ownership rights under subchapter

II, section 1812:

- (A) the Minister of Public Infrastructure and Industries;
- (B) the Minister of Finance;
- (C) the Attorney General;
- (D) the Governor of such state; and
- (E) the speaker of the state legislature of such state.

(3) with respect to all matters set forth in subchapter III, section 1824(b)(1) and (2), as non-voting observers only:

- (A) the chairperson of the Chamber of Commerce; and
- (B) the chairperson of the Palau Conservation Society.

(c) In the event that any member of the Inter-Governmental Committee is unavailable for any proceeding under this section 1824, such member shall appoint an alternate in writing.

(d) In the evaluation of all bids received and licenses to be issued, the committee shall conduct such evaluations fairly, impartially and without discrimination, and select that bid which provides the greatest benefits to the Republic and the state within which the proposed licensed area is situated, on the basis of criteria set forth with respect to the relevant licensing round, which shall take into consideration the technical and financial capabilities of the bidders, the proposed work plan contained within the bids, the adequacy of environmental policies proposed by the bidders, and other socio-economic advantages for the Republic and the residents of such state.

(e) All decisions of the Inter-Governmental Committee shall be made in accordance with the regulations governing its deliberations and shall require an affirmative vote of not less than: three-fourths (3/4) or seventy-five percent (75%) of those entitled to vote, with all such votes to be issued in writing.

(f) Every vote cast by those committee members designated pursuant to subchapter III, section 1824(b)(2)(D) and (E), must first be authorized in accordance with the provisions

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of the relevant constitution for the state within which the proposed license is situated.

(g) No person may serve as a member of the Inter-Governmental Committee if such person is, whether as owner, shareholder, director, officer, partner or otherwise, engaged in the business of producing, selling, buying, transmitting, exporting, importing or otherwise dealing in petroleum or conducting petroleum operations within the territory or holds any interest, share, stock, bond, debenture or other security of a person engaged in any such business.

(h) The Inter-Governmental Committee may engage the services of such financial, technical, legal or other advisors as may be determined necessary in order to discharge its obligations.

Source

RPPL 8-37 Chapter 3 § 4, modified.

§ 1825. The petroleum register.

(a) The Ministry shall establish and maintain a petroleum register in the office of the Ministry or in such other location as may be determined by the Minister, which shall contain the following:

- (1) the reference map;
- (2) a listing of all licenses issued in accordance with this chapter describing:
 - (A) the licensed area;
 - (B) the type of license;
 - (C) the holders of the license;
 - (D) the date of issue and expiration of the license; and
 - (E) any other information required pursuant to the regulations.
- (3) copies of all licenses issued in accordance with this chapter, together with all instruments of approval, extension, renewal, termination or expiration; and

(4) copies of this chapter, the regulations, and any ministerial orders or policies issued pursuant to this chapter.

(b) Except as may be restricted pursuant to applicable law, all records maintained within the petroleum register shall be available to the public for inspection on those days and during those hours set forth in the regulations and copies of all such records may be obtained by the public upon payment of the prescribed fee set forth in the regulations.

(c) Registration of any license, document, record or other instrument in the petroleum register shall not cure any defect in such license, document, record or instrument or confer upon it any validity which it would not otherwise have.

Source

RPPL 8-37 Chapter 3 § 5, modified.

§ 1826. The petroleum data base.

(a) Every license shall require the licensee to submit to the Ministry, within the time periods set forth in the regulations, all data set forth in subchapter III, section 1826(b).

(b) The Ministry shall establish and maintain a petroleum data base which shall contain the following data:

(1) all original geophysical and geological data, information and reports obtained pursuant to any license or otherwise developed during the course of petroleum operations, whether processed, unprocessed, interpreted or uninterpreted and regardless of the form or medium in which such data is recorded;

(2) all well data obtained pursuant to any license or otherwise developed during the course of petroleum operations, including well position, well name and well type, together with all log data, core data and geochemical data; and

(3) copies of all production reports, and any other record or material required to be filed by applicable law.

(c) All data contained within the petroleum data base shall:

(1) be the exclusive property of the national government; provided, however, that every state government shall have the right to obtain, without charge, a copy of all

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data regarding the land territory and internal waters of such state as determined by state government rights pursuant to subchapter II, section 1812;

(2) be maintained in the office of the Ministry or in such other location as may be determined by the Ministry; and

(3) be subject to conditions governing confidentiality, disclosure, reproduction and use as set forth in the regulations.

Source

RPPL 8-37 Chapter 3 § 6, modified.

Subchapter IV Licenses

§ 1831. General provisions.

§ 1832. Study license.

§ 1833. Exploration license.

§ 1834. Production license.

§ 1835. Licensing procedures.

§ 1836. Approved persons.

§ 1837. Geological and Geophysical Data Services Agreement.

§ 1831. General provisions.

(a) The following licenses, which shall be substantially in the form of the model licenses set forth in the regulations, may be issued in accordance with this chapter:

(1) a study license;

(2) an exploration license; and

(3) a production license.

(b) The Minister may establish such further licenses governing petroleum operations as may be determined to be necessary to give effect to the objectives of this chapter.

Source

RPPL 8-37 Chapter 4 § 1, modified.

§ 1832. Study license.

- (a) The Minister may issue a study license to an approved person for a term of not more than two (2) years, which shall provide the licensee with a non-exclusive right to perform prospecting activities within the licensed area, on terms set forth in the regulations.
- (b) Subject to the restrictions set forth in subchapter VII, a study license may be granted over any part of the territory which is not covered by an exploration license or a production license.
- (c) A study license shall not:
 - (1) entitle the licensee to conduct any petroleum operations governed by an exploration license or a production license, except prospecting; or
 - (2) provide the licensee with any preferential right or entitlement to obtain any other license.

Source

RPPL 8-37 Chapter 4 § 2, modified.

§ 1833. Exploration license.

- (a) The Minister may, whether following an award by public tender through a licensing round or otherwise in accordance with the regulations and upon the approval of the Inter-Governmental Committee, issue an exploration license to an approved person for a term of not more than ten (10) years, unless extended by the Minister in his sole discretion; such an exploration license shall provide the licensee with the exclusive right to perform exploration operations within the licensed area, on terms set forth in the regulations.
- (b) Subject to the restrictions set forth in subchapter VII, an exploration license may be granted over any part of the territory which is not governed by a production license.
- (c) Every exploration license shall:

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(1) be divided into no more than three exploration periods. The duration of each exploration period shall be specified in the relevant license, and if such license is offered pursuant to a licensing round, in the relevant tender document;

(2) provide for the relinquishment of specified areas at the end of each exploration period as set forth in the regulations;

(3) permit for the extension of the final exploration period, for the purposes of the appraisal of a discovery and limited to the discovery area, in accordance with the regulations; and

(4) set forth the process for the appraisal of a discovery and delineation of the discovery area in accordance with the regulations.

(d) In the event that a commercial discovery is made during the term of the exploration license, upon the application of the licensee and without the necessity of the approval of the Inter-Governmental Committee, the Minister shall issue a production license with respect to the development area; provided however, that:

(1) the licensee is not in breach of any of the terms and conditions of the exploration license; and

(2) the production license so issued shall be conditional upon the licensee diligently preparing and submitting to the Ministry a development plan, including an environmental assessment and an environmental impact statement, within two (2) years from the date of the issuance of the production license.

(e) For greater certainty, in the event that the licensee fails to submit a development plan within the term set forth in subchapter IV section 1833(d)(2), or such development plan does not meet the requirement for approval set forth in the regulations, the production license issued by the Ministry shall be deemed invalid.

Source

RPPL 8-37 Chapter 4 § 3, modified.

§ 1834. Production license.

(a) The Minister may, subject to the approval of the Inter-Governmental Committee as set forth in [subchapter III section 1824], issue a production license to an approved

person, for the term set forth herein, which shall provide the licensee with the exclusive right to produce petroleum from within the licensed area, on terms set forth in the regulations and, if the production license is issued pursuant to subchapter IV, section 1833, in the relevant exploration license.

(b) Subject to the restrictions set forth in subchapter VII, a production license may only be granted over a development area.

(c) A production license shall be for a term of:

(1) in the case of crude oil, not more than twenty-five (25) years, unless extended by the Minister in his sole discretion, and

(2) in the case of natural gas, not more than thirty (30) years, unless extended by the Minister in his sole discretion.

Source

RPPL 8-37 Chapter 4 § 4, modified.

Notes

The bracketed [subchapter III section 1824] in subsection (a) read "Article 3, Section 4" in the original legislation.

§ 1835. Licensing procedures.

(a) A license may only be granted in accordance with the procedures set forth in the regulations.

(b) The regulations shall set forth:

(1) the procedures governing unsolicited applications;

(2) the procedures governing licensing rounds;

(3) the criteria upon which the Minister shall evaluate study license applications;

(4) the criteria upon which the Inter-Governmental Committee shall evaluate exploration license applications and production license applications;

(5) the fees payable for all license applications; and

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(6) any other matters regarding the procedures for the issuance of licenses which the Minister deems appropriate.

(c) The decision to invite bids for license applications in respect of a block or series of blocks shall take the form of an order of the Minister that shall stipulate the licensing round procedure, including the fees payable by the bidders for the acceptance and processing of their applications, and the criteria for award, all as set forth in the regulations.

Source

RPPL 8-37 Chapter 4 § 5, modified.

§ 1836. Approved persons.

(a) A license may only be granted to an approved person or a group of approved persons. An individual, group of individuals, trust or partnership of individuals shall not be an approved person.

(b) In determining whether a person qualifies, and remains qualified, as an approved person, the Minister shall have the right to require the submission of evidence demonstrating the expertise and technical and economic capability of such person.

(c) An approved person, and every person within a group of approved persons, must be and shall remain in good legal and financial standing, and shall provide evidence of its ability to contribute, whether on its own behalf or pursuant to a financial guarantee or performance guarantee from an affiliate, the funds, assets, machinery, equipment, tools and technical expertise necessary for the effective performance of the terms and conditions of the proposed license or of petroleum operations.

(d) Every foreign licensee that is granted an exploration license, or acquires an interest in such license, shall be required to establish and maintain a representative office within the Republic or appoint and maintain an agent resident within the Republic having authority to receive on behalf of such person notices and other communications provided in said license. Every foreign licensee that is granted a production license shall be required to establish and maintain a branch office, or incorporate a company, within the Republic.

Source

RPPL 8-37 Chapter 4 § 6, modified.

§ 1837. Geological and geophysical data services agreement.

(a) The Minister may, in order to improve the knowledge of the geological potential of areas that may be included in licensing rounds, enter into a geological and geophysical data services agreement with a contractor, which shall provide the contracting party with the exclusive right to conduct, at its sole risk and expense, geophysical and geological surveys within the area subject to the agreement, and to license the data obtained to persons upon payment of such fee as may be determined by the contractor.

(b) Every geological and geophysical data services agreement shall provide:

(1) that all rights, titles and ownership of the data obtained pursuant such agreement shall be deemed the property of the national government or state government or both of them as applicable;

(2) that such agreement does not provide the contractor with any preferential right or entitlement to obtain any license;

(3) that the applicable government shall have the right to use the data for internal purposes only, and shall undertake not to disclose or transfer the data to third parties for the duration of the agreement, except as may be required by such government in order to facilitate such studies, analysis, evaluations and reporting as may be reasonably required; and

(4) the terms for sharing of the proceeds of licensing of the data between the contractor and the government.

(c) A geological and geophysical data services agreement may only be entered into with [a] geophysical company specialized in the acquisition, processing, and interpretation of geological and geophysical data.

Source

RPPL 8-37 Chapter 4 § 7, modified.

Notes

The bracketed [a] in subsection (c) is not in the original legislation.

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Subchapter V License Terms

- § 1841. Standards.
- § 1842. Obligations of general application.
- § 1843. Additional obligations under exploration licenses.
- § 1844. Additional obligations under production licenses.
- § 1845. Unitization obligations.
- § 1846. Stabilization.
- § 1847. Dispute resolution.
- § 1848. Amendments and waivers.
- § 1849. Transfers, assignments, change of control, surrender and termination.
- § 1850. Ownership and confidentiality of data.

§ 1841. Standards.

Every licensee shall carry out all petroleum operations in a proper, efficient and workmanlike manner in accordance with good oil field practice.

Source

RPPL 8-37 Chapter 5 § 1, modified.

§ 1842. Obligations of general application.

Every licensee shall comply with the following obligations which shall be obligations of general application, as more particularly set forth in the regulations:

- (a) to adopt all practicable measures to protect the environment in order to preserve the same, namely in respect to health, water, soil and subsoil, air, the preservation of biodiversity, flora, fauna, ecosystems, landscape, and cultural, historical and archaeological heritage;
- (b) where applicable, to prepare an environmental assessment and environment impact statement in accordance with applicable law;
- (c) to promptly remedy any damage or loss caused to the environment;
- (d) to ensure the safety, health and welfare of individuals engaged in petroleum

operations and the public;

(e) [to] report any serious or fatal accidents that occur, or any imminent hazard that arises, by the most rapid means of communication, both to the Minister and to the administrative authorities under whose jurisdiction the accident or hazard occurs or arises;

(f) to furnish to the Minister copies of all policies, procedures and standards required by applicable law;

(g) to maintain and furnish to the Minister periodic reports, records, returns, samples and data concerning the activities governed by such license;

(h) to fulfill all obligations under any work program and budget submitted with such license application or as may be set forth in such license;

(i) to keep current financial and cost accounting records of petroleum operations, in accordance with normal accounting practices in the international petroleum industry and applicable law;

(j) to permit the Minister or his authorized representatives reasonable inspection and audit rights over all petroleum operations;

(k) to indemnify the national government and state governments and their representatives and agents against all and any claims made by third parties in respect of any injury, damage or loss caused by an act or omission of the licensee, its sub-contractors or its agents, employees or representatives in the course of the conduct of petroleum operations; and further, to the extent applicable:

(l) to give preference to goods and services from within the Republic, if, in terms of quantity, quality and availability, such goods and services are offered on terms equal to those applicable to the imported goods and services, and if their prices are within such margin of competitiveness with the price of the imported goods or services;

(m) to ensure that all equipment, materials, supplies and installations comply with generally accepted best standards in such industry and are of proper construction and kept in good working order;

(n) to prevent the loss, escape or waste of petroleum, drilling fluids, water, and other

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products or substances used in or derived from petroleum operations; and

(o) to prevent damage to all petroleum bearing strata whether within, or outside of, a licensed area.

Source

RPPL 8-37 Chapter 5 § 2, modified.

Notes

The bracketed [to] in subsection (e) does not appear in the original legislation.

§ 1843. Additional obligations under exploration licenses.

In addition to the obligations set forth in subchapter V, section 1842, every licensee under an exploration license shall also comply with the following additional obligations as more particularly set forth in the regulations:

(a) to present annually to the Minister a report detailing the work program and budget for petroleum operations to be conducted in the following year, and indicative work programs and budgets for the two (2) subsequent years;

(b) to report immediately to the Minister any discovery, and supply a sample thereof to the Minister within a reasonable time after the date of such discovery;

(c) in case of a discovery, to delineate the discovery area, carry out appraisal, and where applicable, develop the discovery and commence production with due diligence upon the approval of the development plan and the issuance of the production license;

(d) to employ and train qualified nationals of the Republic, including administrative and executive management positions in accordance with training programs approved by the Minister and to gradually replace its expatriate staff with qualified nationals of the Republic as they become available;

(e) to furnish such sureties, financial guarantees, bonds or other instruments to secure decommissioning and performance obligations as may be required by the license and the regulations; and

(f) upon termination of the exploration license to promptly perform such decommissioning operations within the licensed area as may be required pursuant to applicable law.

Source

RPPL 8-37 Chapter 5 § 3, modified.

§ 1844. Additional obligations under production licenses.

In addition to the obligations set forth in subchapter V, sections 1841 and 1842, every licensee under a production license shall also comply with the following additional obligations, as more particularly set forth in the regulations:

- (a) to produce petroleum at the maximum efficient rate compatible with the nature and extent of the reservoir, and with due regard for the environment;
- (b) to furnish such additional sureties, financial guarantees, bonds or other instruments to secure decommissioning and performance obligations as may be required by applicable law; and
- (c) upon termination of the production license to promptly perform such decommissioning operations within the licensed area as may be required pursuant to applicable law.

Source

RPPL 8-37 Chapter 5, § 4, modified.

§ 1845. Unitization obligations.

- (a) If a reservoir is discovered to lie within two or more licensed areas the Minister may, by written notice to the licensees of such licensed areas, order the licensees to enter into a unitization agreement for the purpose of securing effective and optimized production of petroleum from the reservoir and if no unitization agreement has been reached by all parties within six (6) months from delivery of such written notice the Minister:
 - (1) shall decide the terms and conditions of unitization in accordance with the regulations; and
 - (2) may suspend, modify or cancel some or all of the rights of the licensees until the terms and conditions of unitization are complied with.
- (b) If a reservoir is discovered to lie partly within a licensed area and partly within an area not subject to any license the Minister may, by written notice, notify the licensee,

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impose such terms and conditions on the licensee as may be appropriate so as to ensure the effective and optimized production of petroleum from the reservoir.

Source

RPPL 8-37 Chapter 5, § 5, modified.

§ 1846. Stabilization.

(a) In the event that after the issuance of a license:

(1) an amendment is made to this chapter, a regulation, any applicable law, or the model licenses; or

(2) a new regulation or applicable law is enacted; which results in a material adverse change to the economic value derived from the petroleum operations by the licensee, the Inter-Governmental Committee shall, upon receipt of written notice from the licensee, commence negotiations with the licensee and reach agreement on such revisions or modifications to the terms of such license to ensure that the licensee enjoys the same economic benefit as would have been derived, if such amendment, new regulation or applicable law had not been made.

(b) In the event the parties cannot reach an agreement within one hundred eighty (180) days of the date of the written notice set forth above, either party may commence arbitration proceedings pursuant to subchapter V, section 1847, and the arbitrator shall be empowered to determine whether a material adverse change to the economic value derived from the petroleum operations of the licensee has occurred, and the remedies, including modifications to the license, necessary to protect the licensee against such changes.

(c) Notwithstanding the foregoing, no relief shall be available pursuant to subchapter V section 1846(b) if the amendment or new regulation or applicable law relates to:

(1) matters regarding health, and safety; or

(2) matters regarding the protection or preservation of the environment; or

(3) matters regarding the preservation of matters of cultural heritage.

Source

RPPL 8-37 Chapter 5 § 6, modified.

§ 1847. Dispute resolution.

(a) In the event of any disagreement between governments, whether national or state, with respect to the location or extent of any boundaries, borders or territories within the territory, all monies, funds and revenues arising from petroleum operations within such disputed areas shall be deposited into an escrow account, to be maintained by the Minister of Finance for the benefit of the claimants, until the resolution of the disagreement in accordance with the provisions of this section.

(b) If a dispute arises between a licensee and a government, relating to the interpretation or implementation of the terms of this chapter or a license, the parties shall first attempt to resolve that dispute by means of negotiation. If such a dispute cannot be resolved by negotiation, it shall be submitted to arbitration in accordance with this subchapter.

(c) Any arbitration between a licensee and a government shall be conducted in accordance with the rules of arbitration of the International Chamber of Commerce, with proceedings to be convened in Singapore.

(d) The regulations shall:

(1) provide that any award resulting from such arbitration shall be final and enforceable both in the Republic and in the jurisdiction of the licensee upon application of any party to such arbitration to the appropriate courts;

(2) provide that the Attorney General of the Republic, or such other official as may be appropriate, shall represent the Republic in any arbitral proceedings where the Republic is a party;

(3) provide that the Attorney General of the Republic, or such other official as may be appropriate, shall represent any state or states in an arbitral proceedings where a state or states are a party; and

(4) provide that the obligations of the parties under the license shall continue pending the resolution of any matter submitted to arbitration.

Source

RPPL 8-37 Chapter 5 § 7, modified.

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§ 1848. Amendments and waivers.

(a) No amendment, modification, supplement, addition or revision may be made to any license unless done in writing and duly executed by the Minister and any amendment to a license shall be published in accordance with the provisions of this chapter.

(b) No failure by the Minister, or a government to enforce any right or institute any proceedings, and no delay in the exercise of any right or any proceedings under this chapter or the regulations in connection herewith shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy prevent or preclude any further or other exercise thereof by such participant of that or any other such right or remedy.

Source

RPPL 8-37 Chapter 5 § 8, modified.

§ 1849. Transfers, assignments, change of control, surrender and termination.

(a) No transfer, assignment, encumbrance, sale, disposition or disposal of any license or interest, right or obligation arising pursuant to such license shall be valid without the prior written consent of the Minister, and any merger, whether by acquisition or exchange of shares, or other change of control, including a change of control in a parent corporation, shall be treated as a transfer for the purposes of this subchapter. Prior to granting or refusing such consent, the Minister shall have the right to require the submission of evidence demonstrating the technical and financial capability of the proposed transferee, assignee, encumbrance holder, purchaser or party acquiring control, on such terms and conditions as may be appropriate.

(b) A licensee may surrender a license, or any interest thereunder, at any time, upon written notice to the Minister, provided that all obligations thereunder, including arrangements regarding decommissioning obligations satisfactory to the Minister, have been discharged.

(c) In the event that a licensee:

(1) fails to comply with the provisions of this chapter;

(2) fails to comply with the terms and conditions under such license;

- (3) is controlled directly or indirectly by a public official;
- (4) is controlled directly or indirectly by a former public official who has held such position within the previous two years; or
- (5) obtained such license contrary to the provisions of subchapter XII; then the Minister, upon consultation with the Inter-Governmental Committee in accordance with the provisions of subchapter III, sections 1823 and 1824, may, upon written notice, terminate the license.

Source

RPPL 8-37 Chapter 5 § 9, modified.

§ 1850. Ownership and confidentiality of data.

- (a) All geological, geophysical, production and engineering data, and reports and samples collected or compiled by a licensee in the course of petroleum operations shall be deemed property of the national and state governments, and shall be submitted to the petroleum data base in accordance with the terms of the regulations.
- (b) Every licensee shall have the right to use copies of any data submitted pursuant to subchapter V in accordance with the terms of the regulations.
- (c) The confidentiality and permitted disclosure of such data by licensee shall be in accordance with the regulations.

Source

RPPL 8-37 Chapter 5 § 10, modified.

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Subchapter VI Facilities

§ 1851. General provisions.

§ 1852. Third party access.

§ 1853. Promulgation of additional regulations.

§ 1851. General provisions.

No person shall construct, own or operate facilities except pursuant to a license or other authorization issued by the Minister in accordance with this chapter or any applicable law. The regulations shall provide:

(a) the terms and conditions under which facilities may be constructed, owned or operated including the design and safety requirements of same; and

(b) that any licensee shall have the right to access any uncommitted capacity in specified facilities used in the pipeline transportation and storage of petroleum, upon entering into an agreement with the owner of such facility.

Source

RPPL 8-37 Chapter 6 § 1, modified.

§1852. Third party access.

(a) Upon receipt of a written application from a third party requesting access to a facility referred to in this subchapter VI, section 1851(b), the Minister may grant third party access if, upon due inquiry, the Ministry is satisfied that:

(1) the granting of such access is reasonable and meets the objectives of the chapter;

(2) the granting of such access will not have an adverse effect on the facility owner; and

(3) the third party and the facility owner reach an agreement regarding the terms and conditions of such access.

(b) In the event that agreement cannot be reached between the third party and the facility owner within ninety (90) days from the date upon which the Minister instructs such owner to grant access to the third party, the Minister may order such access on such terms and conditions as it deems appropriate, taking into consideration existing contractual commitments in respect of the facility and, where the facility owner holds a production license, the licensee's obligations to transport petroleum produced under such production license.

Source

RPPL 8-37 Chapter 6 § 2, modified.

§ 1853. Promulgation of additional regulations.

The Minister may enact such additional regulations, and such additional licenses, as may be necessary to further regulate the construction, ownership and operation of, and third party access to, facilities, in a manner consistent with this chapter.

Source

RPPL 8-37 Chapter 6 § 3, modified.

Subchapter VII

Areas of Operation and Surface Rights

§ 1861. Closed areas.

§ 1862. Restricted areas.

§ 1863. Land use and occupation.

§ 1864. Other minerals or substances.

§ 1861. Closed areas.

(a) The Minister may designate any areas within the territory as closed to some or all petroleum operations for reasons of health, safety, public order or public necessity, or the incompatibility of petroleum operations with other existing or planned uses of such area, or the protection of the environment or preservation of matters of cultural heritage.

(b) The state government may designate any areas set forth in subchapter II, section 1812 as closed to some or all petroleum operations for reasons of health, safety, public order or

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public necessity, or the incompatibility of petroleum operations with other existing or planned uses of such area, or the protection of the environment or preservation of matters of cultural heritage.

Source

RPPL 8-37 Chapter 7 § 1, modified.

§ 1862. Restricted areas.

(a) No petroleum operations may be performed in the following areas:

- (1) any area designated [a] historical preservation site in accordance with 19 PNC § 181 or § 306;
- (2) any area within one thousand (1000) meters of an area which has been designated a marine conservation area in accordance with applicable law;
- (3) any area within five hundred (500) meters of a building or dam owned by the state government;
- (4) any area designated for purposes of national defense, whether pursuant to applicable law or any arrangement with a foreign government;
- (5) any area which forms part of an airport or cemetery; and
- (6) any area designated as a restricted area in accordance with any applicable law respecting:
 - (A) matters of public health or safety;
 - (B) matters of environmental conservation; or
 - (C) matters of cultural heritage.

Source

RPPL 8-37 Chapter 7 § 2, modified.

Notes

The bracketed [a] in subsection (1) read “an” in the original legislation.

§ 1863. Land use and occupation.

(a) Every licensee may enter into and leave from a licensed area at any time for the purpose of petroleum operations; provided, however, that no licensee shall cause or permit any persons, equipment or goods to enter into a licensed area without first meeting the lawful entry requirements of the Republic, including duties, tariffs and customs.

(b) Where a licensee has been granted a license to conduct petroleum operations on lands which are owned by a government, upon payment of such fees as may be set forth in the regulations and other applicable law, the licensee shall be granted by such government a right-of-way, easement or other right of access as may be required for petroleum operations.

(c) Where a licensee has been granted a license to conduct petroleum operations on lands which are not owned by a government, such privately owned land shall be made available to the licensee, to the extent required for petroleum operations and the government shall undertake, upon application of the licensee to the Minister to compulsorily acquire or otherwise secure a right-of-way, easement, ownership or such other right of access as may be necessary for the conduct of petroleum operations thereon; provided, that all reasonable compensation due for the acquisition of such rights on behalf of the licensee shall be borne by the licensee and; provided further, that the rights so acquired by the licensee shall automatically expire upon termination of the license.

(d) Upon a demand being made by any person having a lawful interest in land upon or under which petroleum operations are being carried out, a licensee shall pay to such person fair and reasonable compensation for any disturbance of his or her surface rights, and for any damage done as a result of petroleum operations to the land, or to any livestock, crops, trees, buildings or works.

(e) In the event that the amount of such compensation due hereunder cannot be determined by agreement, the matter shall be:

(1) referred to the Inter-Governmental Committee for determination; and

(2) in the event that the parties do not accept the recommendation of the Inter-Governmental Committee, either party may commence proceedings in accordance with applicable law.

Source

RPPL 8-37 Chapter 7 § 3, modified.

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§ 1864. Other minerals or substances.

(a) Nothing in a license or this chapter shall restrict the rights of persons to conduct prospecting, exploration or extraction of substances other than petroleum within any licensed areas; provided, that such activity is conducted in accordance with applicable law and does not hinder petroleum operations and every licensee shall be required to afford safe passage to such persons for the purposes [of] such activities.

(b) If minerals or substances of economic interest, other than crude oil or natural gas, are discovered by a licensee during the course of petroleum operations, the licensee shall promptly report such discovery to the Minister and supply a sample of such discovery. The Minister may impose such fees, charges, royalties, taxes or levies on the sale such substances as may be determined.

Source

RPPL 8-37 Chapter 7 § 4, modified.

Notes

The bracketed [of] in subsection (a) replaced the wording “or” in the original legislation per Code Commission.

Subchapter VIII Fiscal Terms

- § 1871. Administration.
- § 1872. Maintenance of accounts, books and records.
- § 1873. Audit rights and penalties.
- § 1874. Rental fees and bonuses.
- § 1875. Royalties.
- § 1876. Petroleum rent tax (PRT).
- § 1877. Valuation and measurement of petroleum.
- § 1878. Domestic market obligations.
- § 1879. Allowable expenditures.
- § 1880. Corporate income tax (CIT).
- § 1881. Depreciation.
- § 1882. Tax relief.
- § 1883. Personal income tax and social contributions.
- § 1884. Ring fences.
- § 1885. Customs duties.
- § 1886. Additional fees.

§ 1871. Administration.

(a) In this subchapter VIII, “petroleum” means crude oil and natural gas and, for greater certainty, shall not include any other minerals or substances governed by subchapter VII, section 1864.

(b) All taxable persons shall submit periodic and annual tax returns to the Bureau of Revenue, Customs and Taxation which shall be prepared in accordance with applicable law.

(c) All payments under this subchapter VIII, together with all other fees, charges and levies payable pursuant to this chapter or a license, shall be paid by the following dates:

(1) all royalties shall be paid on a provisional basis within twenty (20) days following the end of each calendar month in which petroleum produced pursuant to a license was sold or disposed of by licensee and, to the extent required, quarterly adjustments shall be made in accordance with the regulations;

(2) all petroleum rent tax and all corporate income tax shall be paid on a provisional basis within thirty (30) days following the end of each calendar quarter in accordance with the regulations and, to the extent required, quarterly adjustments shall be made in accordance with the regulations;

(3) all rental fees shall be paid within thirty (30) days following the beginning of each calendar year, as adjusted for partial years; and

(4) all personal income tax, additional fees, other duties, fees and levies referred to in subchapter VIII shall be paid by the date set forth in the relevant applicable law.

(d) All payments under this subchapter VIII, together with all other fees, charges and levies payable pursuant to this chapter or a license, shall be paid to the following offices in accordance with procedures set forth in the regulations:

(1) all royalties arising from petroleum operations subject to state government rights set forth in subchapter II, section 1812, to the Bureau of Revenue, Customs and Taxation for allocation to the producing state government, other state governments and the national government in accordance with applicable law, and, to the extent applicable, the provisions of subchapter V, section 1846;

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(2) all royalties arising from petroleum operations subject to national government rights set forth in subchapter II, section 1811, to the Bureau of Revenue, Customs and Taxation for allocation to the state governments and the national government forthwith, in accordance with applicable law, and, to the extent applicable, the provisions of subchapter V, section 1846;

(3) all rental fees, bonuses, petroleum rent tax, and corporate income tax, to the Bureau of Revenue, Customs and Taxation for allocation between the national government and the state governments forthwith, pursuant to applicable law and, to the extent applicable, the provisions of subchapter V, section 1846;

(4) all personal income tax, and customs duties, to the Bureau of Revenue, Customs and Taxation; and

(5) all additional fees, to the Treasury of the state government in which state the applicable petroleum operations are carried out or of the state government which provided the service in accordance with the regulations.

Source

RPPL 8-37 Chapter 8 § 1, modified.

§ 1872. Maintenance of accounts, books and records.

(a) Every taxable person shall maintain accounts, books and records:

(1) which reflect all revenues, costs and expenses associated with petroleum operations under this chapter in accordance with accepted international petroleum industry accounting standards and procedures;

(2) as prescribed by regulations;

(3) at an office located within the Republic; and

(4) in U.S. dollars.

(b) All books, accounts and records shall be prepared on an accrual basis. Revenues from petroleum operations shall be attributed to the accounting period in which they are earned, and costs and expenses to the accounting period in which they are incurred, without regard to whether cash is received or disbursed in connection with a particular

transaction. Costs and expenses shall be deemed to have been incurred, in the case of physical items, in the accounting period when the taxable person acquires title thereto, and in the case of services, in the accounting period when such services are performed.

Source

RPPL 8-37 Chapter 8 § 2, modified.

§ 1873. Audit rights and penalties.

(a) The Bureau of Revenue, Customs and Taxation shall have the right to inspect and audit, directly or through an independent third party, the accounts, books and records and supporting documentation relating to any petroleum operations carried out by any taxable person. The Ministry shall have the right, if it so wishes, to join the Bureau of Revenue, Customs and Taxation in such inspections and audits. If the taxable person's accounts, books, records, and related supporting documentation are not available for inspection within the territory, the Bureau of Revenue, Customs and Taxation shall have the right to audit such books and accounts in the jurisdiction in which they are kept, and the cost associated therewith shall be borne exclusively by the taxable person.

(b) The audit rights set forth in subchapter VIII, section 1873, shall terminate five (5) years from the closure of any calendar year's accounts provided however that no time limit shall apply if the Bureau of Revenue, Customs and Taxation notifies the taxable person that they have reason to believe that a fraudulent activity has taken place.

(c) Interest at a rate equal to LIBOR plus five percent (5%) shall apply to any payment that remains due after the due date set forth in this chapter and the regulations, and any license, approval, or permit may be revoked in accordance with subchapter IX, section 1891, where unpaid amounts arising under such license remain outstanding more than ninety (90) days from the due date.

Source

RPPL 8-37 Chapter 8 § 3, modified.

§ 1874. Rental fees and bonuses.

(a) A rental fee with respect to all or any part of a licensed area shall be payable by a licensee as set forth in [the] license or the regulations.

(b) A bonus may be payable by licensee upon the issuance of an exploration license or

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following a commercial discovery as set forth in the regulations and the relevant license.

Source

RPPL 8-37 Chapter 8 § 4, modified.

Notes

The bracketed [the] in subsection (a) does not appear in the original legislation.

§ 1875. Royalties.

(a) Subject to subchapter VIII, section 1875(b), a royalty on the sale or other disposition of petroleum produced and saved under a production license shall be payable by every licensee in accordance with the terms set forth in the regulations. The royalty shall vary between a minimum of five percent (5%) and a maximum of twelve and one half percent (12.5%) of the value of petroleum on the basis of the profitability index set forth the regulations.

(b) Royalty may be taken in kind as follows:

(1) all royalties arising from petroleum operations subject to state government rights set forth in subchapter II, section 1812, may be taken in kind upon an affirmative decision by the Inter-Governmental Committee and in accordance with the regulations, and, to the extent applicable, the provisions of subchapter V, section 1846; and

(2) all royalties arising from petroleum operations subject to national government rights set forth in subchapter II, section 1811, may be taken in kind upon the decision of the Minister in accordance with the regulations.

(c) The Minister shall notify the licensee in writing of the election of the Inter-Governmental Committee or the Minister, as the case may be, to take the royalty in kind at least one hundred and eighty (180) days prior to the date of the intended delivery of the royalty in kind. This election shall remain valid for twelve (12) months.

(d) The determination of all volumes and values of petroleum for the purposes of calculating the royalty shall be made at the delivery point. In the event of production pursuant to an exploration license the Minister shall determine the delivery point for the purposes of such determination.

(e) Production shall be measured at standard temperatures and pressures as set forth in

the regulations and shall not include:

- (1) any volumes of petroleum burned, flared or vented with the approval of the Minister or as may be permitted pursuant to the regulations;
- (2) any volumes of petroleum re-injected by the licensee into a reservoir for the purposes of enhancing the production of crude oil, for the conservation of natural gas or otherwise used in petroleum operations; and
- (3) any water or sediments produced in association with petroleum.

Source

RPPL 8-37 Chapter 8 § 5, modified.

§ 1876. Petroleum rent tax (PRT).

- (a) A petroleum rent tax shall apply to income from upstream activities as determined in the regulations. Subject to subchapter VIII, section 1882, the petroleum rent tax shall be calculated with reference to the licensed area of each production license separately.
- (b) The petroleum rent tax rate shall vary between a minimum of zero percent (0%) and a maximum of forty percent (40%) on the basis of the profitability index set forth in the regulations.

Source

RPPL 8-37 Chapter 8 § 6, modified.

§ 1877. Valuation and measurement of petroleum.

- (a) The unit sale price of crude oil for the purposes of calculating royalties, petroleum rent tax and corporate income tax shall be the market price at the delivery point, expressed in U.S. Dollars per barrel, for the relevant reference period as determined in accordance with the regulations on the basis of the following principles:
 - (1) if sales to independent purchasers represent fifty percent (50%) or more of the crude oil from the licensed area sold by licensee at the delivery point during the course of the reference period, the market price applicable for that reference period shall be equal to the weighted average of the net realized prices free on board (FOB) at the delivery point received by licensee for such crude oil; or

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(2) if sales to independent purchasers represent less than fifty percent (50%) of the crude oil from the licensed area sold by licensee at the delivery point during the course of the reference period, the market price applicable for that reference period shall be the weighted average of:

(A) the weighted average of the unit prices free on board (FOB) received by licensee from sales to independent purchasers at the delivery point during the reference period, if there has been such sales of crude oil from the licensed area; and

(B) the weighted average of the unit prices for which crude oils from the Republic (or elsewhere if no other crude oils from the Republic were sold during the reference period) of similar quality to the crude oil from the licensed area were sold during the course of the reference period under comparable commercial conditions by independent sellers to independent buyers. The prices of reference crude oils shall be adjusted to take account of differences in quality, transportation costs, and any commissions paid in relation to such sales, and other special circumstances with respect to such sales;

(C) the weighted averages referred to in this section 1877(a)(2) shall be determined on the basis of the percentage by volume represented by the total of the sales from the licensed area under sub-paragraph (A) above and those made under sub-paragraph (B) respectively.

(b) In the event that petroleum operations involve the segregation of crude oil of different quality, and if the parties do not otherwise mutually agree, any and all provisions of this subchapter concerning valuation of crude oil shall separately apply to each segregated crude oil. However, in electing to take its royalty in kind pursuant to subchapter VIII, section 1875(b), the Minister shall have the right to specify the quality of crude oil.

(c) The unit sale price of natural gas for purposes of calculating royalties, petroleum rent tax and corporate income tax shall be the market price at the delivery point, expressed in U.S. Dollars per million British thermal units, for the relevant reference period as determined in accordance with the regulations on the basis of the following principles:

(1) for sales to independent purchasers, the market price shall be equal to the weighted average of the net realized price obtained by licensee at the delivery point for sales of natural gas from the licensed area over the course of the

reference period;

(2) for sales other than to independent purchasers, be determined by expert determination; provided, however, that such price or value shall reflect the following as appropriate:

(A) the quantity and quality of the natural gas;

(B) the price at which sales of natural gas from other sources in the Republic, if any, are then being made;

(C) the price at which sales, if any, of natural gas imported into the Republic for consumption in the territory are being made;

(D) the purpose for which the natural gas is to be used; and

(E) the international market price of competing or alternative fuels or feedstocks; and

(3) for sale in the domestic market, be established by expert determination with reference to import parity prices, adjusted to take into account the quality and quantity of the natural gas.

(d) Products obtained from the refining of crude oil or the processing of natural gas shall:

(1) for sales to independent purchasers, be equal to the weighted average of the net realized price obtained by the seller for sales of products free on board (FOB) at the delivery point or other measurement point as determined in the regulations, over the course of the reference period;

(2) for sales other than to independent purchasers, be determined by expert determination; provided, however, that such price or value shall reflect the following:

(A) the quality of such products;

(B) the price at which sales of such products from other sources in the Republic, if any, are then being made;

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(C) the price at which sales of such products are being made on the international market, adjusted to take into consideration any transportation advantage or disadvantage and other special circumstances with respect to sales of such products; and

(3) for sales to the domestic market, be determined by regulation, and in the absence of regulation, in accordance with paragraphs (1) and (2) of this subchapter VIII, section 1877(d).

(e) The unit price for petroleum taken in kind by a government pursuant to subchapter VIII, section 1875, and the unit price for petroleum sold to the national government pursuant to subchapter VIII, section 1878, as well as their treatment for the purposes of calculating royalties, petroleum rent tax, and corporate income tax, shall be as determined in the regulations.

(f) Sales to independent purchasers referred to in this subchapter VIII shall mean sales, other than swaps, barter sales or distress sales, made by a licensee to purchasers of a licensee in an arms length transactions.

(g) For the purposes of this subchapter VIII, sales to the Republic's internal market under subchapter VIII, section 1878 shall be excluded from the calculation of the market price, and commissions or brokerages incurred in connection with sales to independent purchasers, if any, shall not exceed the customary and prevailing rates.

(h) Licensee shall supply, operate and maintain equipment for measuring the volume and quality of the petroleum produced and saved pursuant to a license, including gravity, temperature and pressure measuring devices and any other devices that may be required. All measurement equipment and devices shall, prior to their installation or usage, be approved by the Ministry. Such equipment and devices shall at all reasonable times be available for inspection and testing by the Ministry or its authorized representatives. Any such inspection or testing shall not interfere with the normal operation of the facilities involved. The equipment and devices used or installed pursuant to this subchapter shall not be replaced or altered without the prior approval of the Ministry.

(i) Licensee shall undertake to measure the volume and quality of petroleum produced and saved pursuant to a license, with the frequency and according to procedures established in the regulations.

Source

RPPL 8-37 Chapter 8 § 7, modified.

§ 1878. Domestic market obligations.

(a) Licensee shall be obliged to sell and transfer to the national government, on the written request of the Minister, out of any petroleum to which it is entitled under a license, such quantity of petroleum as may be required to meet the requirements of the Republic for internal consumption. Each licensee shall be responsible for supplying its pro-rata share of the internal consumption requirements that licensees in the aggregate are required to supply.

(b) Deliveries shall be made in accordance with the procedures set forth by mutual agreement between the Ministry and licensee, and may include the obligation of licensee to provide storage at agreed rates.

Source

RPPL 8-37 Chapter 8 § 8, modified.

§ 1879. Allowable expenditures.

(a) All transactions giving rise to revenues, costs or expenses which will be credited or charged to the books, accounts, records and reports prepared, maintained or submitted pursuant to this chapter, the regulations and any applicable law shall be conducted at arm's length or on such a basis as will assure that all such revenues, reasonable and necessary costs or expenses will not be higher or lower, as the case may be, than would result from a transaction conducted at arms length and on a competitive basis.

(b) The regulations shall specify the costs and expenses that are allowed in deduction of revenues for the purpose of calculating the corporate income tax, as well as the cost and expenses to be used for the calculation of the petroleum revenue tax.

Source

RPPL 8-37 Chapter 8 § 9, modified.

§ 1880. Corporate income tax (CIT).

(a) Each taxable person shall be subject to corporate income taxes on the basis of taxable income obtained from petroleum operations in each calendar year as defined in applicable law and the regulations. Subject to subchapter VIII, section 1882, downstream activities and upstream activities shall be subject to separate taxation.

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(b) Where a license is held by more than one approved person, taxable income shall be calculated for each of them separately, and each of them shall be responsible for the preparation and submission of the relevant income tax declaration, and for the payment of the respective income tax.

(c) The rate of corporate income tax applicable to petroleum operations is thirty percent (30%).

Source

RPPL 8-37 Chapter 8 § 10, modified.

§ 1881. Depreciation.

Depreciation of capital costs shall be calculated using the straight line method. The definition of capital costs and the maximum annual depreciation by category of assets shall be set forth in the regulations.

Source

RPPL 8-37 Chapter 8 § 11, modified.

§ 1882. Tax relief.

(a) The regulations shall provide for some or all of the following tax relief:

(1) deferral and accumulation of losses, which may be carried forward to subsequent calendar years for a period to be determined by regulation or until the end of the relevant license whichever is earlier;

(2) reduction or elimination of all value added or similar taxes, provided that such relief shall apply in respect of upstream activities only;

(3) the inclusion of royalties as deductible costs for the purposes of calculating petroleum rent tax and corporate income tax.

(b) The Minister may, upon application by a taxable person, and subject to an affirmative decision of the Inter-Governmental Committee, issue a certificate providing for the combined taxation of upstream activities and downstream activities for corporate income tax purposes for integrated projects.

(c) Where the Minister, whether on application or otherwise, considers that upstream activities carried out in two or more licensed areas are sufficiently related to be considered for the purposes of this chapter an integrated project, the Minister shall issue an order specifying the extent to which petroleum operations are eligible for integration for the purposes of petroleum rent tax and royalty calculations.

(d) In making the determination under this subchapter VIII, section 1882, the Minister shall consider the petroleum operations, facilities, and other matters that comprise, have comprised, or will comprise the integrated project, and the geological, geophysical, geochemical and other features of the licensed area or licensed areas in relation to the integrated project; provided, that:

- (1) there shall be common licensees in respect of all adjoining licensed area; and
- (2) there shall be common facility ownership with respect to all other proposed integrated projects.

Source

RPPL 8-37 Chapter 8 § 12, modified.

§ 1883. Personal income tax and social contributions.

(a) Salaries and wages, including bonuses, of employees directly engaged in petroleum operations and while in the territory, irrespective of the location of such employees, shall be subject to personal income tax, calculated in accordance with applicable law.

(b) Employers shall pay all social contributions in respect of their employees in accordance with applicable law.

Source

RPPL 8-37 Chapter 8 § 13, modified.

§ 1884. Ring fences.

(a) Corporate income tax shall be assessed and paid on a taxable person basis.

(b) Subject to subchapter VIII, section 1882, royalties and petroleum rent tax shall apply to petroleum produced from within a licensed area under each production license separately.

11 PNCA § 1884 BUSINESS & BUSINESS REGULATIONS

Source

RPPL 8-37 Chapter 8 § 14, modified.

§ 1885. Customs duties.

(a) Every licensee shall be entitled to import freely and shall not be liable for any duties, charges or similar fees, into the Republic, and shall be entitled to the subsequent re-export from the Republic, all equipment, materials, vehicles, machinery, spare parts, foodstuffs, and other goods or items necessary for petroleum operations, and for the personnel engaged therewith.

(b) No licensee shall sell, trade or otherwise dispose of any goods, subject to the exemption set forth in subchapter VIII, section 1885(a), within the Republic without the prior written consent of the Minister, and the Minister may:

(1) refuse such consent and require the re-export of such goods; or

(2) grant permission for such sale, trade or disposal of such goods on the condition that all duties, charges or similar fees are first paid.

(c) Every licensee shall have the right to export crude oil and natural gas freely and without the need for an export license, and shall be exempted from any sales taxes or customs duties, charges or similar fees in relation thereto.

Source

RPPL 8-37 Chapter 8 § 15, modified.

§ 1886. Additional fees.

Every taxable person may be subject to such other fees or charges for services provided by a state government or the national government in such amounts and on such terms as may be prescribed by applicable law.

Source

RPPL 8-37 Chapter 8 § 16, modified.

**Subchapter IX
Penalties**

- § 1891. Revocation.
- § 1892. Monetary penalties.
- § 1893. Additional penalties.
- § 1894. Representative liability.
- § 1895. Restitution.

§ 1891. Revocation.

- (a) The Minister may deliver written notice to a licensee requiring such licensee to show cause within thirty (30) days as to why a license should not be revoked where:
 - (1) the license was granted as a result of any false statement, fraudulent representation or incorrect information submitted by, or on behalf of, the licensee;
 - (2) the licensee is in repeated breach of any material provision of this chapter or term of the license; or
 - (3) the licensee, or any person within a group of approved persons, fails to remain an approved person, as required pursuant to subchapter IV, section 1836.
- (b) In the event that a licensee fails to show cause as required pursuant to subchapter IX, section 1891, the Minister may revoke the license without further notice or proceedings and notice of such revocation shall be published pursuant to the Administrative Procedures Act with a copy sent to the licensee.
- (c) Upon receipt of a notice of revocation:
 - (1) the licensee shall immediately discontinue all petroleum operations, except for those reasonably required in order to: ensure the safety, health and welfare of the public; the protection of the environment; and the preservation of all petroleum bearing strata whether within, or outside of, any licensed area;
 - (2) the Minister may immediately take steps to enforce any surety, guarantee or other performance obligation which the licensee has furnished in accordance with the terms of the license; and

11 PNCA § 1891 BUSINESS & BUSINESS REGULATIONS

(3) the revocation shall not affect the liability of any person concerned arising out of such breach before such revocation.

Source

RPPL 8-37 Chapter 9 § 1, modified.

§ 1892. Monetary penalties.

(a) Any person who directly or indirectly, in any measure or by any means, hinders, or leads someone else to hinder, the exercise of powers and rights of a public official acting under this chapter or a license, may be punished by the imposition of a fine or imprisonment or both, as prescribed by regulation.

(b) Any person who in, or in connection with, any application under this chapter or the regulations, knowingly or recklessly gives information that is materially false or misleading; or in any report, return or affidavit submitted under any provision of this chapter or license knowingly or recklessly includes or permits to be included, any information which is materially false or misleading, may be punished by the imposition of a fine or imprisonment or both, as prescribed by regulation.

(c) Any person who engages in petroleum operations other than pursuant to a license may be punished by the imposition of a fine or imprisonment or both, as prescribed by regulation.

(d) Any person who, by conduct that contravenes the provisions of this chapter or a license endangers the life or safety of a person or endangers the environment may be punished by the imposition of a fine or imprisonment or both, as prescribed by regulation and applicable law.

(e) Any person who fails to make any payments as provided for in this chapter shall be guilty of a criminal offense and is liable for the penalties prescribed by regulation.

Source

RPPL 8-37 Chapter 9 § 2, modified.

§ 1893. Additional penalties.

(a) In relation to the penalties set forth herein, upon conviction under this subchapter IX the Minister may:

- (1) take steps to enforce any surety, guarantee or other performance obligation which the licensee has furnished;
- (2) suspend or terminate the right of the licensee to participate in licensing rounds or petroleum operations;
- (3) publish the terms and circumstances of the conviction; and
- (4) take such other steps, actions or proceedings as may be permitted by applicable law.

Source

RPPL 8-37 Chapter 9 § 3, modified.

§ 1894. Representative liability.

(a) Persons shall be liable for contravening this chapter where such contravention is committed by an agent or representative of, in the name of, or on the behalf of, such person.

(b) Where petroleum operations are collectively carried out by more than one person, or by one person on behalf of one or more other persons whether pursuant to a joint operating agreement or otherwise, all such persons shall be jointly and severally liable for the payment of any penalties imposed hereunder, and for the fulfillment of any obligations imposed pursuant to this chapter.

Source

RPPL 8-37 Chapter 9 § 4, modified.

§ 1895. Restitution.

(a) Where a person fails or neglects to comply with this chapter or a license, the Minister may cause to be done all or any of the things required by this chapter or the license at the cost and expense of such person.

11 PNCA § 1895 BUSINESS & BUSINESS REGULATIONS

(b) All costs and expenses incurred by the Minister under this subchapter IX, together with interest thereon at a rate prescribed by regulations, shall be a debt due to the national government.

(c) Without prejudice to any other right or remedy available to the Minister under any applicable law, a person who fails or neglects to comply with the regulations or fails to comply with a term of a license, shall make restitution to the Minister of an amount equal to the costs of any consequences suffered as a consequence of the failure, neglect or non-compliance.

Source

RPPL 8-37 Chapter 9 § 5, modified.

Subchapter X Currency Controls

§ 18.101. Currency rights.

§ 18.101. Currency rights.

Every foreign licensee shall, subject to applicable law, have the right to:

(a) retain outside the Republic, and freely transfer, currency received by it outside the Republic, including the proceeds of sales of petroleum to which it is entitled under a license;

(b) export from the Republic, free of limitation or restriction, the funds held by it, including any funds received from an assignee as a result of an assignment of a license or from a government as a result of an exercise of its right of eminent domain;

(c) freely open and maintain bank accounts in the Republic and abroad for the purpose of petroleum operations;

(d) import all funds necessary for carrying out petroleum operations; and

(e) pay directly outside the Republic from its offices abroad for purchases or services for petroleum operations.

Source

RPPL 8-37 Chapter 10 § 1, modified.

Subchapter XI

Eminent Domain and Rights of Licensees

§ 18.201. Exercise of eminent domain power.

§ 18.201. Exercise of eminent domain power.

(a) Where a government exercises its power of eminent domain by expropriating, whether directly or indirectly, a licensed area, or any rights of a licensee under a license, or the property or assets of a licensee or a share of petroleum to which a licensee is entitled, such exercise of eminent domain shall only be done for a public purpose, on a non-discriminatory basis, and pursuant to Article XII of the Constitution and any other applicable law.

(b) Upon the exercise of the rights set forth, the government shall provide the licensee with prompt and adequate compensation including interest, in conformity with principles of international law, equivalent to the fair market value of the expropriated license, right or assets immediately before the expropriatory action was taken, as detailed in applicable law.

Source

RPPL 8-37 Chapter 11 § 1, modified.

Subchapter XII

Transparency

§ 18.301. Transparency is a requirement for all transactions.

§ 18.301. Transparency is a requirement for all transactions.

(a) In addition to the duties and obligations arising pursuant to this chapter, the licenses, applicable law and the Code of Ethics, the principles of transparency, ethics and fairness shall apply in respect of all activities, decisions, actions, rules, directions, and orders made with respect to the subject matter of this chapter and the conduct of petroleum

11 PNCA § 18.301 BUSINESS & BUSINESS REGULATIONS

operations.

(b) There shall be annual publication of all payments made by or on behalf of each licensee in the conduct of petroleum operations in a publicly accessible, comprehensive and comprehensible manner.

(c) All payments and revenues arising from or relating to petroleum operations shall be subject to a credible, independent audit, applying international auditing standards and all such payments and revenues are to be reconciled by a credible, independent administrator appointed by the national government, applying international auditing standards and with publication of the administrator's opinion regarding that reconciliation including discrepancies, should any be identified.

(d) No public official shall, while subject to the Code of Ethics, 33 PNCA chapter 6, and for a period of two (2) years following the expiration of such status, acquire, hold or attempt to acquire or hold:

(1) a license, whether held directly or indirectly; or

(2) a share in a corporation, trust or other entity or an affiliate of same, which holds a license; and any license so granted, or agreement or instrument that grants or purports to grant, such an interest, whether direct or indirect, shall, to the extent of the grant, be void.

(e) The acquisition or holding of a license, interest or share by the minor children or spouse of a public official shall be deemed to be an acquisition or holding by such public official.

(f) The model licenses shall provide that each licensee must agree and undertake, on behalf of themselves, their affiliates, their sub-contractors, and their respective personnel, to act at all times in a manner which is consistent with the highest ethical standards and must warrant that they will not make or offer with respect to all matters which are the subject of this chapter, any payment, gift, promise or other advantage, whether directly or through intermediaries, to or for the use of any public official including any person exercising a public function for a public agency, a public enterprise or a public international organization, where such payment, gift, promise or advantage would violate the laws of the Republic or the laws of any country having jurisdiction over such licensee.

Source

RPPL 8-37 Chapter 12 § 1, modified.

Subchapter XIII

Severability

§ 18.401. Severability.

§ 18.401. Severability.

If any subchapter, section or any provision of this chapter is repealed, or is rendered invalid, or deemed null and void, by a court of competent jurisdiction, all other subchapters, sections and provisions shall remain valid and enforceable notwithstanding such repeal or invalidation.

Source

RPPL 8-37 Chapter 13 § 1, modified.

Notes

RPPL 8-37 Effective date: December 29, 2011.

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**Chapter 19
Secured Transactions Act**

**Subchapter I
General Provisions**

- § 1901. Short title.
- § 1902. Purpose and construction.
- § 1903. Definitions.
- § 1904. Scope.
- § 1905. Exclusions.

§ 1901. Short title.

This chapter shall be known as and may be cited as the “Secured Transactions Act of 2011”, or simply: the “Secured Transactions Act.”

Source
RPPL 8-42 § 2, modified.

§ 1902. Purpose and construction.

- (a) The purpose of this chapter is to promote commerce by facilitating business and consumer credit with respect to the attachment, perfection, and enforcement of security interests in personal property, and related transactions.
- (b) If there is a conflict between a provision of this chapter and any other law or rule, this chapter shall govern unless the other law or rule specifically states that the other law governs or expressly amends the conflicting provision of this chapter.

Source
RPPL 8-42 § 3, modified.

§ 1903. Definitions.

In this chapter, unless the context otherwise requires:

- (a) “Accession” means goods that are physically united with other goods in a manner

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such that the identity of the goods is not lost.

(b) “Account” means:

(1) A right to payment of a monetary obligation, whether or not earned by performance:

(A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

(B) for services rendered or to be rendered;

(C) for a policy of insurance issued or to be issued; or

(D) for a secondary obligation incurred or to be incurred.

(2) However, the term “account” shall not include:

(A) rights to payment evidenced by chattel paper or an instrument;

(B) cash and deposit accounts; or

(C) letters of credit or rights to payment or performance under a letter of credit.

(c) “Account debtor” means the person that is obligated on an account, chattel paper, or other intangible property.

(d) “As-extracted collateral” means:

(1) oil, gas, or other minerals that are subject to a security interest that:

(A) is created by a debtor having an interest in the minerals before extraction; and

(B) attaches to the minerals as extracted; or

(2) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

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- (e) “Buyer in the ordinary course of business” means a person that buys goods in good faith, without actual knowledge that the sale violates the rights of another person in the goods, in the ordinary course of business from a person other than a pawnbroker in the business of selling goods of that kind. A person buys goods in the ordinary course of business if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller’s own usual or customary practices.
- (f) “Cash proceeds” means proceeds that are money, checks, deposit accounts, and the like.
- (g) “Chattel paper” means a record that creates or evidences a debt and a security interest in, or a lease of, specific goods.
- (h) “Commingled goods” means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.
- (i) “Commission” means the Financial Institutions Commission.
- (j) “Consignment” means a transaction, regardless of the form or terminology used in the agreement, in which a person (the consignor) delivers goods for the purpose of sale to a merchant (the consignee) that deals in goods of that kind under a name other than that of the consignor and that is not an auctioneer, but the term excludes transactions involving goods that are consumer goods of the deliverer.
- (k) “Consumer goods” means goods used or bought for use primarily for personal, family, or household purposes. However, the term shall not include a motor vehicle.
- (l) “Debtor” means the person that has rights in collateral, and includes the seller of accounts or chattel paper, and the lessee or consignee of goods that are collateral.
- (m) “Default” means the failure to pay or otherwise perform the obligation secured when due, or the occurrence of any event or set of circumstances on which, pursuant to the terms of the security agreement, the security interest becomes enforceable.
- (n) “Deposit account” means a demand, time, savings, passbook, or similar account maintained with a bank.
- (o) “Document” means a document of title, or a receipt such as a bill of lading or

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warehouse receipt, issued by a person in the business of transporting or storing goods.

(p) “Equipment” means goods that are not inventory, consumer goods, farm products, timber to be cut or minerals before extraction.

(q) “Entity” means a body with capacity to contract other than a natural person or a foreign entity.

(r) “Farm products” means goods produced or to be produced by a debtor engaged in farming, other than timber, that are:

- (1) crops grown, growing, or to be grown;
- (2) aquatic goods produced or to be produced in aquacultural operations;
- (3) livestock, including the unborn;
- (4) supplies used or produced, or to be used or produced, in a farming operation;
or
- (5) products of crops or livestock in their un-manufactured state.

(s) “Filing office” means the office established in subchapter V of this chapter.

(t) “Fixture” means goods that are fixed or are intended to become fixed to real property in a manner that causes a property right to arise in the goods under real property law or the law on mortgage, but does not include building materials and readily removable factory machines, office machines and domestic appliances.

(u) “Foreign entity” means a body with capacity to contract, organized or authorized under law other than the law of Palau.

(v) “Goods” means personal property that are equipment, inventory, farm products, consumer goods, fixtures, timber to be cut, and minerals subject to a security interest in as-extracted collateral. The term shall not include accounts or chattel paper, money, documents, or instruments.

(w) “Guarantee” means a secondary obligation that consists of an obligation to pay, or an issuer’s obligation to pay under a letter of credit, and that supports the payment on an

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account, chattel paper, document, instrument, or other intangible property.

(x) “Initial notice” means the notice to which an amendment, continuation statement, or termination statement may relate.

(y) “Instrument” means a negotiable instrument, including a writing that evidences a right to the payment of money that is not itself a security agreement or lease, but that is a type of which is, in the ordinary course of business, transferred by delivery with any necessary endorsement or assignment, and the term includes a share in a company or a bond, if the share or bond is evidenced by a writing.

(z) “Inventory” means goods other than farm products that are:

- (1) held or to be held for sale;
- (2) leased or held for lease; or
- (3) raw materials, work in process, or materials used or consumed in a business.

(aa) “Lease of goods for a period greater than one year” means:

- (1) a lease of goods for a stated duration of more than one year;
- (2) a lease of goods for an indefinite term;
- (3) a lease of goods for an initial term of one year or less if the lessee, with the consent of the lessor, retains uninterrupted or substantially uninterrupted possession of the leased goods for more than one year after the lessee first acquired possession of the goods, but the lease does not become a lease for a term of more than one year until the lessee’s possession extends beyond one year; or
- (4) a lease of goods for a term of one year or less where the lease provides that it is renewable for any period that would cause the actual term of the lease to exceed one year.

(bb) “Lessee of goods in the ordinary course of business” means a person that, in good faith and without actual knowledge that the lease is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in the ordinary course from a person in the business of leasing goods of that kind.

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(cc) “Lien holder” means:

- (1) a person that obtains a judgment that acknowledges or creates a debt in that person’s favor;
- (2) a liquidator or receiver appointed or approved by a court; or
- (3) any other person that obtains a right in collateral by operation of law other than a person that holds a right of retention as provided in this chapter.

(dd) “Motor vehicle” means an automobile or truck that has been issued a serial number, when held by the debtor as equipment, but not as inventory.

(ee) “Notice” means a record filed or presented for filing in the filing office.

(ff) “Other intangible property” means any personal property other than goods, accounts, chattel paper, documents, instruments, and money.

(gg) “Proceeds” means:

- (1) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
- (2) whatever is collected on, or distributed with respect to, collateral;
- (3) rights arising out of collateral;
- (4) to the extent of the value of collateral, claims arising out of the loss or nonconformity of, defects in, or damage to the collateral; and
- (5) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects in, or damage to the collateral.

(hh) “Purchase” means to take collateral as a buyer, a donee, a person receiving security such as a secured party, consignor, lessor, or mortgagee, or by any other voluntary transaction creating an interest in property.

(ii) “Purchase-money security interest” means a security interest that is:

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(1) taken or retained by the seller of goods to secure all or part of its purchase price; or

(2) taken by a person other than the seller that gives value to enable the debtor to acquire rights in or the use of goods, if such value is in fact so used.

(jj) “Purchaser” means a person that takes collateral by purchase.

(kk) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. The term includes a photocopy, facsimile copy, and electronic mail.

(ll) “Secured party” means a lender, seller or other person in whose favor a security interest is created or provided for under a security agreement, including a person to whom accounts or chattel paper have been sold, and a consignor or lessor of goods, including the representative of any such person or groups of persons.

(mm) “Security agreement” means an agreement that creates or provides for a security interest.

(nn) “Security interest” means a property right in collateral that secures performance of an obligation.

(oo) “Serial number” means the 17-character vehicle identification number assigned by the manufacturer in accordance with standards promulgated by the International Organization for Standardization.

(pp) “Sign” means:

(1) to physically execute a signature; or

(2) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent to identify the person and adopt or accept a record.

(qq) “Unless otherwise agreed” means unless the secured party and the debtor agree otherwise.

(rr) “Value” means the rights a person acquires:

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- (1) in return for a binding commitment to give credit, whether or not drawn upon;
- (2) as security for or satisfaction of a pre-existing claim, in whole or in part;
- (3) by accepting delivery pursuant to a pre-existing contract for purchase;
- (4) in return for anything given in exchange; or
- (5) any promise.

Source

RPPL 8-42 § 4, modified.

Notes

Chiang Shui-Lang v. Chiu Hung-Chao et al., 2023 Palau 13 ¶ 28.

§ 1904. Scope.

(a) This chapter shall apply to:

- (1) all transactions where the effect is to secure an obligation with collateral, including pledge, retention of title, chattel mortgage, assignment, and the like;
- (2) the sale of accounts and chattel paper;
- (3) consignments;
- (4) the lease of goods for a period greater than one year; and
- (5) the interest of a lien holder in collateral.

(b) This chapter shall apply without regard to the form of an agreement or the terminology used in an agreement, and whether ownership of the collateral is held by the secured party or the debtor. The retention of title by a seller of goods has no effect other than the taking of a security interest in the goods.

Source

RPPL 8-42 § 5, modified.

Notes

Chiang Shui-Lang v. Chiu Hung-Chao et al., 2023 Palau 13 ¶ 29.

SECURED TRANSACTIONS ACT 11 PNCA § 1905

§ 1905. Exclusions.

(a) Notwithstanding section 1904, this chapter shall not apply to any of the following:

- (1) The transfer of an interest in real property, except as provided with respect to fixtures, crops, timber to be cut, or minerals before extraction.
- (2) The transfer of a claim for compensation of an employee.
- (3) A sale of accounts or chattel paper as part of a sale of the business out of which they arose.
- (4) An assignment of accounts, chattel paper, or instruments for the purpose of collection only.
- (5) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract.
- (6) The transfer of an interest in a ship in which a mortgage is subject to registration under another law of Palau.

Source

RPPL 8-42 § 6, modified.

**Subchapter II
Security Interests and Secured Obligations**

- § 1911. Security interest.
- § 1912. Nature of a purchased-money security interest.
- § 1913. Secured obligation.
- § 1914. Collateral.
- § 1915. Collateral description in security agreement or notice.
- § 1916. Effectiveness of security agreement.
- § 1917. Collateral in secured party's possession.
- § 1918. Request for accounting or statement of account.
- § 1919. Attachment of security interest to collateral.

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§ 1911. Security interest.

- (a) Any person may give a security interest in collateral, and any person may take a security interest in collateral.
- (b) Notwithstanding subsection (a), no security interest other than a purchase-money security interest shall be given or taken in consumer goods.
- (c) A security interest shall not be deemed invalid because the debtor has the right to use, possess, sell, exchange, commingle, or otherwise dispose of the collateral.
- (d) A security interest in collateral shall constitute a security interest in any guarantee or supporting obligation with respect to the collateral.

Source

RPPL 8-42 § 7, modified.

§ 1912. Nature of a purchased-money security interest.

- (a) The security interest of a consignor in goods that are the subject of a consignment shall be deemed a purchase-money security interest in inventory.
- (b) In a transaction other than a consumer-goods transaction, a purchase-money security interest shall not lose its status if:
 - (1) the purchase-money collateral also secures an obligation that is not a purchase-money obligation;
 - (2) collateral that is not purchase-money collateral also secures the purchase-money obligation; or
 - (3) the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

Source

RPPL 8-42 § 8, modified.

§ 1913. Secured obligation.

- (a) A security interest may secure one or more obligations.

SECURED TRANSACTIONS ACT 11 PNCA § 1914

- (b) Secured obligations may be described specifically or in general terms.
- (c) Secured obligations may be monetary or non-monetary obligations.
- (d) Secured obligations may be governed by foreign law.
- (e) A security interest may secure future obligations, whether mandatory, conditional, or optional.
- (f) A security interest may secure pre-existing obligations.

Source
RPPL 8-42 § 9, modified.

§ 1914. Collateral.

- (a) Collateral may be:
 - (1) personal property of any nature, including tangible and intangible personal property;
 - (2) personal property in which the debtor has rights at the time of the conclusion of the security agreement;
 - (3) personal property that is described in the security agreement, but in which the debtor acquires rights at a later time;
 - (4) personal property that is in or outside of the Republic of Palau;
 - (5) goods sold or leased (no matter what the duration of the agreement) under an agreement denominated as a lease but which is actually a transaction for security, or other title-retention scheme;
 - (6) accounts or chattel paper that have been sold;
 - (7) goods that are consigned;
 - (8) proceeds of collateral;
 - (9) fixtures;
 - (10) timber to be cut;

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- (11) as-extracted collateral; and
- (12) goods leased for a period greater than one year.

Source
RPPL 8-42 § 10, modified.

§ 1915. Collateral description in security agreement or notice.

- (a) A description of collateral in a security agreement or notice shall be sufficient if it:
 - (1) describes collateral by item or kind in a manner that enables the collateral to be identified;
 - (2) consists of a statement that a security interest is taken in all of the debtor's present and after-acquired property; or
 - (3) consists of a statement that a security interest is taken in all of the debtor's present and after-acquired property except for specified items or kinds of personal property.
- (b) A notice that covers fixtures, timber to be cut, or as-extracted collateral shall be effective only if it provides a description of the relevant real property. A description of real property shall required only to reasonably describe the real property, and shall not be required to satisfy the requirements of a description necessary to create a mortgage in real property or to establish ownership rights in real property.

Source
RPPL 8-42 § 11, modified.

§ 1916. Effectiveness of security agreement.

- (a) A security agreement shall be effective according to its terms between the parties, against purchasers of the collateral, and against creditors and lien holders, except as otherwise provided in this chapter.
- (b) A security agreement may be found in multiple records when read together.

Source
RPPL 8-42 § 12, modified.

§ 1917. Collateral in secured party's possession.

- (a) A secured party shall exercise reasonable care in the physical custody and preservation of collateral in the secured party's possession.
- (b) Unless otherwise agreed, if the collateral is in the secured party's possession:
 - (1) reasonable expenses shall be charged to the debtor and secured by the collateral, including the cost of any insurance, and the payment of taxes or fees associated with the collateral;
 - (2) the risk of accidental loss or damage is borne by the debtor to the extent of a deficiency in any insurance coverage; and
 - (3) the secured party may hold as additional security any increases received from the collateral except money, and shall apply money to reduce the secured obligation unless the money is remitted to the debtor.

Source
RPPL 8-42 § 13, modified.

§ 1918. Request for accounting or statement of account.

- (a) A debtor may:
 - (1) request an accounting of the unpaid obligations secured by collateral;
 - (2) request that a secured party approve or correct a list of what the debtor believes to be the collateral securing an obligation; or
 - (3) request that a secured party approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date.
- (b) A secured party shall comply with a request under subsection (a) within two (2) weeks after receipt of such request. A debtor shall be entitled without charge to one response to a request under this section during any six (6) month period. The secured party may require payment of a reasonable charge for each additional response within a six (6) month period.

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(c) An account debtor that has received notification of an assignment of the account shall be entitled to receive from the assignee a signed record that releases the account debtor from any further obligation to the assignee, if there is no outstanding secured obligation and the assignee has no commitment to make advances, incur obligations, or otherwise give value. The release shall be sent as soon as reasonably practicable, but not more than ten (10) days after the secured party receives a demand from the debtor. This subsection shall not apply to the sale of an account or chattel paper.

Source

RPPL 8-42 § 14, modified.

§ 1919. Attachment of security interest to collateral.

(a) A security interest shall attach to collateral and becomes enforceable against the debtor and third parties with respect to the collateral only if:

- (1) value has been given by the secured party to the debtor;
- (2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one of the following conditions is met:

(A) the debtor has signed a security agreement that provides a description of the collateral;

(B) the collateral is in the possession of the secured party pursuant to the debtor's security agreement; or

(C) the collateral is deposit accounts and the secured party has control.

(b) Unless otherwise agreed, the attachment of a security interest to collateral shall give the secured party the right to proceeds and shall be attachment of a security interest in a guarantee or other supporting obligation for the collateral.

(c) The attachment of a security interest to a right to payment or performance secured by a security interest in personal property or a mortgage in real property shall be attachment of a security interest to the security interest or mortgage.

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(d) Goods shall be determined to be equipment, inventory, farm products, or consumer goods at the time that a security interest attaches to the goods.

(e) For the purposes of subsection (a)(2), a debtor shall have rights in timber to be cut when the timber is cut, and in as-extracted collateral at the time that the minerals subject to the security interest are extracted.

Source
RPPL 8-42 § 15, modified.

Subchapter III
Perfection of Security Interests

- § 1921. Perfection of a security interest.
- § 1922. Security interests that must be or may be perfected by possession.
- § 1923. Security interest in a deposit account perfected by control.
- § 1924. Security interests that are perfected upon attachment.
- § 1925. Perfection of a security interest in a motor vehicle.
- § 1926. Security interests in documents and goods covered by documents.
- § 1927. Perfection of security interests in supporting obligations.
- § 1928. Continuity of perfection.
- § 1929. Continuation of a security interest in collateral and proceeds.

§ 1921. Perfection of a security interest.

(a) A security interest shall be perfected when it has attached to the collateral and a means of perfection has been completed. There shall be four (4) means of perfecting a security interest:

- (1) the filing of a notice in the filing office;
- (2) possession of the collateral by the secured party;
- (3) control of a deposit account by the secured party; and
- (4) perfection upon attachment of the security interest to collateral, without filing a notice.

(b) To perfect a security interest a notice shall be filed in the filing office, unless this

11 PNCA § 1921 BUSINESS & BUSINESS REGULATIONS

chapter provides otherwise.

Source

RPPL 8-42 § 16, modified.

§ 1922. Security interests that must be or may be perfected by possession.

- (a) A security interest in money shall be perfected only by the secured party taking possession of the money, except for cash proceeds.
- (b) A security interest in goods, instruments, documents, or chattel paper may be perfected by the secured party's taking possession, and without filing a notice.
- (c) A security interest perfected by possession shall be effective from the time possession is taken and continues only so long as possession is retained, unless otherwise specified in this chapter.
- (d) A security interest, other than a security interest in money, perfected by possession under this section may also be perfected by filing a notice before, during, or after a period of possession by a secured party.

Source

RPPL 8-42 § 17, modified.

§ 1923. Security interest in a deposit account perfected by control.

- (a) A security interest in a deposit account may be perfected by the secured party's taking control of the deposit account, and without filing a notice.
- (b) A secured party shall be deemed to have control of a deposit account if:
 - (1) the secured party is the bank with which the deposit account is maintained;
 - (2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or
 - (3) the secured party becomes the bank's customer with respect to the deposit

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account.

(c) Where a secured party has satisfied subsection (b), the secured party shall be deemed to have control of the deposit account, regardless of whether or not the debtor retains the right to direct the disposition of funds from the deposit account.

Source
RPPL 8-42 § 18, modified.

§ 1924. Security interests that are perfected upon attachment.

(a) The following security interests shall be perfected when they attach to the collateral and without the filing of a notice:

- (1) A purchase-money security interest in consumer goods.
- (2) A security interest in proceeds, if the underlying security interest is perfected.
- (3) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder.

Source
RPPL 8-42 § 19, modified.

§ 1925. Perfection of a security interest in a motor vehicle.

A security interest in a motor vehicle may be perfected by filing a notice that describes the motor vehicle generally or by serial number in a manner prescribed by the filing office.

Source
RPPL 8-42 § 20, modified.

§ 1926. Security interests in documents and goods covered by documents.

(a) While goods are in the possession of a bailee that has issued a document covering the goods, a security interest in the goods may be perfected by perfecting a security interest in the document.

(b) Any security interest in goods perfected by filing a notice during the period that

11 PNCA § 1926 BUSINESS & BUSINESS REGULATIONS

goods are in the possession of the bailee shall be subordinate to a security interest perfected in the document.

Source

RPPL 8-42 § 21, modified.

§ 1927. Perfection of security interests in supporting obligations.

(a) Perfection of a security interest in collateral also perfects a security interest in a guarantee supporting the collateral.

(b) Perfection of a security interest in a right to payment or performance also perfects a security interest in a mortgage on real property securing the right to payment or performance.

(c) The filing of a notice shall not be required to perfect a security interest in a guarantee or mortgage under subsections (a) and (b).

Source

RPPL 8-42 § 22, modified.

§ 1928. Continuity of perfection.

(a) A security interest shall be perfected continuously if it is first perfected in one manner and later perfected in another manner, if there is no period during which it is not perfected.

(b) If a secured party assigns a perfected security interest, a notice need not be filed under this chapter to continue perfection of the security interest against creditors a the debtor, transferees from the debtor, and lien holders.

(c) A security interest in proceeds shall be a continuously perfected security interest if the security interest in the original collateral was perfected. The security interest in proceeds shall be unperfected twenty (20) days after the debtor receives the proceeds unless:

(1) a filed notice covers the original collateral, and the proceeds are cash proceeds or proceeds of a nature described in the notice; or

(2) the security interest in the proceeds is perfected before the expiration of the

twenty (20) day period.

Source

RPPL 8-42 § 23, modified.

§ 1929. Continuation of a security interest in collateral and proceeds.

(a) A security interest shall continue in collateral notwithstanding sale, lease, license, exchange, or other disposition of the collateral, except as otherwise provided in this chapter or as otherwise agreed.

(b) Upon the disposition of collateral, a security interest shall attach to any proceeds of the collateral, except as otherwise provided in this chapter or agreed upon by the parties.

Source

RPPL 8-42 § 24, modified.

Subchapter IV

Priority Among Security Interests in the Same Collateral

Part A

General Rules

§ 1931. Multiple security interests in collateral.

§ 1932. Priority of lien holder.

§ 1933. Priority of lien arising by operation of law.

§ 1934. Future advances.

§ 1931. Multiple security interests in collateral.

(a) The priority of a security interest shall be measured from the time the first notice is filed covering the collateral, or the time the security interest is first perfected, whichever is earlier, if there is no time after the first time of filing or perfection at which the notice was ineffective or the continuity of perfection was interrupted.

(b) Unless otherwise provided in this chapter, among conflicting security interests the following shall apply:

11 PNCA § 1931 BUSINESS & BUSINESS REGULATIONS

- (1) The first security interest to attach to collateral has priority among security interests for which no effective notice covers the collateral and for which there is no perfection.
 - (2) A perfected security interest has priority over a security interest that is not perfected.
 - (3) The first security interest for which a notice is filed or for which there is perfection has priority where conflicting security interests are perfected.
- (c) A date of filing or perfection as to collateral shall be deemed to be the date of filing or perfection of a security interest in proceeds.

Source

RPPL 8-42 § 25, modified.

§ 1932. Priority of lien holder.

- (a) A security interest shall have priority over the rights of a lien holder unless a notice of the rights of the lien holder is filed in accordance with this chapter:
- (1) before the security interest is perfected; and
 - (2) before a notice covering the collateral is filed and a security agreement is signed by the debtor.

Source

RPPL 8-42 § 26, modified.

Notes

Chiang Shui-Lang v. Chiu Hung-Chao et al., 2023 Palau 13 ¶¶ 27, 28.

§ 1933. Priority of lien arising by operation of law.

A lien or right of retention in goods arising by operation of law in favor of a person to secure payment for materials or services with respect to the goods shall have priority over a perfected security interest while the goods are in the possession of the person holding the lien or right of retention if the person provided the materials or services in the ordinary course of business.

Source

RPPL 8-42 § 27.

§ 1934. Future advances.

If a perfected security interest secures an obligation by the secured party to make future advances, the rights of a lien holder shall have priority over the security interest with respect to advances made after the secured party has actual knowledge of the interest of the lien holder or more than twenty (20) days after a notice of the interest of the lien holder is filed in the filing office, whichever occurs first.

Source
RPPL 8-42 § 28, modified.

Part B
Rights of Transferees of Collateral

- § 1935. Buyers of collateral.
- § 1936. Lessees of goods.
- § 1937. Assignments.
- § 1938. Non-assignability clauses.
- § 1939. Subordination of priority.

§ 1935. Buyers of collateral.

- (a) Except as otherwise provided in this section, a buyer shall take collateral free of a security interest if the buyer gives value for the collateral without actual knowledge of the security interest and before it is perfected.

- (b) Except as otherwise provided in this chapter, a buyer, other than a secured party, of chattel paper, documents, goods, or instruments shall take such property free of a security interest if the buyer gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected.

- (c) A buyer in the ordinary course of business shall take goods free of a security interest in the goods, even if the security interest is perfected and even if the buyer knows of its existence.

- (d) A buyer of goods that are consumer goods of the seller shall take the goods free of a security interest regardless of whether or not the security interest is perfected, if:

11 PNCA § 1935 BUSINESS & BUSINESS REGULATIONS

- (1) the person buys and takes delivery of the goods without actual knowledge of the security interest; and
- (2) before a notice is filed that describes the goods.

(e) A person that buys a motor vehicle shall take the motor vehicle free of a prior security interest only if:

- (1) the person buys without actual knowledge of the security interest, and
- (2) the motor vehicle was not described, or was incorrectly described, by serial number in a filed notice.

(f) A person that buys farm products for use as consumer goods shall take the farm products free of any security interest.

(g) A buyer in [the] ordinary course of business of the seller, buying oil, gas, or other minerals at the wellhead or minehead or after extraction shall take such property free of an interest arising out of a mortgage or other encumbrance on real property.

Source

RPPL 8-42 § 29, modified.

Notes

The bracketed [the] in subsection (g) is inserted per Code Commission.

§ 1936. Lessees of goods.

(a) Except as otherwise provided in this section, a lessee of goods shall take its leasehold interest free of a security interest in the goods if the lessee receives delivery of the goods:

- (1) without actual knowledge of the security interest; and
- (2) before the security interest is perfected.

(b) A lessee in the ordinary course of business shall take a leasehold interest free of a security interest in the goods even if the security interest is perfected and even if the lessee knows of its existence.

(c) A lessee shall take a motor vehicle free of a security interest only if the lessee leased:

SECURED TRANSACTIONS ACT 11 PNCA § 1937

- (1) without actual knowledge of the security interest; and
- (2) the motor vehicle was not described, or was incorrectly described, by serial number in a filed notice.

Source
RPPL 8-42 § 30, modified.

§ 1937. Assignments.

- (a) A person may assign all or part of the person's rights in accounts, chattel paper, instruments, or other intangible property.
- (b) The assignee shall be subject to all the terms of the agreement between the account debtor and assignor.
- (c) No communication to the account debtor shall be required for attachment, perfection or enforcement of a security interest arising from an assignment, except as provided in this section.
- (d) After receiving written advice of an assignment from the assignor or assignee, the account debtor shall perform the obligation by paying the assignee. However, if requested by the account debtor, the assignee shall furnish timely and sufficient evidence of the assignment, and unless the assignee complies, the account debtor may perform the obligation by paying the assignor.
- (e) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, the rights of an assignee shall be subject to the following:
 - (1) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract.
 - (2) Any other defense or claim of the account debtor against the assignor that accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.
- (f) Notwithstanding subsection (e), the claim of an account debtor against an assignor may be asserted against an assignee only to reduce the amount the account debtor owes.

11 PNCA § 1937 BUSINESS & BUSINESS REGULATIONS

Source
RPPL 8-42 § 31, modified.

§ 1938. Non-assignability clauses.

(a) Except as provided with respect to the purchase of chattel paper and instruments, an agreement between a secured party and an account debtor shall be unenforceable if it prohibits, requires consent, or otherwise restricts:

- (1) the creation, attachment, or enforcement of a security interest, or
- (2) the sale or assignment of an account, a lease, or chattel paper.

Source
RPPL 8-42 § 32, modified.

§ 1939. Subordination of priority.

A person entitled to priority under this chapter may agree to modify or forego the priority, and may do so without filing or amending a notice with respect to the change in priority.

Source
RPPL 8-42 § 33, modified.

Part C Purchase-Money Security Interests

§ 1940. Notice of purchase-money security interest.

§ 1941. Priority of purchase-money security interest in equipment.

§ 1942. Priority of purchase-money security interest in inventory or livestock.

SECURED TRANSACTIONS ACT 11 PNCA § 1942

§ 1940. Notice of purchase-money security interest.

If a person files a notice with respect to a purchase-money security interest in goods before or within five (5) days after the debtor takes possession of the goods, the security interest shall have priority over the rights in the goods of a buyer, lessee, or lien holder which arise between the time the security interest attaches and the time of filing of the notice.

Source
RPPL 8-42 § 34.

§ 1941. Priority of purchase-money security interest in equipment.

A perfected purchase-money security interest in equipment shall have priority over a conflicting security interest in the same collateral and the interest of a lien holder, and shall also have priority in its proceeds, if the purchase-money security interest is perfected when the debtor receives possession of the equipment, or within five (5) days thereafter.

Source
RPPL 8-42 § 35.

§ 1942. Priority of purchase-money security interest in inventory or livestock.

(a) A perfected purchase-money security interest in inventory or livestock shall have priority over a conflicting security interest in the same inventory or livestock if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory or livestock; and

(2) the purchase-money secured party notifies, in writing, the holder of the conflicting security interest if the holder had filed a notice covering the same types of inventory or livestock before the time of a notice filed by the purchase-money secured party.

(b) An effective notification under subsection (a)(2) shall describe the inventory or livestock and state that the person giving the notification has or expects to acquire a purchase-money security interest in inventory or livestock of the debtor.

Source
RPPL 8-42 § 36, modified.

11 PNCA § 1943 BUSINESS & BUSINESS REGULATIONS

Part D Priority in Special Classes of Collateral

§ 1943. Crops.

§ 1944. Accessions.

§ 1945. Commingled goods.

§ 1946. Fixtures.

§ 1943. Crops.

A perfected security interest in crops growing on real property shall have priority over a conflicting interest of the owner, a lessor, or a mortgagee if the debtor is in possession of the real property or has an interest of record in the real property.

Source
RPPL 8-42 § 37.

§ 1944. Accessions.

(a) A security interest may be created in an accession and continues in collateral that becomes an accession. If a security interest is perfected when the collateral becomes an accession, the security interest shall remain perfected in the accession.

(b) Upon default:

(1) a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole;

(2) a secured party that removes an accession shall promptly reimburse the holder (other than the debtor) of any interest in the whole or the other goods for the cost of repair of any physical injury to the whole;

(3) a secured party that removes an accession shall promptly reimburse any other secured party for the cost of repair of any damage to the property;

(4) the secured party shall not be required to reimburse the debtor or other secured party for any diminution in value caused by the absence of the goods

SECURED TRANSACTIONS ACT 11 PNCA § 1945

removed or by any necessity for replacing them; and

(5) a person entitled to reimbursement may refuse permission to remove the accession until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Source
RPPL 8-42 § 38, modified.

§ 1945. Commingled goods.

(a) A security interest may not be created in goods that have become commingled goods. However, a security interest may attach to a product or mass that results when goods subject to a security interest become commingled goods.

(b) If collateral becomes commingled goods, a security interest in the collateral attaches to the product or mass.

(c) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass is perfected without the need for filing a notice. The priority of the security interest in the product or mass is measured from the time of perfection of the security interest in the collateral that became commingled.

(d) If more than one security interest attaches to the product or mass the following shall apply:

(1) A security interest that is perfected shall have priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) The first security interest to attach to the product or mass shall have priority among unperfected security interests.

(3) If more than one security interest is perfected, the security interests shall rank equally in proportion to the value of the collateral at the time it became commingled goods.

Source
RPPL 8-42 § 39, modified.

11 PNCA § 1946 BUSINESS & BUSINESS REGULATIONS

§ 1946. Fixtures.

- (a) A security interest may be created in goods that are fixtures. A security interest may continue in goods that become fixtures.
- (b) Notwithstanding subsection (a), a security interest in ordinary building materials shall be unenforceable when the building materials are incorporated into real property.
- (c) This section shall not determine priority in readily removable factory machines, office machines, and domestic appliances.
- (d) A security interest in fixtures shall be subordinate to all other real rights in real property, except as provided in this section.
- (e) A perfected security interest in fixtures shall have priority over the interest of the owner of real property, or a mortgagee notwithstanding any provision in the mortgage, if a notice is filed before the interest of the owner or the mortgagee is registered.
- (f) A perfected security interest in fixtures shall have priority over the interest of a lien holder if a notice is filed before the filing of a notice of the interest of the lien holder as required by this chapter.
- (g) A perfected security interest in fixtures shall have priority over the interest of the owner of real property, a lien holder, or a mortgagee notwithstanding any provision in the mortgage, if the security interest is a purchase money security interest given by the debtor before the goods become fixtures, and a notice is filed before the goods become fixtures or within five (5) days thereafter. The priority established in this subsection is not effective against a person who holds a construction mortgage. A mortgage is a construction mortgage to the extent that it secures an obligation to pay for the construction of an improvement on real property, if the mortgage is registered and if the mortgage indicates that it secures such an obligation.
- (h) Upon default the following shall apply:
 - (1) If a security agreement covers goods that are or become fixtures, a secured party may proceed under this chapter or in accordance with rights with respect to real property.
 - (2) Subject to the other provisions of this chapter, if a secured party holding a

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security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(3) A secured party that removes a collateral that is a fixture shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal.

(4) The secured party shall not be required to reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them.

(5) A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Source
RPPL 8-42 § 40, modified.

Part E
Security Interests in Chattel Paper, Documents and Instruments

§ 1947. Priority rights of purchasers of chattel paper and instruments.

§ 1948. Priority of rights of purchasers of documents and instruments.

§ 1947. Priority rights of purchasers of chattel paper and instruments.

(a) A purchaser of chattel paper or instruments shall have priority over a conflicting security interest in the chattel paper or instruments and also has priority with respect to the proceeds of the chattel paper or instruments if:

(1) in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or instruments; and

(2) the chattel paper or instruments do not indicate an assignment to the person holding the conflicting security interest.

Source
RPPL 8-42 § 41.

11 PNCA § 1948 BUSINESS & BUSINESS REGULATIONS

§ 1948. Priority of rights of purchasers of documents and instruments.

(a) This chapter shall not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers shall take priority over an earlier security interest, even if perfected, to the extent provided in the law on negotiable instruments.

(b) Filing a notice shall not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsection (a).

Source

RPPL 8-42 § 42, modified.

Part F

Security Interests in Deposit Accounts

§ 1949. Priority of conflicting security interests in deposit accounts.

§ 1950. Effect of transfers of money and funds from deposit accounts.

§ 1951. Right of recoupment or setoff against deposit account.

§ 1949. Priority of conflicting security interests in deposit accounts.

(a) A security interest held by a secured party having control of a deposit account shall have priority over a conflicting security interest held by a secured party that does not have control.

(b) Except as otherwise provided in subsections (c) and (d), security interests perfected by control shall have priority according to the time of obtaining control.

(c) Except as otherwise provided in subsection (d), a security interest held by the bank with which the deposit account is maintained shall have priority over a conflicting security interest held by another secured party.

(d) A security interest in a deposit account perfected by control under section 1923(b)(3) shall have priority over a security interest held by the bank with which the deposit account is maintained.

SECURED TRANSACTIONS ACT 11 PNCA § 1951

Source
RPPL 8-42 § 43, modified.

§ 1950. Effect of transfers of money and funds from deposit accounts.

- (a) A transferee of money shall take the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

- (b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

Source
RPPL 8-42 § 44.

§ 1951. Right of recoupment or setoff against deposit account.

- (a) Except as otherwise provided in subsection (b), a bank with which a deposit account is maintained may exercise any right of recoupment or setoff against a secured party that holds a security interest in the deposit account.

- (b) A setoff by a bank based on a claim against a debtor shall be ineffective against a secured party that has established control of a deposit account by becoming the bank's customer with respect to the deposit account.

Source
RPPL 8-42 § 45, modified.

11 PNCA § 1961 BUSINESS & BUSINESS REGULATIONS

Subchapter V Filing Notice

- § 1961. The filing office.
- § 1962. Duties of the filing office.
- § 1963. Regulations and fees.
- § 1964. Notice of the interest of a lien holder.
- § 1965. Access to filing office records.
- § 1966. Information from filing office.
- § 1967. Initial notice.
- § 1968. Name of debtor and secured party.
- § 1969. Effect of changes in circumstance.
- § 1970. Duration of notice and effect of lapse.
- § 1971. Amendment of notice.
- § 1972. Continuation of notice.
- § 1973. Termination of notice.
- § 1974. Effectiveness of notice.
- § 1975. Notice shall not constitute “constructive notice.”

§ 1961. The filing office.

- (a) A filing office shall be established in the Commission.
- (b) A filing officer shall be appointed to administer the day-to-day activities of the filing office.
- (c) All obligations of the Commission under this chapter shall be fully discharged by the creation and businesslike maintenance of an electronic information system that provides for the filing of notices of security interests and notices of the interests of lien holders, and for the search of such notices by any person.
- (d) No person shall have a claim against the Commission for errors in the filing office records committed by a person that files a notice, or for failure to provide filing office services for reasons beyond the control of the Commission.
- (e) The duties of the filing office shall be merely administrative and the following shall apply:

SECURED TRANSACTIONS ACT 11 PNCA § 1962

(1) By filing a notice or refusing to file a notice, the filing office shall not be deemed to have determined the sufficiency, correctness, authenticity, or validity of the notice or any information contained in the notice.

(2) The filing of a notice shall not create a security interest in collateral or provide evidence that a security interest in collateral exists.

(f) Except as specified in subsection (g), the filing office is the place to file:

(1) a notice of a security interest in collateral;

(2) a notice of the interest of a lien holder, and

(3) a notice of the interest of a secured party in a transaction concluded prior to the effective date of this chapter as provided in this chapter.

(g) The Clerk of Court and the Land Court shall be the place to file a notice of a security interest in fixtures, timber to be cut, or as-extracted collateral.

Source

RPPL 8-42 § 46, modified.

§ 1962. Duties of the filing office.

(a) For each notice filed, the filing office shall:

(1) assign a unique filing number in the case of an initial notice;

(2) assign a unique number to notices other than the initial notice;

(3) create a record that bears the filing number and the date and time of filing;
and

(4) maintain the filed record for public inspection.

(b) The filing office shall index an initial notice by the name of the debtor and shall index all filed records relating to an initial notice in a manner that associates the initial notice and all filed records relating to the initial notice. For notices containing serial numbers of motor vehicles, the filing office shall maintain an index of serial numbers.

11 PNCA § 1962 BUSINESS & BUSINESS REGULATIONS

(c) The filing office shall maintain the capability to retrieve a record by the name of the debtor and by the filing number assigned to the initial notice to which the record relates, and that associates an initial notice and all records relating the initial notice with one another. For notices containing the serial number of a motor vehicle, the filing office shall maintain the capability to retrieve a record by the serial number of the motor vehicle.

(d) The filing office shall maintain records of lapsed or terminated notices for a period of ten (10) years beyond the date of lapse or termination.

Source
RPPL 8-42 § 47, modified.

§ 1963. Regulations and fees.

(a) The Commission may promulgate regulations that establish:

- (1) a reasonable fee for filing a notice and the manner of payment of fees;
- (2) a reasonable fee for issuing a certified search report;
- (3) the manner of filing notices; and
- (4) the manner of submitting search requests.

(b) The Commission may promulgate any other regulations necessary to effectuate the intent of this chapter.

Source
RPPL 8-42 § 48, modified.

§ 1964. Notice of the interest of a lien holder.

The notice of the interest of a lien holder shall be limited to identification of the lien holder, identification of the person owing payment or performance to the lien holder, and a description of personal property against which the lien holder claims or may claim a right, in the same manner as provided in this chapter for the filing a notice of a security interest.

Source
RPPL 8-42 § 49, modified.

§ 1965. Access to filing office records.

- (a) The information contained in notices shall be public records.
- (b) The indexes and other records created by the filing office with respect to notices, in any form or medium, shall be public records.
- (c) Any person shall have a right to inspect and obtain copies of the records of the filing office.

Source
RPPL 8-42 § 50.

§ 1966. Information from filing office.

- (a) The filing office shall communicate the following information to any person that requests it:
 - (1) Whether there is filed on a date and time specified by the filing office, any notice that designates a particular debtor and has not lapsed with respect to all secured parties.
 - (2) The filing number, and the date and time of filing of each notice.
 - (3) The name and address of each debtor and secured party on each notice.
 - (4) All of the information contained in each notice.
- (b) A request may be made to search the records of the filing office by any of the following criteria:
 - (1) The filing number of a notice.
 - (2) The name of a debtor.
 - (3) The serial number of a motor vehicle.

11 PNCA § 1966 BUSINESS & BUSINESS REGULATIONS

(c) In complying with its duty, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate the requested information by issuing a written certificate that shall be admissible into evidence in the Supreme Court without extrinsic evidence of its authenticity.

Source
RPPL 8-42 § 51, modified.

§ 1967. Initial notice.

(a) An initial notice shall be sufficient if it:

- (1) identifies the debtor and provides a mailing address;
- (2) identifies the secured party and a mailing address; and
- (3) describes the collateral covered by the notice as set forth in section 1915.

(b) A person is entitled to file an initial notice only if the debtor authorizes the notice in a signed record. The debtor's authorization shall not be required to be contained in the notice, need not be disclosed to the filing office, and may be given after filing.

(c) By signing a security agreement, a debtor authorizes the filing of an initial notice covering the collateral described in the security agreement, and proceeds of the collateral, regardless of whether or not the security agreement expressly covers proceeds.

(d) A notice may be filed before a security agreement is concluded or before a security interest attaches to collateral.

(e) A notice substantially complying with the requirements of this chapter shall be effective, even if it is insufficient under this section, unless the insufficiency makes the notice seriously misleading. A notice that insufficiently provides the name of the debtor shall be deemed to be seriously misleading.

(f) A record of a mortgage shall be effective, from the date of recording, as a notice covering fixtures, timber to be cut, or as-extracted collateral only if:

- (1) the record indicates the goods or accounts that it covers;

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- (2) the goods that are, or that are to become, fixtures related to the real property described in the record, or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (3) the record satisfies the requirements for a notice in this section other than an indication that it is to be filed in the real property records; and
- (4) the record is duly recorded.

Source
RPPL 8-42 § 52, modified.

§ 1968. Name of debtor and secured party.

- (a) A notice shall be deemed to have sufficiently provided the name of the debtor where:
 - (1) the notice contains the name of the person as it appears on the records of the Social Security Administration of the Republic of Palau;
 - (2) the debtor is a natural person and not a citizen of the Republic of Palau and the notice contains the name of the person as indicated on the person's passport;
 - (3) the debtor is an entity and the notice contains the name of the debtor as shown on the records of the Office of the Attorney General in the case of an entity incorporated under the law of Palau or, for any other entity, the documents that establish that entity.
 - (4) the debtor is a foreign entity authorized to do business under the law of Palau and the notice provides the name of the debtor as shown on the records of the Office of Attorney General; or
 - (5) the debtor is a foreign entity not authorized to do business under the law of Palau and the notice provides the name of the debtor as shown on the appropriate registry in the country where the foreign entity is organized.
- (b) A notice that sufficiently provides the name of the debtor shall not be rendered ineffective by the presence or absence of a trade name or other name of the debtor. A notice that provides only the debtor's trade name shall be deemed to have not sufficiently provided the name of a debtor.

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- (c) A notice may provide the name of more than one debtor and the name of more than one secured party.
- (d) The failure to indicate on a notice that a person is a representative of the secured party does not affect the sufficiency of a notice.

Source
RPPL 8-42 § 53, modified.

§ 1969. Effect of changes in circumstance.

- (a) A filed notice shall remain effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest continues, even if the secured party knows of or consents to the disposition.
- (b) If a debtor changes its name so that a filed notice becomes seriously misleading, the notice shall remain effective to perfect a security interest in collateral acquired by the debtor before or within four (4) months after the change. However, the notice shall remain effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change only if an amendment to the notice is filed within four (4) months of the change.
- (c) Except as provided for a change of debtor name under subsection (b), a notice shall remain effective if, after the notice is filed, a change of circumstances renders the notice seriously misleading.

Source
RPPL 8-42 § 54, modified.

§ 1970. Duration of notice and effect of lapse.

- (a) A filed notice shall remain effective for a period of five (5) years after the date of filing, unless the notice is continued or terminated.
- (b) The effectiveness of a filed notice shall lapse on the expiration of the five (5) year period unless, before the lapse, a continuation statement is filed.
- (c) Upon lapse, a notice shall become ineffective and any security interest that was

SECURED TRANSACTIONS ACT 11 PNCA § 1971

perfected by the notice becomes unperfected, unless the security interest is perfected without filing.

(d) If the security interest becomes unperfected upon lapse, it shall be deemed to have never been perfected against a purchaser of the collateral for value.

Source
RPPL 8-42 § 55, modified.

§ 1971. Amendment of notice.

(a) An initial notice may be amended by one or more amendments. To be effective an amendment shall:

- (1) identify the initial notice by its filing number;
- (2) identify the secured party on the notice that authorizes the amendment;
- (3) indicate that it is an amendment to the notice; and
- (4) provide all of the information required of an initial notice, completely restating the notice in a manner that reflects the amended state of the notice.

(b) If an amendment adds collateral covered by a notice, or adds a debtor to a notice, it shall be effective if the debtor authorizes the filing in a signed record. By signing a security agreement, a debtor authorizes the filing of an amendment, covering the collateral described in the security agreement, and proceeds of the collateral, whether or not the security agreement expressly covers proceeds.

(c) If there is more than one secured party on the notice, the amendment shall be effective if a secured party authorizes the filing in a signed record.

(d) An amendment that adds collateral shall be effective as to the added collateral only from the date of the filing of the amendment.

(e) An amendment that adds a debtor shall be effective as to the added debtor only from the date of the filing of the amendment.

(f) An amendment other than an amendment to add collateral or add a debtor shall be

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effective only if a secured party on the notice authorizes the filing of the amendment in a signed record.

(g) An amendment shall be ineffective if it purports to delete all secured parties and fails to provide the name of a new secured party, or purports to delete the names of all debtors and fails to provide the name of a debtor not previously named on the notice.

(h) If there is more than one secured party on the notice, any secured party or all secured parties may authorize the filing of an amendment.

(i) The filing of an amendment does not extend the period of effectiveness of a notice.

Source
RPPL 8-42 § 56, modified.

§ 1972. Continuation of notice.

(a) The period of effectiveness of a notice may be continued by filing a continuation statement that:

(1) identifies the initial notice by its filing number;

(2) identifies a secured party on the notice that authorizes the continuation statement; and

(3) indicates that the effectiveness of the notice, with respect to the secured party that authorized the filing, is to be continued.

(b) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period of the notice.

(c) Upon timely filing of a continuation statement, the effectiveness of the notice shall continue for a period of five (5) years commencing on the day on which the notice would have become ineffective in the absence of the filing.

(d) The effectiveness of such a notice shall be continued only with respect to the secured party that authorized the filing of the continuation statement.

(e) Upon the expiration of the new five (5) year period, the notice shall lapse with respect

SECURED TRANSACTIONS ACT 11 PNCA § 1973

to the secured party unless, before the lapse, another continuation statement authorized by that secured party is filed.

(f) Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the notice.

Source
RPPL 8-42 § 57, modified.

§ 1973. Termination of notice.

(a) The effectiveness of a notice may be terminated by filing a termination statement that:

- (1) identifies the initial notice by its filing number;
- (2) identifies a secured party on the notice that authorizes the termination statement; and
- (3) indicates that the notice is no longer effective with respect to the interest of the secured party that authorized the filing of the termination statement.

(b) Within twenty (20) days after the secured party receives a written demand by the debtor, the secured party on a notice shall file a termination statement if:

- (1) there is no outstanding secured obligation and no commitment to make an advance, incur an obligation, or otherwise give value; or
- (2) the debtor did not authorize the filing of the initial notice; or
- (3) the notice covers accounts or chattel paper that have been sold but as to which the account debtor or other person obligated has discharged its obligation.

(c) A termination statement shall terminate the effectiveness of a notice with respect to a secured party on the notice only if the termination statement is authorized in a signed record by that secured party. Upon the filing of an effective termination statement, the notice to which the termination statement relates becomes ineffective with respect to the authorizing secured party.

Source
RPPL 8-42 § 58, modified.

11 PNCA § 1974 BUSINESS & BUSINESS REGULATIONS

§ 1974. Effectiveness of notice.

- (a) An initial notice, amendment, continuation statement, or termination statement shall be effective at the time it is available to the public by means of a search of the records of the filing office as provided in this chapter.
- (b) The filing office may refuse to file a notice only because:
- (1) in the case of an initial notice, the record does not provide the name of a debtor;
 - (2) in the case of an amendment, the record does not provide the name of a debtor, does not provide the filing number of the initial notice, or the record identifies an initial notice whose effectiveness has lapsed;
 - (3) in the case of a continuation statement, the record does not provide the filing number of the initial notice, or was not submitted within the permitted six (6) month time period;
 - (4) in the case of a termination statement, the record does not provide the filing number of the initial notice, or the record relates to an initial notice that has lapsed with respect to each secured party on the notice; or
 - (5) less than the full filing fee is tendered, or no other arrangement has been made for the payment of the fee.
- (c) A record that the filing office refuses to accept for a reason other than one set forth in this section shall remain effective as a filed record except against a purchaser of the collateral that gives value in reasonable reliance upon the absence of the record from the filing office.
- (d) If a filing office refuses to accept a record for filing, it shall promptly communicate the fact of and reason for its refusal to the person that presented the record.
- (e) A notice authorized by one secured party on the notice does not affect the rights of another secured party on the notice.
- (f) The failure of the filing office to index a record correctly shall not affect the effectiveness of the record.

SECURED TRANSACTIONS ACT 11 PNCA § 1981

Source
RPPL 8-42 § 59, modified.

§ 1975. Notice shall not constitute “constructive notice.”

A notice shall not constitute constructive notice to any person or knowledge of its existence or contents by any person.

Source
RPPL 8-42 § 60.

Subchapter VI
Enforcement of Security Interests Upon Default

- § 1981. Default.
- § 1982. Collection rights of secured party.
- § 1983. Secured party’s right to possession or control.
- § 1984. Secured party’s disposal of collateral after default.
- § 1985. Consequences of disposal of collateral.
- § 1986. Retention of collateral.
- § 1987. Debtor’s right to redeem collateral.
- § 1988. Determination of whether the secured party’s conduct was commercially reasonable.
- § 1989. Secured party’s liability for failure to comply with enforcement rules.

§ 1981. Default.

- (a) Upon default, the secured party shall have the following rights:
 - (1) The right to possession or control of the collateral, as the secured party prefers, even if the security agreement is silent about possession or control.
 - (2) The right to dispose of the collateral.
 - (3) Other rights and remedies provided in this chapter.
 - (4) Other rights and remedies in the security agreement.
 - (5) Any rights and remedies available under other law.

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- (b) The secured party may pursue any or all of its remedies simultaneously or consecutively.
- (c) Pursuit of one remedy shall not preclude or prejudice the pursuit of another remedy.
- (d) Upon default, if the collateral is a document, the secured party may proceed as to the document and as to the goods covered by the document. The secured party may proceed without judicial action if the document is in the possession of the secured party.
- (e) A lessor of goods for a period greater than one year shall have the common law rights of a lessor upon default, and any other rights that may be provided by statute.

Source

RPPL 8-42 § 61, modified.

§ 1982. Collection rights of secured party.

- (a) Upon default, with respect to accounts, chattel paper, or other rights to payment, the secured party shall be entitled to notify an account debtor or other person that owes payment to make payment to the secured party, and also to take possession or control of any proceeds.
- (b) If the security interest secures a debt, the secured party shall pay the debtor any amount collected in excess of the secured debt, plus expenses allowed under this subchapter. Unless otherwise agreed, if there is a deficiency in collection, the debtor owes to the secured party the difference between the amount collected and the secured debt plus expenses allowed under this subchapter.
- (c) If the transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus and is liable for any deficiency only if the security agreement so provides.
- (d) The secured party may act under this section without judicial process, notwithstanding any other provision of this chapter.
- (e) If so agreed: and in any event after default:
 - (1) a secured party that is a bank with a security interest in a deposit account maintained by the bank and perfected by control may apply the balance of the deposit account to the obligation secured by the deposit account; and

SECURED TRANSACTIONS ACT 11 PNCA § 1983

(2) in other cases, a secured party that has a security interest in a deposit account perfected by control may instruct the bank to pay the balance of the deposit account to the secured party.

Source
RPPL 8-42 § 62, modified.

§ 1983. Secured party’s right to possession or control.

- (a) Upon default, the secured party may take possession or control of collateral without legal proceedings if the secured party does not breach the peace in doing so.
- (b) Upon default, the secured party may take possession or control of collateral and dispose of collateral by court order, and the following shall apply:
 - (1) The secured party shall be entitled to a special, expedited order from the court granting the secured party possession or control over the collateral.
 - (2) Issues at the hearing shall be limited to the existence of a security agreement covering the collateral and at least one event of default.
 - (3) An order to dispossess the debtor under this section may be appealed by the debtor, but no court shall stay the dispossession order or prevent the disposal of the collateral during the appeal process.
- (c) If the security agreement so provides, the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party that is reasonably convenient to both parties.
- (d) A secured part may render equipment unusable without removing it from its location, and may dispose of collateral at the debtor’s place of business, residence, or any other location where the collateral is found.

Source
RPPL 8-42 § 63, modified.

11 PNCA § 1984 BUSINESS & BUSINESS REGULATIONS

§ 1984. Secured party's disposal of collateral after default.

- (a) After default, a secured party may sell, lease, license or otherwise dispose of any or all of the collateral.
- (b) Disposal of the collateral may be made publicly or privately, and may be made in one or more contracts.
- (c) Disposal may be as a unit or in parcels, at any time and place and on any terms consistent with the secured party's duties under this chapter.
- (d) The secured party shall give the debtor, and any other secured party from whom the secured party receives a written request, reasonable notice of the time and place of any public sale or the time at which any private sale or other intended disposal is to be made, unless communication is impractical because collateral is perishable or threatens to decline speedily in value. The debtor may waive the right to be informed.
- (e) The secured party may buy the collateral at any sale that is open to the public.

Source

RPPL 8-42 § 64, modified.

§ 1985. Consequences of disposal of collateral.

- (a) The proceeds of disposal shall be applied in the following order:
 - (1) the reasonable expenses of retaking, holding, preparing for disposal, and disposing of the collateral, including reasonable attorneys' fees and legal expenses incurred by the secured party;
 - (2) the satisfaction of the secured obligation; and
 - (3) the satisfaction of debt secured by any subordinate security interest in the collateral if a written demand is received before distribution of the proceeds is completed and if the holder of a subordinate security interest gives reasonable proof of the interest.
- (b) The secured party shall account to the debtor for any surplus and, unless otherwise agreed, the debtor is liable for any deficiency.

SECURED TRANSACTIONS ACT 11 PNCA § 1987

(c) When the secured party transfers the debtor's property to a purchaser that acts in good faith and gives value for the collateral, the secured party shall transfer all its rights in the collateral to the purchaser and the security interest and all subordinate security interests and claims shall be discharged.

(d) The director of any office maintaining records of ownership of the collateral shall issue a new title to a purchaser for value, and if the director requests, the secured party shall provide authorization for the issuance of the new title in the form of a court order granting possession to the secured party, or the secured party's sworn affidavit that the transfer is made pursuant to this chapter.

Source
RPPL 8-42 § 65, modified.

§ 1986. Retention of collateral.

(a) A secured party may, after default, propose to retain the collateral in full or partial satisfaction of the secured obligation.

(b) The proposal shall be given to the debtor and to any other secured party from whom the secured party has received a written claim of an interest in the collateral.

(c) If the secured party receives an objection in writing from a person entitled to receive notice under subsection (b) within twenty (20) days after the notice was delivered, the secured party shall dispose of the collateral as provided in this subchapter.

(d) If no objection is received within the twenty (20) day period, the secured party may retain the collateral.

Source
RPPL 8-42 § 66, modified.

§ 1987. Debtor's right to redeem collateral.

(a) Unless otherwise agreed in writing, after default, the debtor or any other secured party may redeem the collateral by fulfilling all obligations secured by the collateral and by paying expenses reasonably incurred by the secured party in taking possession, holding and preparing the collateral for disposal, including reasonable attorneys' fees and legal expenses.

(b) Redemption may take place only before the secured party has disposed of collateral or entered into a contract for its disposal or before the obligation has been discharged or the collateral has been retained as provided in this subchapter.

Source

RPPL 8-42, § 67, modified.

§ 1988. Determination of whether the secured party's conduct was commercially reasonable.

(a) A secured party shall dispose of collateral only in a commercially reasonable manner when disposing of collateral or collecting an account.

(b) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(c) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

- (1) in the usual manner on any recognized market;
- (2) at the price current in any recognized market at the time of the disposition; or
- (3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(d) A collection, enforcement, disposition, or acceptance shall be deemed to have been commercially reasonable if it has been approved in any of the following:

- (1) In a judicial proceeding.
- (2) By a bona fide creditors' committee.
- (3) By a representative of creditors.
- (4) By an assignee for the benefit of creditors.

SECURED TRANSACTIONS ACT 11 PNCA § 1989

(e) Approval under subsection (d) shall not be required to be obtained for a disposal of collateral to be commercially reasonable, and lack of approval shall not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Source

RPPL 8-42 § 68, modified.

§ 1989. Secured party's liability for failure to comply with enforcement rules.

(a) If the secured party does not comply with the requirements of this chapter with respect to enforcement, then the disposal of collateral may be ordered or restrained by the court on appropriate terms and conditions.

(b) If the disposal has occurred, the debtor or any person entitled to be informed or whose security interest has been made known to the secured party prior to the disposal has a right to recover from the secured party any loss caused by a failure to comply with this subchapter.

Source

RPPL 8-42 § 69, modified.

**Subchapter VII
Transition**

§ 1991. Transition.

§ 1991. Transition.

(a) This section shall apply to:

(1) a transaction concluded prior to the effective date of this chapter that would otherwise fall within the scope of this chapter, referred to as a “prior transaction”; and

(2) the right of a lien holder whose right arose prior to the effective date of this chapter, referred to as a “prior lien”.

(b) The validity, effect and enforcement of a prior transaction or prior lien shall be determined by reference to the law in effect when the prior transaction was concluded or the prior lien arose, except as provided otherwise in this section.

(c) The provisions of this chapter on filing, priority, and enforcement shall apply to a prior transaction or prior lien only in the case of conflict with a security interest created under this chapter.

(d) A creditor under a prior transaction and the holder of a prior lien may file a notice of its interest at any time. Such a notice is referred to in this section as a “transition notice.”

(e) A transition notice may be filed in the same manner as provided for a notice of a security interest or notice of the right of a lien holder. The authorization of the debtor is not required.

(f) If a transition notice is filed:

(1) on or before the sixtieth (60th) day from the effective date of this chapter, the interest created under the prior transaction or prior lien shall have priority over a security interest created under this chapter, as provided under subchapter II, with priority measured from the date of the commencement of this chapter; or

SECURED TRANSACTIONS ACT 11 PNCA § 1995

(2) after the sixtieth (60th) day from the effective date of this chapter, the interest created under the prior transaction or prior lien shall have priority over a security interest created under this chapter, as provided under subchapter II, with priority measured from the date of the filing of the notice of the prior transaction or prior lien.

(g) A security interest perfected under this chapter shall have priority over the interest created by a prior transaction or prior lien if no transition notice is filed with respect to the prior transaction or prior lien, except as provided in subsection (f).

Source
RPPL 8-42 § 70, modified.

**Subchapter VIII
Commencement**

§ 1995. Effective Date.

§ 1995. Effective Date.

(a) This chapter, sections 1901-1995, inclusive, shall become an effective law after its approval by the President of the Republic of Palau, or after its becoming law without such approval, on the date that the Commission promulgates as the effective date pursuant to regulation.

(b) However, the effective date of this chapter promulgated by the Commission shall not be prior to the date that the filing office is open and ready to receive notices.

(c) The Commission shall make all reasonable efforts to educate the public about the filing system prior to the effective date of this chapter.

Source
RPPL 8-42 § 71, modified.

11 PNCA § 2001 BUSINESS & BUSINESS REGULATIONS

Chapter 20

To Promote the use of Palau's Official Languages in Outdoor Advertising Signs

§ 2001. Prohibitions on outdoor advertising.

§ 2002. Regulations.

§ 2001. Prohibitions on outdoor advertising.

(a) Except as provided in subsection (b) of this section, all outdoor advertising signs erected or maintained in the Republic of Palau that are visible to the public, shall be presented in:

- (1) the English alphabet; and
- (2) either the Palauan or English language.

(b) An outdoor advertising sign may utilize an alphabet or language other than those specified in subsection (a) of this section, provided that:

- (1) the sign also uses an alphabet and language that conforms with the requirements of subsection (a) of this section;
- (2) the non-official language is used only to translate the message presented in the official language; and
- (3) the characters comprising the portion of the sign that does not conform with subsection (a) of this section are no more than twenty five (25%) of the size of those characters comprising the conforming portion of the sign.

(c) Any person violating subsection (a) of this section shall be subject to a civil penalty of not more than five hundred dollars (\$500).

Source

RPPL 8-50 § 2, modified.

Notes

RPPL 8-50 § 1. Legislative findings reads: The Olbiil Era Kelulau finds that, pursuant to Article XIII, Section 1 of the Palau Constitution, the Palauan and English languages are the official languages of the Republic of Palau. Maintaining these official languages ensures that all people in Palau are able to communicate with each other. Furthermore, allowing the uncontrolled use of languages other than Palau's official languages places an undue

USE OF PALAU'S OFFICIAL LANGUAGES 11 PNCA § 2002 IN OUTDOOR ADVERTISING SIGNS

burden on both the people and the government of Palau to ensure that all people in Palau are able to understand all written and spoken information disseminated in the Republic. Despite these reasons for Palau having official languages, many advertisements are presented in languages other than the Republic's official languages. Although the Olbiil Era Kelulau realizes that many people currently living in Palau speak languages other than Palauan or English, which necessitates the use of these other languages on these advertising signs, these other languages should not dominate a sign's presentation. Based on the foregoing, the Olbiil Era Kelulau finds that all private businesses should be required to post any outdoor advertising signs in either the Palauan or English language. However, if a person wishes to use a language other than Palauan or English on a sign, the sign must still use the official language; the sign may also present the same information in a non-official language, so long as it is presented in characters no more than 25% of the official language characters.

§ 2002. Regulations.

The Director of the Bureau of Commercial Development shall, pursuant to the requirements of 6 PNC Chapter 1, promulgate rules and regulations implementing section 2001 of this chapter.

Source

RPPL 8-50 § 3, modified.

11 PNCA § 2101 BUSINESS & BUSINESS REGULATIONS

Chapter 21 Plastic Bag Use Reduction Act

- § 2101. Definitions.
- § 2102. Prohibition on plastic bag distribution by retail establishments.
- § 2103. Ban on importation of plastic products.
- § 2104. Educational program.
- § 2105. Penalties.

§ 2101. Definitions.

- (a) “At cost” means without a profit, or to sell an item for no more than the price paid by a retail establishment to acquire, produce, or maintain an item.
- (b) “Biodegradable plastic bag” means a plastic bag that is capable of being decomposed by bacteria or other living organisms within five (5) years or less.
- (c) “Compostable plastic bag” means a plastic bag which is able to decompose in aerobic environments that are maintained under specific controlled temperature and humidity conditions, and is capable of undergoing biological decomposition in a compost site such that the material is not visually distinguishable and breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.
- (d) “Plastic bag” means a bag that is provided by a retail establishment to a customer for the purpose of transporting groceries or other retail goods and not specifically designed for multiple re-use but does not include biodegradable or compostable plastic bags.
- (e) “Retail establishment” means a commercial business such as a shop, store, food market, convenience mart, department store, hardware store, liquor store, sporting goods store, restaurant, or any other store operating within the Republic that offers retail or food items for sale to consumers.
- (f) “Reusable bag” means a bag that is specifically designed for re-use and is made of cloth or other washable or cleanable material suitable for reuse.

Source
RPPL 10-14 § 2.

PLASTIC BAG USE REDUCTION ACT 11 PNCA § 2102

Notes

RPPL 10-14 Section 1 reads: Legislative findings.

The Olbiil Era Kelulau finds that the environment is the greatest resource in the Republic of Palau and it is the duty of the government to protect our environment for future generations. Plastic bags are in heavy use within the Republic of Palau and cause great harm to our oceans and land when they are discarded and left to decompose. The heavy use of these plastic bags in Palau is inconsistent with “Pristine Paradise Palau”.

Retail establishments are the greatest distributor of plastic bags within the Republic, as most transactions result in plastic bag distribution to customers for the purpose of transport of purchased goods. According to the United States National Park Service, plastic bags require ten to twenty years to decompose. During this time, our marine wildlife are at risk of physical harm if they come in contact with the plastic and our ocean and land is at risk of contamination by toxic chemicals given off by plastic during decomposition. It is estimated that 100,000 animals are killed each year due to plastic bags alone. Scientists in the United States and Japan also recently concluded that when plastic decomposes in the ocean, chemicals such as bisphenol A (BPA) and PS oligomer are released, causing additional pollution and negatively affecting the hormones and reproductive systems of sea life. These adverse effects are also found in humans, as our natural hormone levels are susceptible to chemical interference that causes lower testosterone levels in males and premature puberty in females. Another chemical byproduct of plastic, styrene, is a suspected carcinogen for humans.

To reduce the risk to our “Pristine Paradise Palau” environment, the Olbiil Era Kelulau finds that businesses should be prohibited from distributing plastic bags to consumers during point of sale packaging of retail merchandise. In order to facilitate a smooth transition for both businesses and consumers from the use of plastic bags to reusable bags, the Olbiil Era Kelulau finds that the initial conversion period should allow for a two year period in which businesses may still provide plastic bags to customers.

The Olbiil Era Kelulau understands that this bill does not address the full array of instances in which plastic bags are used. For instance, many Palauan traditional functions now call for the use of plastic bags for food storage and distribution. While plastic bags will still be utilized for various functions and activities, the Olbiil Era Kelulau believes this bill is an important first step toward total freedom from plastic consumption and a vital measure to protect “Pristine Paradise Palau”. The Olbiil Era Kelulau takes this step with full optimism that residents and nonresidents will adopt sustainable practices and avoid the use of plastics in order to preserve our environment in advance of future legislative action. In order to inspire all residents to adopt better practices in their homes, jobs, schools, and communities, the Olbiil Era Kelulau also finds that the Ministry of Public Infrastructure, Industries, and Commerce alongside the Ministry of Natural Resources, Environment, and Tourism should educate the public on the destructive effects of plastic use as well as practical ways to reduce dependence on plastics. The Olbiil Era Kelulau further urges the Ministry of Education and Palau Community College to incorporate this educational program and other information on sustainable practices into its curriculum.

§ 2102. Prohibition on plastic bag distribution by retail establishments.

- (a) Two years following the effective date of this chapter, Retail establishments may not provide plastic bags that are not biodegradable or compostable to their customers at the point of sale or prior to exit for the purpose of transporting groceries, food products, and other merchandise.
- (b) Retail establishments that sell reusable bags to consumers shall price Reusable bags at no greater than twenty-five percent (25%) above the At cost value.

11 PNCA § 2102 BUSINESS & BUSINESS REGULATIONS

(c) Nothing in this section shall preclude a Retail establishment from making available to customers Reusable bags, paper bags, or cardboard boxes for the purpose of transporting groceries or other retail items.

Source
RPPL 10-14 § 2.

§ 2103. Ban on importation of Plastic products.

(a) One year following the effective date of this chapter, no individual or business may import plastic products prohibited for distribution by section 2102.

(b) The Bureau of Customs and Taxation shall inspect shipments and shall seize any goods prohibited by this section. The Bureau shall enforce the penalties listed in section 2105 two (2) years following the effective date of this chapter.

Source
RPPL 10-14 § 2, modified.

§ 2104. Educational program.

During the first year following the effective date of this chapter, the Ministry of Public Infrastructure and Industries, in cooperation with the Ministry of Human Resources, Culture, Tourism, and Development, shall undertake a public education campaign to increase awareness of the destructive effects of plastic use and inform the public of practical ways to reduce dependence on plastics. The educational program shall be funded by the Recycling Program pursuant to chapter 16 of Title 11 of the Palau National Code.

Source
RPPL 10-14 § 2, modified.

§ 2105. Penalties.

(a) Any Retail establishment violating section 2102 of this chapter shall be ordered to discontinue the distribution of plastic bags at the point of sale or prior to exit and shall be subject to a civil violation and fined one thousand dollars (\$1000) for each day of violation.

(b) Any individual or business found to be in violation of section 2103 shall be subject to

PLASTIC BAG USE REDUCTION ACT 11 PNCA § 2105

a civil violation and fined one thousand dollars (\$1,000) for each shipment.

Source

RPPL 10-14 § 2, modified.

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