

**HISTORICAL & CULTURAL PRESERVATION ACT 19 PNCA § 102**

**TITLE 19  
CULTURAL RESOURCES**

**Chapter 1  
Historical and Cultural Preservation Act**

**Subchapter I  
General Provisions**

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

**§ 101. Short title.**

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

**Source**

RPPL 1-48 § 1(a), modified.

**§ 102. Purposes.**

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

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

**Source**

RPPL 1-48 § 1(b), modified.

**Notes**

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

The Palau Lagoon Monument Act also addresses historical preservation. It states that “[a]ll ships, other vessels, and aircraft, and any and all parts and contents thereof, which formerly belonged to or were part of the armed forces or commercial fleet of Spain, Germany, Japan, the United States or any other nation, which were sunk to or otherwise deposited on the bottom of the Palau Lagoon and its territorial waters, subject to applicable salvage laws, shall be and hereby are set apart as monuments which shall be collectively called the ‘Palau Lagoon Monument.’”

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

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

**§ 103. Definitions.**

Unless the context clearly requires otherwise, in this chapter:

- (a) “Board” means the Palau Historical and Cultural Advisory Board.
- (b) “Chief” means the administrative head of the Division of Cultural Affairs.
- (c) “Division” means the Division of Cultural Affairs.
- (d) “Historical site” means any location, site, structure, building, artifact, or landmark located in the Republic or its territorial waters which are of outstanding prehistoric, archaeological, or cultural significance.
- (e) “Intangible cultural property” means aspects and manifestations of traditional Palauan culture, including music, dances, art, skills employed in applied arts, storytelling and similar activities.

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- (f) “Living national treasure” means an individual especially skilled or knowledgeable in the arts, customs, traditions, folklore or history of the Republic.
- (g) “Minister” means the Minister of Community and Cultural Affairs.
- (h) “Person” means an individual, firm, partnership, joint venture, corporation, estate, trust or other association, however organized.
- (i) “Site” means any location, structure, building or landmark in the Republic.
- (j) “Tangible cultural property” means those objects, living or non-living, which are manifestations of a part of traditional Palauan culture, and includes any buildings, objects of fine and applied art, archaeological specimens, and particular animals or plants or species of animals or plants.
- (k) “Artifact” means any object of archeological or historical significance produced or shaped by human craft.

### Source

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

### Notes

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

## Subchapter II

### Palau Historical and Cultural Advisory Board

- § 111. Board creation; composition.
- § 112. Selection of chairman and vice-chairman; quorum.
- § 113. Meetings; technical assistance.
- § 114. Duties and responsibilities.

#### **§ 111. Board creation; composition.**

There is established a Palau Historical and Cultural Advisory Board consisting of sixteen (16) members appointed by the President, one member representing each state. Appointments shall be made for a term of three years, provided that prior membership on the Board shall not constitute disqualification for reappointment. Any vacancy on the Board shall be filled for the

remainder of the unexpired term in the same manner as the original appointment. Members of the Board shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. Members of the Board serve at the will of the President.

**Source**

RPPL 1-48 § 3(a), modified.

**Notes**

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

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

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

**Source**

RPPL 1-48 § 3(b), modified.

**§ 113. Meetings; technical assistance.**

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

**Source**

RPPL 1-48 § 3(c), modified.

**§ 114. Duties and responsibilities.**

The Board shall:

- (a) establish policies and criteria to be used by the Board in recommending registration of historical sites, tangible and intangible cultural properties, and living national treasures.
- (b) solicit nominations from government officials and agencies and private citizens for registration of historical sites, tangible and intangible cultural properties, and living national treasures;

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

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

### Source

RPPL 1-48 § 4, modified.

### Notes

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

### Subchapter III Division of Cultural Affairs

§ 131. Division powers and duties.

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

§ 133. Depository for certain specimens and objects.

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

#### § 131. Division powers and duties.

The Division shall:

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

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

(c) acquire historical sites or tangible cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation in accordance with applicable law (but only if condemnation proceedings are permitted by action of the legislative body of the

state in which the site or property is located), devise, or bequest; maintain, preserve, restore, administer, or transfer such sites or properties; and charge reasonable fees for the admission to or viewing of such sites or properties.

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

(e) prepare, review and revise a national historical and cultural preservation plan, including budget requirements, land use recommendations, and plans for the support, maintenance and sponsorship of living national treasures.

(f) apply for and receive gifts, grants, technical assistance and other funding from public and private sources.

(g) provide technical and financial assistance to the state governments and public and private agencies involved in historical preservation activities.

(h) coordinate activities of the state and political subdivisions of the Republic in accordance with the national historical and cultural preservation plan.

(i) stimulate public interest in historical and cultural preservation, including the development and implementation of interpretive programs for historical sites listed in the register of historical sites and property listed in the register of tangible cultural property, the exhibition of tangible cultural property, the promotion, exhibition and performance of intangible cultural property listed in the register of intangible cultural property, and the exhibition of performances and skills by persons listed in the register of living national treasures.

(j) assist each state of the Republic in establishing a state board of historical and cultural preservation.

(k) develop a written history of Palau, compiling and indexing information on the traditional laws of the Republic and their underlying principles.

(l) employ professional and technical staff necessary to carry out the provisions of this chapter through the national public service system and within the limits of appropriations

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therefor.

(m) enter into such contracts with public or private persons, entities or agencies as may be necessary to carry out the provisions of this chapter and within the limits of appropriations therefor.

(n) where its functions overlap with those of the Palau Museum, work with the Museum and coordinate activities so as to avoid needless duplication of effort.

(o) promulgate such rules and regulations as may be necessary to effectuate the provisions and purposes of this chapter in accordance with all applicable laws; provided that in issuing such rules and regulations, the Division shall place no restriction on any property which may result in inverse condemnation thereof.

(p) assist the Foreign Investment Board, the Tourist Commission and private businesses, including hotels, that serve foreign visitors, investors, and tourists, in educating foreign visitors about Palau's cultural heritage.

### Source

RPPL 1-48 § 5, modified.

### Notes

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

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

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

### Source

RPPL 1-48 § 6, modified.

### § 133. Depository for certain specimens and objects.

The Division shall serve as, or shall determine the depository for, all field notes, photographs, negatives, maps, artifacts, or other materials generated or recovered through historical and

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

**Source**

RPPL 1-48 § 7, modified.

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

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

**Source**

RPPL 1-48 § 8, modified.

# HISTORICAL & CULTURAL PRESERVATION ACT 19 PNCA § 152

## Subchapter IV Projects Affecting Historical Sites or Tangible Cultural Property

- § 151. National government project affecting historical site or tangible cultural property; review and concurrence by Division.
- § 152. Duty to report finding of historical site or tangible cultural property.
- § 153. National government investigation, recording, preservation, and salvage of historical site or tangible cultural property.
- § 154. Private project affecting historical sites or tangible cultural property; review and concurrence by Division; condemnation proceedings.
- § 155. Scope of permissible ordinary maintenance or repair of historical site or tangible cultural property.
- § 156. Division entry upon land for examination or survey.
- § 157. Penalties.

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

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

#### **Source**

RPPL 1-48 § 9(a), modified.

#### **Notes**

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

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

The Republic and its political subdivisions, agencies and officers shall report to the Division the

finding of any historical site or tangible cultural property during any project, and shall cooperate with the Division in the investigation, recording, preservation, and salvage of such site or property. The Division shall promulgate guidelines for identifying historical sites and tangible cultural property.

**Source**

RPPL 1-48 § 9(b), modified.

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

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

**Source**

RPPL 1-48 § 10, modified.

**Notes**

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

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

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

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undertake or permit the investigation, recording, preservation, and salvage of any historical information deemed necessary to preserve Palauan history or culture.

### Source

RPPL 1-48 § 11(a), modified.

### Notes

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

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

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

### Source

RPPL 1-48 § 11(b), modified.

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

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

### Source

RPPL 1-48 § 11(d), modified.

### **§ 157. Penalties.**

Any person who violates the provisions of this subchapter shall be fined not more than one thousand dollars (\$1,000), and each day of continued violation shall constitute a distinct and

separate offense under this subchapter for which the offender may be punished.

**Source**

RPPL 1-48 § 11(c), modified.

**Subchapter V**

**Preservation Activities by States**

§ 171. States; historical and cultural preservation programs.

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

**§ 171. States; historical and cultural preservation programs.**

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

**Source**

RPPL 1-48 § 15, modified.

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

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

**Source**

RPPL 1-48 § 16, modified.

# HISTORICAL & CULTURAL PRESERVATION ACT 19 PNCA § 181

## Subchapter VI Violations and Penalties

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

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

§ 183. Same; restraining orders and injunctive relief.

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

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

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

(c) Any person who violates this section shall be fined not more than five thousand dollars (\$5,000), imprisoned for a period of not more than three (3) years, or both for each separate offense. If the violator directly or indirectly has caused the loss of, or damage to, registered historical sites, artifacts of historical sites, or tangible cultural property, the violator shall be fined an additional amount determined by the court to be equivalent to the value of the lost or damaged historical site, artifacts, or tangible cultural property. Each day of continued violation of this provision shall constitute a distinct and separate offense for which the offender may be punished. Equipment used by a violator for the taking, appropriation, stealing, conversion, sale, conveyance, excavation, storage, injury, destruction, or alteration of a historical site, artifact, or tangible cultural property, or for the transportation of the violator to or from the historical site or the location of the artifact or tangible cultural property, shall be subject to immediate seizure and disposition by the

Republic without compensation to its owners.

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

**Source**

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

**Notes**

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

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

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

**Source**

RPPL 1-48 § 13, modified.

**Notes**

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

**§ 183. Same; restraining orders and injunctive relief.**

(a) In addition to and without limiting the other powers of the Ministry of Justice and without altering or waiving any criminal penalty provisions of this chapter, the Ministry of Justice shall have the power to bring an action in the name of the Republic in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter.

(b) Any person may maintain an action, in the trial court having jurisdiction where the alleged violation occurred or is likely to occur, for restraining orders or injunctive relief

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against the Republic, its political subdivisions, or any person, upon a showing of irreparable injury, for the protection of a historical site or tangible cultural property and the public trust therein from unauthorized or improper demolition, alteration, or transfer of such property.

### **Source**

RPPL 1-48 § 14, modified.

### **Notes**

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

**Chapter 2  
Palau Museum**

§ 201. Creation.

§ 202. Board of Trustees.

§ 203. Annual report.

**§ 201. Creation.**

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

**Source**

PL 5-5-2 § 1, modified.

**Notes**

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

**§ 202. Board of Trustees.**

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

**Source**

PL 5-5-2 § 2, modified.

**Notes**

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

**§ 203. Annual report.**

The President or his officially designated representative shall be responsible for presenting a report to the Olbiil Era Kelulau during each April session covering the following matters:

- (a) current Museum policy and operational status;
- (b) an accounting of all monies collected and spent in connection with the sale of Museum articles;
- (c) the status and condition of Museum facilities and physical inventory;
- (d) museum activities, acquisitions, problems and revenues during the past year; and
- (e) a proposed budget for the next year.

**Source**

PL 5-5-2 § 3, modified.

**Notes**

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

**Chapter 3**  
**Palau Lagoon Monument**

- § 301. Declaration of policy.
- § 302. Establishment of monument.
- § 303. Administration, protection and development.
- § 304. Permits to examine.
- § 305. Rules and regulations.
- § 306. Penalties.

**§ 301. Declaration of policy.**

It is hereby declared that it is a policy of the Republic to preserve forever historic landmarks, structures, and other sites and objects of significance to the Republic or the Trust Territory situated within the jurisdiction of the Republic for the inspiration and benefit of the people of the Republic.

**Source**

PL 5-6-5 § 1, modified.

**Notes**

Toribiong v. Gibbons, 3 ROP Intrm. 419, 420, 422 (Tr. Div. 1993).

**§ 302. Establishment of monument.**

All ships, other vessels and aircraft, and any and all parts and contents thereof, which formerly belonged to or were part of the armed forces or commercial fleet of Spain, Germany, Japan, the United States or any other nation, which were sunk to or otherwise deposited on the bottom of the Palau Lagoon and its territorial waters, subject to applicable salvage laws, shall be and hereby are set apart as monuments which shall be collectively called the “Palau Lagoon Monument.”

**Source**

PL 5-6-5 § 2, modified.

**Notes**

Toribiong v. Gibbons, 3 ROP Intrm. 419, 420 (Tr. Div. 1993).

**§ 303. Administration, protection and development.**

The administration, protection and development of the monument shall be exercised under the direction of the President or his duly authorized representatives; provided that no funds of the national government shall be obligated therefore unless or until the Olbiil Era Kelulau has appropriated funds which are available for that purpose.

**Source**

PL 5-6-5 § 3, modified.

**§ 304. Permits to examine.**

All persons who dive to or by any other means seek and obtain access to the aforesaid ships, other vessels and aircraft, or any and all parts and contents thereof, for the purpose of examination or the gathering of objects therefrom, shall first obtain a permit therefor from the President or his duly authorized representatives. The President is authorized to issue such permits to those persons whom he deems qualified to conduct such examination or gathering, subject to such rules and regulations as he may prescribe.

**Source**

PL 5-6-5 § 5, modified.

**Notes**

Toribiong v. Gibbons, 3 ROP Intrm. 419, 420 (Tr. Div. 1993).

**§ 305. Rules and regulations.**

The President shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this chapter.

**Source**

PL 5-6-5 § 6, modified.

**§ 306. Penalties.**

Any person who, without the permission of the President, removes, converts, appropriates, damages, destroys, or conspires, aids, abets, or assists in the removal, damage, appropriation, conversion, or destruction of the aforesaid ships, other vessels or aircraft, or any or all parts, artifacts, and contents thereof, or who violates any rule or regulation issued pursuant to this

chapter, shall, upon conviction, be fined not more than five thousand dollars (\$5,000), imprisoned for a period of not more than three (3) years, or both. Sixty percent (60%) of the amount of each fine collected pursuant to this section shall be allocated to the state government of the state in which the violation occurred that led to the imposition of the fine, and forty percent (40%) of the amount of each fine shall be allocated to the national government.

**Source**

PL 5-6-5 § 7, modified. Amended by RPPL 8-16 § 2, modified.

**Notes**

Toribiong v. Gibbons, 3 ROP Intrm. 419, 420 (Tr. Div. 1993).

**Chapter 4**  
**Palau National Archives**

- § 401. Definitions.
- § 402. Archives Office.
- § 403. Archivist.
- § 404. Delegation of the Archivist's powers.
- § 405. Deposit of public records in the Archives Office.
- § 406. Deposit of public records of less than five years of age.
- § 407. Public records not in the Archives.
- § 408. Return of public records in government office.
- § 409. Public records to be surrendered on demand.
- § 410. Public records not to be destroyed or disposed of without the authority of the Archivist.
- § 411. Routine destruction of public records.
- § 412. Access to public records in the Archives.
- § 413. Publication of public records.
- § 414. Copyright.
- § 415. Archives seal.
- § 416. Regulations.
- § 417. Archives Council.
- § 418. Offenses and penalties.
- § 419. Authorization and appropriation.

**§ 401. Definitions.**

As used in this chapter:

- (a) "Archivist" means the Archivist designated by section [403] of this chapter.
- (b) "Council" means the Archives Council established pursuant to section [417] of this chapter.
- (c) "Government office" means any government entity of the executive, legislative, and judicial branches of the national and state governments, the Office of the Public Auditor, the Office of the Special Prosecutor, the Palau National Communications Corporation, and all boards, commissions, and authorities established by law or executive order.
- (d) "Public records" means all such documentary materials of any kind, nature or

description which have been drawn up, made, received, acquired or used in the course of legislative, administrative, executive, judicial, or other governmental or quasi-government transactions or proceedings together with all exhibits and other material evidence which form part of or are annexed to or are otherwise related to specific documents, which are or are required to be in the custody of any public officer or government office or which may as of the effective date of this chapter or thereafter be transferred to or acquired by the Archives Office.

**Source**

RPPL 3-38 § 1, modified.

**Commission Comment**

RPPL 3-38 became effective on November 27, 1990 when Department of Interior Assistant Secretary Guerra informed the President by letter dated November 27, 1990, that she did not intend to suspend RPPL 3-38, in whole or in part, and that the act is effective, according to its terms, as of this date. See, section 14 of S.O. 3142.

**Notes**

Bracketed “[403]” in subsection (a) read “3” in previous codification. The “[417]” in subsection (b) read “17”.

**§ 402. Archives Office.**

(a) There is hereby established within the Ministry of Community and Cultural Affairs, the Palau National Archives (the Archives), wherein shall be stored for preservation and reference such of the public records of the Republic as are transferred thereto or acquired by the Archivist.

(b) In addition to the public records of the Republic, there may be deposited in the Archives the public records of such other governments and administrations with whom agreements as to such deposit have been reached with the national government of the Republic either before or after the effective date of this chapter.

(c) The Archivist may by contract or request or in any like manner acquire for the Archives all such original records, manuscripts and other documentary materials, or copies or replicas thereof, other than public records, as he may deem necessary or desirable to secure and all such materials shall be deemed to be public records of the Republic for the purposes of this chapter.

**Source**

RPPL 3-38 §2, modified. Subsection (a) amended by RPPL 6-26 § 18(a)[402(a)].

**Commission Comment**

See comment to 19 PNCA § 401.

**§ 403. Archivist.**

There shall be selected an Archivist in accordance with 33 PNCA Division 1 and rules and regulations promulgated thereunder. The Archivist shall be a person with demonstrated professional and educational experience in some aspect of cultural and historical affairs. The Archivist shall, subject to direction given to him by the Archives Council established under section 417 of this chapter, or the appropriate government or administration, in respect of the public records of such government or administration other than of the Republic as may deposit its records in the Archives pursuant to the provisions of section 401, be charged with care, custody, control and administration of the public records in the Archives Office and the public access thereto and with the performance of any other duties prescribed by this chapter.

**Source**

RPPL 3-38 § 3, modified.

**§ 404. Delegation of the Archivist's powers.**

(a) The Archivist may from the time to time delegate in writing, with the prior approval of the Council, any of his powers under this chapter, except the power of authorizing the destruction or disposal of public records, to any person or class of persons.

(b) Subject to any general or special directions given or conditions attached by the Archivist, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation, provided that no such delegation shall prevent the exercise of any power by the Archivist.

(c) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(d) Every delegation under this section shall, until it is revoked, continue in force according to its terms, notwithstanding the fact that the Archivist by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

**Source**

RPPL 3-38 § 4, modified.

**§ 405. Deposit of public records in the Archives Office.**

All public records of the age of five (5) years or over, other than those which under any statute are required to be held in the custody of a specified person or government office, which in the opinion of the Archivist are of sufficient value to warrant their preservation as:

- (a) evidence of the organization, functions and transactions of the government office in which they were originally made or received;
- (b) evidence of public or private personal or property rights or civic rights; or
- (c) containing historical or general information;

shall be transferred to the custody of the Archivist and be deposited in the Archives.

**Source**

RPPL 3-38 § 5, modified.

**§ 406. Deposit of public records of less than five years of age.**

The Archivist may allow the deposit in the Archives of public records of less than five (5) years of age if he considers that they are of sufficient value for deposit. Any deposit of public records under the provisions of this section may be subject to any special conditions imposed by the administrative head of the government office making the deposit.

**Source**

RPPL 3-38 § 6, modified.

**§ 407. Public records not in the Archives.**

The Archivist shall be entitled from time to time to inspect any public records that are for the time being in the possession or under the control of any national government office and give such instructions as to their safe preservation and such advice as to their efficient and economical administration and management as he considers necessary.

**Source**

RPPL 3-38 § 7, modified.

**§ 408. Return of public records in government office.**

When the administrative head of the national government office by which any original public record was deposited in the Archives, or the administrative head of the successor of that national government office, satisfies the Archivist that such original record is required for use in that national government office, the Archivist shall return such record to the custody of that national government office for such period as may be agreed upon between the Archivist and the administrative head and subject to such conditions as the Archivist may prescribe to ensure the safe custody and preservation of that public record during the time it is kept in that national government office.

**Source**

RPPL 3-38 § 8, modified.

**§ 409. Public records to be surrendered on demand.**

Where any public record is in the custody or possession of any person other than a public officer or other person authorized to have such custody or possession in his official capacity that person shall, on demand in writing by the Archivist, deposit such record in the Archives or in such other government office as the Archivist may direct. In order to facilitate the preservation and safe keeping of historic documents, the Archives Council or the Archivist is empowered to obtain documents designated by the Archives Council or Archivist as “public records”, from private persons or entities. The Archives Council or the Archivist are authorized to make application for and have issued subpoena(s), by an official authorized to issue subpoena(s). Said subpoena(s) shall describe generally the public record(s) or document(s) sought. Failure to comply with these subpoena(s) shall be considered contempt of the issuing entity.

**Source**

RPPL 3-38 § 9, modified.

**§ 410. Public records not to be destroyed or disposed of without the authority of the Archivist.**

(a) No person shall destroy or otherwise dispose of or authorize the destruction or other disposal of any public record of any kind whatsoever that is in his possession or under his control, except with the consent of the Archivist given in accordance with the provisions of this chapter. Before authorizing the destruction of any public record or any class of public records, the Archivist may, if he thinks fit, consult with any person whom he considers qualified to advise him as to the value thereof for permanent preservation.

(b) No document in the Archives shall be destroyed without the written and signed approval of the Archivist and the Chairman of the Council authorizing the destruction of that particular document which shall be specifically identified in the authorization. Records of all destroyed documents shall be kept.

**Source**

RPPL 3-38 § 10, modified.

**§ 411. Routine destruction of public records.**

The Archivist may authorize the immediate destruction, or the destruction after the expiration of such time as may be agreed upon between the Archivist and the administrative head of the national government office concerned, of any specified public record or classes of public records that:

- (a) by reason of their number, kind or routine nature do not in his opinion possess any enduring value for preservation in the Archives; and
- (b) are not required for reference purposes in any national government office after action on them is completed, or after the expiration of such period of years from the date on which action on them is completed as may be agreed upon between the Archivist and the administrative head of the national government office concerned.

**Source**

RPPL 3-38 § 11, modified.

**§ 412. Access to public records in the Archives.**

Except as may be otherwise provided in any written law, all records deposited in the Archives shall be available for public reference in accordance with the provisions of any regulations made under this chapter. Nothing contained in this section shall limit the powers of any competent court to order the production of any public record of the Republic. Any person may, with the consent of the Archivist, make or cause to be made at his own expense copies of or extracts from any public records which are available for public reference under this section.

**Source**

RPPL 3-38 § 12, modified.

**§ 413. Publication of public records.**

Following consultation with the Council, the Archivist may authorize the publication of any public record deposited in the Archives and available for public reference which he considers to be of sufficient interest to warrant its publication.

**Source**

RPPL 3-38 § 13, modified.

**§ 414. Copyright.**

Nothing in this chapter shall derogate from any provision of the law relating to copyright in relation to anything contained in any public record deposited in the Archives under the provisions of this chapter. When any person publishes any work containing a passage from any public record deposited in the Archives, he shall in that publication acknowledge the source from which that passage is taken.

**Source**

RPPL 3-38 § 14, modified.

**§ 415. Archives seal.**

The Archivist shall cause to be made a seal for the Archives, with which all certified copies issuing out of the office shall be sealed.

**Source**

RPPL 3-38 § 15, modified.

**§ 416. Regulations.**

In cooperation with and with the approval of the Archives Council, the Archivist shall promulgate regulations for any purpose for giving effect to the provisions of this chapter and for the due administration thereof, and in particular shall make regulations:

- (a) regulating the transfer of public records from any government office to the Archives Office or any record center or other repository which may be established for the purposes of this chapter;
- (b) regulating the manner of destruction or other disposal [of] valueless public records

- and establishing procedures for determining whether to destroy any possible records;
- (c) regulating the manner of destruction or other disposal of valueless public records;
  - (d) prescribing the age at which public records shall be available for public inspection;
  - (e) prescribing conditions for the admission of the public to the Archives Office and the use by the public of public records of the Republic deposited in the Archives Office; and
  - (f) providing for the custody and preservation of records deposited in the Archives Office under the provisions of section 402(c) and prescribing the fees if any, to be charged for such custody and preservation.

**Source**

RPPL 3-38 § 16, modified.

**Notes**

Bracketed “of” in subsection (b) provided by editor. Previous codification read “or”.

**§ 417. Archives Council.**

- (a) There is hereby established an Archives Council consisting of five (5) members. One (1) member shall be the Attorney General. Two (2) members shall have professional experience in matters pertaining to cultural and historical affairs and/or Archives management, and shall be appointed by the President. One (1) member shall be appointed jointly by the President of the Senate and Speaker of the House of Delegates to represent the Olbiil Era Kelulau, and one (1) member shall be appointed by the Chief Justice of the Supreme Court to represent the Judiciary. One (1) of the members initially appointed by the President shall serve a term of three (3) years and the other shall serve a term of four (4) years. The initial member appointed to represent the Olbiil Era Kelulau shall serve a term of three (3) years, and the initial member appointed to represent the Judiciary shall serve a term of five (5) years. Thereafter, all appointments shall be for terms of four (4) years. All vacancies shall be filled in the manner of the appointment of the person vacating the office for the remainder of the unexpired term.
- (b) The Council shall elect a Chairman from among its own members who shall serve a one (1) year term. The Council shall meet at the call of the Chairman, at the request of the Archivist or at the request of any two (2) members. Three (3) members shall constitute a quorum.

- (c) The Council shall, in consultation with the Archivist:
  - (1) establish policies governing the operations of the Archives, and in accordance with section 411 of this chapter, set schedules regarding the retention and destruction of documents;
  - (2) seek membership of the Archives in appropriate regional and international organizations; and
  - (3) seek public and private grant funding to further the work of the Archives.
- (d) The members of the Council shall serve without compensation, but shall receive a per diem at the established national government rate when traveling on the business of the Archives.

**Source**  
RPPL 3-38 § 17, modified.

**§ 418. Offenses and penalties.**

Any person who willfully or negligently damages any public records or willfully or negligently disposes of or destroys any public records otherwise than in accordance with the provisions of this chapter shall be guilty of destruction of public property and shall be liable, on conviction, to a fine of two hundred dollars (\$200) and may at the discretion of the court be denied access to the Archives Office for such period of time as the court sees fit.

**Source**  
RPPL 3-38 § 18, modified.

**§ 419. Authorization and appropriation.**

There is hereby authorized to be appropriated the sum of two hundred thousand dollars (\$200,000) for Fiscal Year 1991 to carry out the purpose of this chapter, such sum to be administered and expended by the Archivist. The Archivist shall submit to the President and the presiding officers of the Olbiil Era Kelulau, by no later than November 1 of each year, a report detailing all expenditures made by the Archives. Any grants to the Archives, from any public or private source other than the national government of the Republic, are hereby authorized to be appropriated and are appropriated to the Archives.

**19 PNCA § 419**

**CULTURAL RESOURCES**

**Source**

RPPL 3-38 § 19, modified.