

**TITLE 27
FISHING**

**DIVISION 1
FOREIGN FISHING**

**Chapter 1
Fishery Zones and Regulation of Foreign Fishing**

**Subchapter I
General Provisions**

§ 101. Purposes.

§ 102. Definitions.

§ 103. Bureau of Oceanic Fishery Management. [Repealed]

§ 101. Purposes.

By this legislation, the Republic enacts its own fishery zone legislation to manage, conserve, and regulate the harvesting of fish throughout their habitat, both within the reef areas of islands and atolls, and in other areas within the jurisdictional competence of the Republic.

Source

PL 6-7-14 § 1, modified.

Notes

The Bureau of Oceanic Fisheries Management was re-established by Executive Order No. 308, dated April 17, 2012.

All references in this title to Ministry of Resources and Development are hereby amended to reference the Ministry of Natural Resources, Environment, and Tourism as amended by RPPL 7-43 § 2, *see* 2 PNCA § 102.

Section 1 of RPPL 6-36 reads:

Section 1. Legislative Findings. The Olbiil Era Kelulau finds that the Republic of Palau must take bolder steps to protect and develop the Republic's marine resources for the benefit of the people of Palau. The Republic receives a very small percentage of the value of the tuna and other fish harvested from our waters by foreign fishing vessels. At the same time, foreign fishing vessels are depleting the Republic's national waters of fish and other marine life at an alarming rate. Foreign fishing vessels often take "by-catch" including marlin, sailfish, swordfish, and sharks. Some foreign fishing vessels also engage in the mutilation of sharks in a practice commonly known as "finning." This rapid depletion of marine resources endangers the continued viability of some species and forever alters the delicate ecological balance of life in the Republic's waters.

Foreign fishing vessels also create additional environmental and aesthetic problems. These vessels discharge waste and other pollution into the Republic's waters, damaging marine life and threatening public health and safety. The fishing vessels are also eyesores that diminish the Republic's natural beauty. This undoubtedly has

a negative impact on tourism, the Republic's largest and most important industry today and probably well into the future. In addition, efforts are underway to encourage the development of a sustainable sportfishing industry in the Republic. The presence and non-sustainable activities of foreign fishing vessels harm both of these industries irreparably.

Therefore, the Olbiil Era Kelulau finds that the Republic must take all appropriate measures to reduce the negative impact of those foreign fishing vessels that are fishing in the Republic's waters and to encourage development of the local fishing industry. Accordingly, the prohibition of steel leaders is intended to reduce the likelihood of catching sharks.

The Olbiil Era Kelulau further finds that since the Republic of Palau ratified the United Nations Convention on the Law of the Sea (UNCLOS) in September 1996, several provisions of Title 27 of the Palau National Code are inconsistent with the terms of UNCLOS. Consistent with its obligations under UNCLOS, the Olbiil Era Kelulau finds that the Republic's domestic fishing laws must be amended in light of our international treaty obligations, to prohibit imprisonment for violations of the Republic's fishing laws and to clarify the scope of the Republic's maritime jurisdiction.

§ 102. Definitions.

In this chapter:

- (a) "Atoll" means a circular or oval coral reef forming a geographic and ecologic unity crowned by at least one island.
- (b) "Bureau" means the Bureau of Oceanic Fishery Management.
- (c) "Director" means the Director of the Bureau of Oceanic Fishery Management.
- (d) "Fish" means any living resource.
- (e) "Fishery" means:
 - (1) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and
 - (2) any fishing for such stocks.
- (f) "Foreign fishing agreement" means an agreement approved by the national government and a foreign government or one or more foreign commercial fishing interests to permit foreign vessels to harvest fish within the exclusive economic zone of the Republic.
- (g) "Foreign fishing" means fishing by vessels not duly registered in the Republic

pursuant to Title 7 of this Code, or fishing by vessels that have been issued a permit pursuant to sections 167 through 172 of this Title.

(h) “Island” means a naturally formed area of land, surrounded by water, which is above water at high tide.

(i) “Living resource” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine birds.

(j) “Person” means any individual, corporation, partnership, association, or other entity, the national government or any subdivision or entity thereof, and any foreign government or any subdivision or entity thereof.

(k) “Reef fish” means any species of living resource which predominately inhabit reef areas, the territorial sea, or internal waters, excluding bait fish used in the fishery for highly migratory species.

(l) “Steel leader” means a type of fishing line made out of steel which connects fishing line to fishing hooks.

(m) “Stock of fish” means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(n) “Submerged reef” means a coral reef forming a geographic and ecologic unity which is wholly submerged at high tide.

(o) “Ministry” means the Ministry of Natural Resources, Environment, and Tourism.

(p) “Minister” means the Minister of Natural Resources, Environment, and Tourism.

Source

PL 6-7-14 § 2, modified. Subsection (f) amended by PL 6-6S-8 § 1; subsection (m) amended by PL 6-6S-8 § 2. RPPL 5-7 § 34(2)(a) repealed former subsection (b) and amended subsection (c), approved 10/3/97, but effective 10/1/97. Subsections (b),(c)(f)(n) & (o) were amended by RPPL 5-8 § 3(a). Subsections (b) and (c) were amended by RPPL 6-26 § 21(b). Subsections (g) & (f) were amended and subsection (l) added by RPPL 6-36 § 2 and subsections were re-lettered to follow the code format.

§ 103. Bureau of Oceanic Fishery Management. [Repealed]

Source

RPPL 6-26 § 21(a). Repealed by RPPL 7-13 § 25.

Notes

The Bureau of Oceanic Fishery Management was re-established by Executive Order No. 308, dated April 17, 2012.

Subchapter II

Ministry of Natural Resources, Environment, and Tourism

§ 121. [Repealed]

§ 122. Regulations.

§ 123. Ministry of Natural Resources, Environment, and Tourism; functions and duties with respect to foreign fishing.

§ 124. [Repealed]

§ 125. Minister's report.

§ 121. [Repealed]

Source

Subsections (a) through (d) -- PL 6-7-14 § 10(1), as amended by PL 7-1-21 § 1(1) and RPPL 3-42 § 2(d), modified. (The last three sentences of PL 6-7-14 § 10(1), as amended, have been moved to § 122, below.) Subsection (e) -- PL 6-7-14 § 10(4), as amended by PL 7-1-21 § 1, modified. Repealed by RPPL 5-7 § 34(2)(b) on 10/3/97 but effective 10/1/97.

§ 122. Regulations.

Regulations shall be drafted by the Minister of Natural Resources, Environment, and Tourism and adopted by the Bureau to carry out the purposes of this chapter.

Source

Last three sentences of PL 6-7-14 § 10(1), as amended by PL 7-1-21 § 1, modified. Amended by RPPL 5-7 § 34(2)(c) on 10/3/97 but effective 10/1/97. Further amended by RPPL 5-8 § 3(b). Amended by RPPL 6-26 § 21(b).

§ 123. Ministry of Natural Resources, Environment, and Tourism; functions and duties with respect to foreign fishing agreements.

The Ministry, in addition to its functions and duties as set forth in Title 2, shall have the

following duties, functions, and authority:

- (a) to adopt regulations for the conservation, management, and exploitation of all living resources in the contiguous zone and exclusive economic zone of the Republic pursuant to sections 125 and 144 of this title;
- (b) to negotiate and conclude foreign fishing agreements in accordance with sections 162 through 165 of this title;
- (c) to issue foreign fishing permits in accordance with regulations promulgated pursuant to section 122 of this title and subsection (a) of this section;
- (d) to perform such other duties and functions as may be necessary to carry out the purposes of this chapter.

Source

PL 6-7-14 § 10(2), as amended by PL 7-1-21 § 1, modified. “Authority” amended to “Ministry of State” by RPPL 5-7 § 34(2)(d) on 10/3/97 effective 10/1/97. Subsection (e) repealed by RPPL 5-7 § 34(2)(d) on 10/3/97 effective 10/1/97. RPPL 5-8 § 3(c) amended “Ministry of State” to read “Ministry” intending “Ministry of Natural Resources, Environment, and Tourism.” Subsection (a) was amended and subsection (b) was effectively repealed by RPPL 6-36 § 2, all subsections are re-lettered to follow the code format.

§ 124. [Repealed]

Source

PL 6-7-14 § 10(3), as amended by PL 7-1-21 § 1, modified. Repealed by RPPL 5-7 § 34(2)(e) on 10/3/97 effective 10/1/97.

§ 125. Minister’s report.

The Minister shall report annually on all foreign fishing activities to the presiding officers of the Olbiil Era Kelulau and the President. The annual report shall contain a detailed accounting of the expenditure of funds by the Ministry, and shall disclose and report on all foreign fishing agreements, revenues derived by the Republic from foreign fishing activities, the amounts and types of fish harvested during the previous year by each foreign party, efforts and plans to conserve fishery stocks, the sustainability of each stock of fish, including bait fish, that is being harvested by foreign fishing, efforts and plans to protect submerged reefs, and recommendations of the Ministry regarding appropriate catch levels to ensure the sustainability and health of each living resource, reef fish, stock of fish and submerged reef.

Source

PL 6-7-14 § 10(5), as amended by PL 7-1-21 § 1, modified. Amended by RPPL 5-7 § 34(2)(f) on 10/3/97 effective

10/1/97.

**Subchapter III
Fishery Zones**

- § 141. Baselines.
- § 142. Territorial sea; internal waters.
- § 143. Contiguous zone.
- § 144. Exclusive economic zone.
- § 145. Merged zone.
- § 146. Submerged reefs.
- § 147. [Repealed]

§ 141. Baselines.

A baseline is a continuous line which encircles an island or atoll. The baseline from which the zones designated in this chapter are to be measured is as follows:

- (a) The baseline of an island or portion of an island lacking a barrier reef, fringing reef, or other reef system is the low water line of the island as marked on large scale charts officially recognized by the national government.

- (b) The baseline of an atoll or island or portion of an island having a barrier reef, fringing reef, or other reef system is a line following the contour of the seaward edge of the reef system, which line connects those outermost elevations of the reef which are above water at low tide, and which line exists as marked on large scale charts officially recognized by the national government.

Source

PL 6-7-14 § 3, modified.

Cross-reference

ROP Const. art. I, § 1.

§ 142. Territorial sea; internal waters.

(a) There is hereby established a territorial sea of twelve miles' breadth. The inner boundary of the territorial sea of each island or atoll is the baseline as defined in section 141 of this title. The outer boundary is a line, every point of which is twelve nautical miles seaward of the nearest point on the baseline.

(b) Waters landward of the baseline, including the lagoons of atolls or islands, are internal waters.

Source

PL 6-7-14 § 4, modified. Subsection (a) amended by RPPL 6-36 § 2[142(a)].

Cross-reference

ROP Const. art. I, § 1.

§ 143. Contiguous zone.

(a) There is hereby established a contiguous zone adjacent to the territorial sea. The inner boundary of the contiguous zone of each island or atoll is the seaward boundary of the territorial sea, and the outer boundary is a line, every point of which is 24 nautical miles seaward of the nearest point on the baseline as defined in section 141 of this title.

(b) The national government possesses and may exercise the same sovereign rights to living resources in the contiguous zone as it does in the territorial sea.

Source

PL 6-7-14 § 5, as amended by PL 6-6S-8 § 3, modified. Amended by RPPL 6-36 § 2 [143].

§ 144. Exclusive economic zone.

(a) There is hereby established an exclusive economic zone adjacent to the contiguous zone. The inner boundary of the exclusive economic zone of each island or atoll is the seaward boundary of the contiguous zone, and the outer boundary is a line, every point of which is 200 nautical miles seaward of the nearest point on the baseline as defined in section 141 of this title unless otherwise limited by international law or agreement.

(b) The national government shall have exclusive management, conservation, and

regulatory authority over all living resources within the exclusive economic zone to the full extent recognized by international law.

Source

PL 6-7-14 § 6, modified. Amended by RPPL 6-36 § 2[144].

§ 145. Merged zone.

Where the zone of one island overlaps a like zone of another island, they merge and become one zone, the outer boundary of which is the seaward-most boundary of the merged zone.

Source

PL 6-7-14 § 7, modified.

§ 146. Submerged reefs.

Traditionally recognized fishing rights in submerged reef areas wherever located within the fishery zones of the Republic shall be preserved and respected in accordance with the regulations of the Bureau and the Division of Marine Law Enforcement of the Ministry of Justice.

Source

PL 6-7-14 § 8, modified. “Authority” amended to “Ministry of State and the Division of Marine Law Enforcement of the Ministry of Justice” by RPPL 5-7 § 34(2)(g) on 10/3/97 effective 10/1/97. RPPL 5-8 § 3(d) amended “Ministry of State” to read “Bureau”, approved 11/5/97.

§ 147. [Repealed]

Source

PL 6-7-14 § 9, modified. Repealed by RPPL 5-7 § 34(2)(h) on 10/3/97 effective 10/1/97.

**Subchapter IV
Regulation of Foreign Fishing**

- § 161. Foreign fishing restricted.
- § 162. Foreign fishing agreements; exclusive authority of national government.
- § 163. Same; terms and conditions Ministry is to seek.
- § 164. Same; allowable level of foreign fishing.
- § 165. Same; allocation among foreign nations of allowable level of fishing; sustainable limits.
- § 166. [Repealed]
- § 167. Fishing permits; in general.
- § 168. Same; application process.
- § 169. Same; fees and compensation.
- § 170. Same; consequences of prohibited act.
- § 171. Same; noncommercial fishing.
- § 172. Same; bait fish.
- § 173. Foreign fishing companies to utilize local vendors for goods and services.
- § 174. Foreign fishing revenue distribution.
- § 175. Ministry of Finance reporting.

§ 161. Foreign fishing restricted.

(a) No foreign fishing vessel may fish in the territorial sea, internal waters, contiguous zone, or at any point within a 50 nautical mile radius to the east of the reef entrance to Malakal Harbor; provided, that a foreign fishing company which, on the effective date of this subsection, is a party to a foreign fishing agreement and which holds valid permits issued pursuant to that agreement and this chapter, may continue to fish consistent with the foreign fishing agreement until it expires.

(b) Foreign fishing is permitted only in the exclusive economic zone outside a 50 nautical mile radius to the east of the reef entrance to Malakal Harbor as provided in this chapter, and only in compliance with the laws of the Republic, any applicable regulations, any permit issued, and any provision of a fishing agreement entered into with the Republic.

Source

PL 6-7-14 § 11, as amended by PL 6-6S-8 § 4, modified. Amended by RPPL 6-36 § 2[161].

§ 162. Foreign fishing agreements; exclusive authority of national government.

Each foreign fishing agreement shall acknowledge the exclusive fishery management authority of the national government as set forth in this chapter.

Source

PL 6-7-14 § 12(1), modified.

§ 163. Same; terms and conditions Ministry is to seek.

In negotiating foreign fishing agreements, the Ministry shall obtain agreement by the foreign parties to the following terms and conditions:

- (a) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such agreement will abide by all regulations issued by any agency of the Republic having jurisdiction or regulatory authority over foreign fishing, fishery conservation, resource management, the environment, agreements involving the national government, and any matters related thereto, including but not limited to the Ministry and the Division of Marine Law Enforcement.
- (b) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such foreign fishing agreement will abide by the agreement that:
 - (1) Any officer authorized to enforce the provisions of this chapter shall be permitted to board and search or inspect any vessel at any time and make arrests and seizures provided for in section 188 of this title whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by this chapter;
 - (2) Such officer shall also be permitted to examine and make notations on the permit issued pursuant to sections 167 through 172 of this title;
 - (3) The permit issued for any such vessel pursuant to sections 167 through 172 of this title shall be prominently displayed in the wheelhouse of such vessel;
 - (4) Appropriate position-fixing and identification equipment shall be installed and maintained in working order on each such vessel;
 - (5) Duly authorized observers shall be permitted on board any such vessel and the

national government shall be reimbursed for the cost of such observers; and

(6) Agents shall be appointed and maintained within the Republic who are authorized to receive and respond to any legal process issued in the Republic with respect to such owner or operator.

(c) The foreign party and the owners or operators of all of the fishing vessels of such party shall not, in any year, exceed such party's allocation of the total allowable level of foreign fishing.

(d) Foreign parties will:

(1) apply, pursuant to sections 167 through 172, for any required permits;

(2) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under those sections for such vessel; and

(3) abide by the requirement that no foreign fishing will be permitted in the exclusive economic zone of the Republic without a valid and applicable permit, and the requirement that all conditions and restrictions of the permit be complied with.

(e) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such agreement will abide by all other terms and conditions of the agreement.

Source

PL 6-7-14 § 12(2), modified. Subsections (a) and (b)(5) amended by RPPL 5-7 § 34(2)(i). Subsection (a) amended by RPPL 5-8 § 3(e). Subsections (c) and (d)(3) amended by RPPL 6-36 § 2[163].

§ 164. Same; allowable level of foreign fishing.

The total allowable level of foreign fishing, if any, with respect to any fishery subject to the provisions of this chapter, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the Republic.

Source

PL 6-7-14 § 12(3), modified.

§ 165. Same; allocation among foreign nations of allowable level of fishing; sustainable limits.

The Bureau by annual regulation shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the provisions of this chapter. In determining the allocation among nations, the Bureau shall take into consideration:

- (a) the extent to which vessels of such nations have traditionally fished the particular regulated species;
- (b) whether such nations have cooperated with the national government in, and made substantial contributions to, fishery research and the identification of fishery resources; and
- (c) such other matters as it may deem appropriate.

The regulations shall establish the total allowable level of foreign fishing, catch limits, and allocation thereof so as to ensure the long-term sustainability and health of every stock of fish, populations of living resources and reef fish, and submerged reef, within the territorial sea, internal waters, contiguous zone, and exclusive economic zone of the Republic.

Source

PL 6-7-14 § 12(4), modified. Amended to change “Authority” to “Ministry of State” and to add sustainable limits by RPPL 5-7 § 34(2)(j) on 10/3/97 effective 10/1/97. RPPL 5-8 § 3(f) amended “Ministry of State” to read “Bureau,” approved 11/5/97. The last sentence amended by RPPL 6-36 § 2[165], modified.

§ 166. [Repealed]**Source**

PL 6-7-14 § 13, modified. Repealed by RPPL 5-7 § 34(2)(k) on 10/3/97 effective 10/1/97.

§ 167. Fishing permits; in general.

- (a) A foreign fishing vessel may engage in fishing in the exclusive economic zone of the Republic only if such vessel has on board a valid permit issued under this chapter for such vessel.

(b) Fishing permits may only be issued in accordance with a foreign fishing agreement approved by joint resolution of the Olbiil Era Kelulau; provided that permits issued for noncommercial fishing in accordance with section 171 of this title need not be pursuant to a foreign fishing agreement.

Source

PL 6-7-14 § 14(1) and (2), as amended by RPPL 3-55 § 1, modified. Amended by RPPL 5-7 § 34(2)(l) on 10/3/97, effective 10/1/97. Subsection (a) amended by RPPL 6-36 § 2[167].

§ 168. Same; application process.

(a) Each foreign party requesting permits in accordance with its foreign fishing agreement shall make application on forms prescribed by the Bureau specifying, among other things:

- (1) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;
- (2) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Bureau may require;
- (3) each fishery in which such vessel wishes to fish;
- (4) the amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force;
- (5) the ocean area in which, and the season or period during which, such fishing will be conducted; and
- (6) the species of fish, listed by the individual scientific name, that each such vessel may catch during the time its permit is in force.

(b) Upon receipt of an application, the Director or his designee shall transmit copies to each house of the Olbiil Era Kelulau, the Director of the Bureau of Marine Resources, the Chief of the Division of Marine Law Enforcement, and to any other person or organization that requests copies of such applications or the foreign fishing agreements to which they pertain.

(c) The Bureau shall review the application, solicit views from appropriate persons in the Republic, hold public hearings, and may approve the application on such terms and conditions and with such restrictions as the Bureau deems appropriate.

(d) If the Bureau does not approve the application submitted by the foreign party, the Director or his designee shall notify such foreign party of the disapproval and the reasons therefor. After taking into consideration the reason for disapproval, the foreign party may submit a revised application.

(e) Upon notification by the foreign party of acceptance of the terms, conditions, and restrictions on the application and permit, the Director or his designee shall issue the permit.

Source

PL 6-7-14 § 14(3) through (6), and (8), modified. “Authority” and “Director” changed to “Ministry of State” and “Minister” by RPPL 5-7 § 34(2)(m) on 10/3/97 effective 10/1/97. “Ministry of State” and “Minister” amended to read “Bureau” and “Director” by RPPL 5-8 § 3(g), approved 11/5/97. Subsection (b) amended by RPPL 6-26 § 21(b)[168]. Subsections (a)(4), (a)(5), and (a)(6) amended by RPPL 6-36 § 2[168].

§ 169. Same; fees and compensation.

Fees and other forms of compensation for the right to exploit living resources within the exclusive economic zone of the Republic shall be established in the foreign fishing agreement.

Source

PL 6-7-14 § 14(7), modified. Amended by RPPL 6-36 § 2[169].

§ 170. Same; consequences of prohibited act.

If any foreign fishing vessel for which a permit has been issued pursuant to this chapter has been used in the commission of any act prohibited by law, regulations, or the terms, conditions, or restrictions set forth in the foreign fishing agreement or permit relating to such vessel, or if any civil penalty or criminal fine imposed by law has not been paid and is overdue, the Bureau shall revoke such permit with prejudice to the right of the foreign party involved to obtain a permit for such vessel in any subsequent year.

Source

PL 6-7-14 § 14(9), modified. Opening paragraph amended by RPPL 5-7 § 34(2)(n) on 10/3/97, effective 10/1/97. Further amended by RPPL 5-8 § 3(h), approved 11/5/97. Amended by RPPL 6-36 § 2[170], modified.

§ 171. Same; noncommercial fishing.

Notwithstanding any other provision of this chapter, the Bureau may by regulation provide for the issuance of permits, on reasonable conditions, to foreign vessels or parties for research, recreational, or other noncommercial fishing within the exclusive economic zone of the Republic.

Source

PL 6-7-14 § 14(10), modified. Amended by RPPL 5-7 § 34(2)(o) on 10/3/97, effective 10/1/97. Further amended by RPPL 5-8 § 3(I), approved 11/5/97. Amended by RPPL 6-36 § 2[171].

§ 172. Same; bait fish.

Notwithstanding any other provision of this chapter, a foreign fishing vessel a foreign fishing vessel may be permitted to fish for bait fish used in the fishery for highly migratory species pursuant to such terms and conditions as are contained in a special bait fishing permit to be issued by the Bureau. Special bait fishing permits may only be issued on such terms, conditions, and with such restrictions, as will ensure the long-term sustainability and health of the stock of bait fish, and every other population of living resource and reef fish, and submerged reef, within the territorial sea, internal waters, contiguous zone, and exclusive economic zone of the Republic, that may be affected by the harvesting of such bait fish.

Source

PL 6-7-14 § 14(11), as added by PL 6-6S-8 § 6, modified. Amended by RPPL 5-7 § 34(2)(p) on 10/3/97, effective 10/1/97. Further amended by RPPL 5-8 § 3(j), approved 11/5/97. Amended by RPPL 6-36 § 2[172].

§ 173. Foreign fishing companies to utilize local vendors for goods and services.

Any foreign party to a foreign fishing agreement executed pursuant to Title 27 of the Palau National Code shall, to the extent practicable during the term of such agreement, purchase all goods and services for use in the Republic of Palau from citizens of the Republic of Palau or partnerships or corporations wholly-owned by citizens of Palau, unless such goods or services are not reasonably available from such sources.

Source

RPPL 5-8 § 4.

§ 174. Foreign Fishing Revenue Distribution.

(a) In this Section, “foreign fishing agreements” means a contractual agreement or international treaty by which the Republic derives revenue from allowing outside persons and countries to fish for highly migratory fish within the Republic’s jurisdictional waters.

(b) In this Section “revenue” means any income that the Republic receives from a foreign fishing agreement under the terms of a foreign fishing agreement, and the issuing of licenses to fish within the Republic’s jurisdictional waters.

(c) Beginning with funds received in Fiscal Year 2011, all revenue derived from the fishing agreements shall hereby be divided between the national government and the state governments as follows:

(1) fifteen percent (15%) of the revenue shall go to the national government. In fiscal years 2014, 2015, and 2016 this fifteen percent (15%) of revenue shall be deposited in the Social Security Fund which shall be applied to retire any debts to the Social Security Fund incurred by the national government in its capacity as an employer; the National Treasury shall transmit the revenue to the Social Security Fund no later than sixty (60) days upon receipt.

(2) fifty-five percent (55%) shall be equally divided among the states.

(3) thirty percent (30%) shall be divided among the states according to the population of each state as stated in the most recent national government census.

(d) In each year’s national government fiscal budget, the revenues derived from foreign fishing agreements shall be authorized and appropriated in accordance with this Section.

Source

RPPL 8-47 § 2, modified. RPPL 8-47 § 4 repeals RPPL 8-25 § 4. Subsection (c) is amended by RPPL 9-11 § 7, modified.

Notes

RPPL 8-47 § 1 reads: Legislative Findings. The Olbiil Era Kelulau finds that the Republic of Palau currently receives significant revenue from highly migratory fish. The Olbiil Era Kelulau finds that the Republic’s early lawmakers recognized this source of revenue and thus crafted the Constitution accordingly to include Article XII Section 6(c) which states that revenue derived from the licensing of foreign fishing vessels to fish for highly migratory fish within the Republic’s waters shall be allocated to the national and state governments equitably.

The Olbiil Era Kelulau also finds that during the First Olbiil Era Kelulau, Senate Joint Resolution No. 5, SD2, HD1, CD1 was adopted by the Olbiil Era Kelulau. In that Senate Joint Resolution, the Olbiil Era Kelulau determined that all revenue derived from the licensing of foreign fishing vessels would be divided equitably between

the national government and the state governments as follows: 15% of the revenue will go to the national government, 55% will be equally divided among the states, and 30% will be divided among the states according to the population of each state. The Olbiil Era Kelulau finds that this formula has been effective and used by Palau's National Treasury since the enactment of Senate Joint Resolution No. 5, SD2, HD1, CD1.

The OEK finds that funds have been disbursed to state governments based on Senate Joint Resolution No. 5, SD2, HD2, CD1 contrary to the requirements of authorization and appropriation of funds, therefore this legislation will provide the required statutory frame work for the disbursement of such funds.

§ 175. Ministry of Finance Reporting.

The Minister of Finance shall submit a report each quarter to the Office of the President and to the Olbiil Era Kelulau stating any and all revenue derived from the licensing of foreign fishing vessels to fish within the Republic's jurisdictional waters. This report shall include, but not be limited to the following information: to whom the license was granted, the amount of revenue derived from the licensing thus far, and the amount of revenue projected to be derived from the license.

Source

RPPL 8-47 § 3, modified.

**Subchapter V
Enforcement and Penalties**

- § 181. Prohibited acts.
- § 182. Criminal penalties.
- § 183. Civil penalties.
- § 184. Forfeitures; procedure.
- § 185. Revenues.
- § 186. Jurisdiction of court.
- § 187. Enforcement; primary responsibility.
- § 188. Same; powers of officer.
- § 189. Same; reward.
- § 190. Same; provisions of regulation or permit enforceable.

§ 181. Prohibited acts.

It is unlawful for any person:

- (a) to use any foreign fishing vessel to fish, as that term is defined in 27 PNC Chapter 12, for any shark, or any part of any such, or to remove the fins of or otherwise intentionally mutilate or injure any such shark. If any shark is inadvertently caught or captured, it shall be immediately released, whether dead or alive; if the shark is caught or captured alive, it shall be released in the manner that affords it the greatest opportunity for survival.
- (b) to use steel leader as fishing gear on any foreign fishing vessel or to possess steel leader on any foreign fishing vessel while in the internal waters, territorial sea, or contiguous or exclusive economic zones of the Republic; or
- (c) to violate any provision of this chapter or of any regulation or permit issued pursuant to this chapter;
- (d) to use any fishing vessel to engage in fishing after revocation, or during the period of suspension, of an applicable permit issued pursuant to this chapter;
- (e) to violate any provision of, or regulations under, an applicable foreign fishing agreement entered into pursuant to sections 161, and 167 through 172 of this title;
- (f) to refuse to permit any officer authorized to enforce the provisions of this chapter to

board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation, permit, or agreement referred to in subsections (c), (d), or (e) of this section;

(g) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subsection (f) of this section;

(h) to resist a lawful arrest for any act prohibited by this section;

(I) to knowingly ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in subsections (c), (d), or (e) of this section;

(j) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such person has committed any act prohibited by this section;

(k) to use any foreign fishing vessel to fish, as that term is defined in 27 PNC Chapter 12, for any reef fish, turtle, ray, or marine mammal, or any part of any such fish or marine mammal, or otherwise intentionally mutilate or injure any such fish or marine mammal. If any such fish or marine mammal is inadvertently caught or captured alive, it shall be released in the manner that affords it the greatest opportunity for survival;

Source

PL 6-7-14 § 15(1), modified. PL 6-7-14 § 15(2), prohibiting any vessel other than a vessel owned solely by citizens of Palau from fishing in the territorial sea, was repealed by PL 6-6S-8 § 5. RPPL 6-36 § 2[181] added new subsections (a), (b), and (k), all subsections are re-lettered to follow code format.

Notes

Flaga v. ROP, 8 ROP Intrm. 79, 80 (1999).

Gotina v. ROP, 8 ROP Intrm. 65 (1999).

Gotina v. ROP, 8 ROP Intrm. 56, 58, 59 (1999).

§ 182. Criminal penalties.

(a) A person is guilty of an offense if he commits any act prohibited by section 181 of this title.

(b) Any offense described as a prohibited act by section 181 (a), (b), (c), (d), (e), or (k) is punishable by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(c) Any offense described as a prohibited act by section 181 (f), (g), (h), (I), or (j) is punishable by a fine of not more than five hundred thousand dollars (\$500,000) for each violation; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this chapter, or places any such officer in fear of imminent bodily injury, the offense [is] punishable by a fine of not more than one million dollars (\$1,000,000) for each violation. Each day of continuing violation shall be considered a separate offense.

(d) These penalties shall be levied in addition to any other penalties that may be applicable under other statutes.

Source

PL 6-7-14 § 16, as amended by PL 6-6S-8 § 7(a), modified. Subsections (b) and (c) amended by RPPL 6-36 § 2[182], modified.

Notes

The bracketed [is] in subsection (c) read “in” in the original legislation.

Gotina v. ROP, 8 ROP Intrm. 65, 66 (1999).

Gotina v. ROP, 8 ROP Intrm. 56, 59 (1999).

§ 183. Civil penalties.

(a) Any person who is found by the Supreme Court in a civil proceeding to have committed an act prohibited by section 181 of this title shall be liable to the national government for a civil penalty which shall not exceed five hundred thousand dollars (\$500,000) for each violation. Each day of continuing violation shall constitute a separate offense.

(b) In determining the amount of such penalty, the Supreme Court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violators, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(c) The Attorney General, or any person residing within the Republic, is authorized to initiate proceedings under this section and to recover the amount assessed as a civil

penalty and to obtain injunctive relief to prevent violations of law or to compel compliance with law.

(d) The proceeds of civil penalties shall be remitted to the National Treasury in accordance with section 185 and section 189 of this title.

(e) Before initiating a civil proceeding pursuant to subsection (c), a resident of the Republic shall file with the Attorney General a written request for the Attorney General to initiate the proceeding. The request shall include a statement of grounds for believing a cause of action exists. The Attorney General shall respond within thirty (30) days after receipt of the request indicating whether he or she will initiate a proceeding under subsection (c). If the Attorney General files a complaint within that thirty (30)-day period, no further proceeding may be brought by the informant unless the proceeding brought by the Attorney General is dismissed without prejudice and is not re-filed by the Attorney General within sixty (60) days thereafter.

Source

PL 6-7-14 § 16, as amended by PL 6-6S-8 § 7(b), modified. Subsection (c) amended by RPPL 5-7 § 34(2)(t) on 10/3/97, effective 10/1/97. Subsections (a), (c), and (d) were amended and subsection (e) added by RPPL 6-36 § 2[183].

Notes

Gotina v. ROP, 8 ROP Intrm. 56, 59 (1999).

§ 184. Forfeitures; procedure.

(a) Any fishing vessel, including its fishing gear, furniture, appurtenances, stores, and cargo used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 181 of this title, shall be subject to forfeiture to the national government. All or part of such vessel, and all such fish, shall be forfeited to the national government pursuant to a civil proceeding under this section.

(b) The Supreme Court shall have jurisdiction, upon application by the Attorney General on behalf of the national government, to order any forfeiture authorized under subsection (a) of this section.

(c) If a judgment is entered for the national government in a civil forfeiture proceeding under this section, the Attorney General shall seize any property or other interest declared forfeited to the national government which has not previously been seized pursuant to this chapter.

(d) The forfeited vessel, gear, furniture, appurtenances, stores, cargo, and fish may be sold and the proceeds deposited with the Authority for use in accordance with section 185 of this title, or may be retained for use by or at the direction of the national government.

(e) Pending completion of the civil forfeiture proceeding, the seized vessel, gear, furniture, appurtenances, stores, cargo, and fish, or any part thereof, may be discharged at the discretion of the court upon deposit with the court of a satisfactory bond or other security at least equal to the fair market value of the seized property. Such bond or other security shall be conditioned upon delivery of such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgement shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(f) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the court. The proceeds of any such sale shall be deposited with such court pending the disposition of the civil forfeiture proceeding.

(g) For purposes of this chapter, it shall be a rebuttable presumption that any fish or steel leader found on board a fishing vessel which is seized in connection with an act prohibited by section 181 of this title was taken, or retained, or used in violation of this chapter.

(h) The Attorney General shall commence forfeiture proceedings on a fishing vessel used in any manner in connection with an act prohibited by this chapter if the owner of that vessel is unable to pay all civil or criminal penalties levied for violations of this chapter.

Source

PL 6-7-14 § 17, modified. Subsection (b) amended by RPPL 5-7 § 34(2)(q) on 10/3/97, effective 10/1/97. Subsection (g) was amended and subsection (h) was added by RPPL 6-36 § 2[184].

Notes

Omelau v. ROP Div. of Fish & Wildlife Prot., 17 ROP 314, 319 (Tr. Div. 2009).

Omelau v. ROP Div. of Fish and Wildlife Prot., 16 ROP 319, 323 (Tr. Div. 2009).

§ 185. Revenues.

All revenues, including fees collected pursuant to section 169 and all fines and proceeds of sale of all forfeitures shall be transmitted immediately upon collection to the National Treasury.

Source

PL 6-7-14 § 18, modified. Amended by RPPL 5-7 § 34(2)(r) on 10/3/97, effective 10/1/97.

§ 186. Jurisdiction of court.

The Supreme Court shall have exclusive jurisdiction over any case or controversy arising under this chapter. The court may at any time enter restraining orders or prohibitions, issue warrants, process in rem, or other processes, prescribe and accept satisfactory bonds or other security, and take such other actions as are in the interests of justice.

Source

PL 6-7-14 § 19, modified.

§ 187. Enforcement; primary responsibility.

Primary responsibility for the enforcement of this chapter shall be assumed by the Office of the Attorney General through the Bureau of Public Safety. The President and the Attorney General may, from time to time, seek enforcement assistance from the United States Government, or from any other foreign government, international agency or non-governmental agency.

Source

PL 6-7-14 § 20(1), modified. Amended by RPPL 5-7 § 34(2)(s) on 10/3/97, effective 10/1/97.

§ 188. Same; powers of officer.

Any officer who is authorized by the Attorney General to enforce the provisions of this chapter may:

- (a) with or without a warrant or other process:
 - (1) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 181 of this title;
 - (2) board and search or inspect any fishing vessel which is subject to the provisions of this chapter;
 - (3) seize any fishing vessel when the vessel has been used or employed in, or when it reasonably appears that such vessel was used or employed in, violation of

any provision of this chapter;

(4) seize any fishing gear, furniture, appurtenances, stores, cargoes, and fish in the possession of a fishing vessel seized pursuant to authority granted by paragraph (3) of this subsection; and

(5) seize any other evidence related to any violation of any provision of this chapter.

(b) execute any warrant or other process issued by any court of competent jurisdiction; and

(c) exercise any other lawful authority.

Source

PL 6-7-14 § 20(2), modified.

§ 189. Same; reward.

Any individual who provides information to the Attorney General concerning any violation of this chapter which results in the imposition of any penalty under section 182 or 183 of this title shall be paid fifty percent (50%) of any such penalty imposed and collected. Any individual who initiates a civil proceeding pursuant to section 183 of this chapter shall receive from the national government an amount equal to fifty percent of the civil penalties actually collected, and shall be entitled to recover from the defendants his costs of litigation, including reasonable attorneys' fees.

Source

PL 6-7-14 § 20(3), modified. Amended by RPPL 6-36 § 2[189].

§ 190. Same; provisions of regulation or permit enforceable.

For purposes of this chapter, the terms “provisions of this chapter” and “violation of any provisions of this chapter” include the provisions of any regulation or permit issued pursuant to this chapter.

Source

PL 6-7-14 § 20(4), modified.

Chapter 2
Monitoring of Foreign Vessels in Exclusive Economic Zone

- § 201. Legislative findings.
- § 202. Definitions.
- § 203. Requirement of automatic location communicator.
- § 204. Input of information; judicial presumption.
- § 205. Tampering with, failing to operate, or destruction of an automatic location communicator.
- § 206. Confidentiality and security of automatic location communicator information.
- § 207. Ownership of vessel monitoring system information.

§ 201. Legislative findings.

The Olbiil Era Kelulau finds that the Republic of Palau lacks the necessary personnel to effectively prevent and police incidents of illegal fishing in the Republic's exclusive economic zone. The Olbiil Era Kelulau further finds that it is in the best interest of the Republic to develop an efficient system for monitoring, control and surveillance in order to prevent illegal fishing by foreign vessels. The Olbiil Era Kelulau further finds that it would be in the best interest of the Republic to require all foreign fishing vessels to be equipped with functioning automatic location communicators to assist in the effective surveillance of the exclusive economic zone of the Republic.

Source
RPPL 5-36 § 1.

§ 202. Definitions.

As used in this chapter:

- (a) "Automatic location communicator" or "communicator" means any device or machine placed on a foreign fishing vessel, which transmits information or data concerning the position, movement and speed of the vessel, and such other activities of the vessel as may be required by the Bureau.
- (b) "Bureau" means the Bureau of Oceanic Fisheries Management.
- (c) "Director" means the Director of the Bureau of Oceanic Fisheries Management.

- (d) “Fishing vessel” means any boat, ship or other watercraft which is used for, equipped to be used for, or of a type normally used for fishing, as defined in 27 PNC Chapter 12.
- (e) “Foreign fishing vessel” means any commercial fishing vessel that is not part of the domestic fleet of the Republic of Palau.
- (f) “Vessel monitoring system” means the system employed by the Forum Fisheries Agency member countries and coordinated by the Bureau to monitor the position and activities of foreign fishing vessels for the purpose of effective management of fisheries.
- (g) “Vessel monitoring system information” means all the data and information generated, obtained or collected in respect to the operation of the vessel monitoring system within the exclusive economic zone of the Republic of Palau.

Source

RPPL 5-36 § 1, modified. Subsections (b) and (c) amended by RPPL 6-26 § 21(b)[202].

Notes

The Bureau of Oceanic Fisheries Management was re-established by Executive Order No. 308, dated April 17, 2012.

§ 203. Requirement of automatic location communicator.

- (a) As a condition of receiving a permit to fish within the exclusive economic zone, the operator of each foreign fishing vessel shall:
 - (1) install on such vessel, at the operator’s expense, an automatic location communicator as designated by the Bureau;
 - (2) maintain the automatic location communicator in proper working order at all times while in the exclusive economic zone and such other areas as may be designated by the Bureau and by law;
 - (3) ensure that all information or data required by the Bureau to be transmitted by the automatic location communicator is transmitted continuously, accurately and effectively to the receiver designated by the Director;
 - (4) ensure that the vessel’s automatic location communicator is transmitting at least fifty (50) nautical miles prior to entry into and after departure from the exclusive economic zone of Palau;

- (5) apply annually to the Forum Fisheries Agency for registration of the automatic location communicator and present such registration to the Bureau;
- (6) pay the fee determined by the Forum Fisheries Agency for the registration of the automatic location communicator; and
- (7) comply at all times with the directives of the Director regarding the proper functioning [of] the vessel's automatic location communicator.

(b) No permit may be issued by the Bureau for any fishing vessel unless the Bureau has inspected the vessel and has determined that a communicator that conforms to the requirements of this chapter has been installed on that vessel and is functioning properly. Any foreign fishing vessel fishing in the Republic's exclusive economic zone pursuant to a permit as of the effective date of this chapter shall install a communicator within one hundred twenty (120) days from the effective date of this chapter; failure to meet the one hundred twenty (120)-day deadline shall result in the following penalties:

- (1) for failure to meet the deadline by up to and including thirty (30) days, a fine of five hundred dollars (\$500) per day;
- (2) for failure to meet the deadline by more than thirty (30) days, suspension of the foreign fishing vessel's fishing permit until the requirements of this chapter have been satisfied or until the vessel's fishing permit has been canceled pursuant to subsection (3);
- (3) for failure to meet the deadline by more than sixty (60) days, cancellation of the foreign fishing vessel's permit.

The Director may grant an extension of up to an additional one hundred twenty (120) days, without levying the penalties provided in this subsection, for foreign fishing vessels that cannot meet the one hundred twenty (120)-day deadline because the Forum Fisheries Agency does not have an adequate supply of communicators in stock. To avoid the penalties provided by this subsection, any such extension must be signed by the Director, the Minister of Justice, and a representative from the Forum Fisheries Agency.

Source
RPPL 5-36 § 1.

Notes
In subsection (a)(7) the bracketed [of] does not appear in the original legislation.

§ 204. Input of information; judicial presumption.

(a) Information or data concerning the vessel's position and fishing activities shall be automatically input from machines aboard the vessel. A machine that automatically inputs the information into the communicator shall be presumed by the Court to be accurate.

(b) All information or data obtained or ascertained by the use of a communicator, shall be presumed, unless the contrary is proven, to:

- (1) come from the vessel so identified;
- (2) be accurately relayed or transferred; and
- (3) be given by the master, owner and charterer of the fishing vessel; and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

Source
RPPL 5-36 § 1.

§ 205. Tampering with, failing to operate, or destruction of an automatic location communicator.

Any person who willfully tampers with, destroys, or interferes with in any way, an automatic location communicator, or violates section 203(a)(4), shall be guilty of a felony and upon conviction shall be sentenced for a term of imprisonment not to exceed two (2) years, fined an amount not to exceed fifty thousand dollars (\$50,000), or both.

Source
RPPL 5-36 § 1, modified.

§ 206. Confidentiality and security of automatic location communicator information.

(a) Except as provided in subsection (b) of this section, all vessel monitoring information shall be confidential. Any person who intentionally or recklessly divulges information from a vessel monitoring system to any other person(s) or organization, not authorized to receive such information, shall be guilty of a felony and, upon conviction thereof, shall be sentenced for a term of imprisonment not to exceed two (2) years, fined an amount not to

exceed fifty thousand dollars (\$50,000), or both.

(b) The Director or his designee may release vessel monitoring system information in the following circumstances:

- (1) to discharge international obligations assumed by Palau;
- (2) in furtherance of maintenance of law and order; and
- (3) for the purpose of protection and safety of life or property.

(c) The Director shall promulgate regulations regarding:

- (1) the collection of vessel monitoring system information; and
- (2) the authorized release of vessel monitoring system information.

Source
RPPL 5-36 § 1.

§ 207. Ownership of vessel monitoring system information.

All data and information generated, obtained or collected in respect to the operation of the vessel monitoring system within the exclusive economic zone of the Republic of Palau is owned exclusively by the Republic of Palau.

Source
RPPL 5-36 § 1.

Chapter 3
Bottom Trawling Prohibited

- § 301. Definitions.
- § 302. Bottom trawling within Palauan waters and Palauan EEZ.
- § 303. Bottom trawling by Palauan nationals, companies, or vessels.
- § 304. Civil penalty.
- § 305. Criminal penalty.

§ 301. Definitions.

As used in this chapter:

- (a) “Bottom trawling” means using a bottom trawl or similar towed nets operating in contact with the bottom of the sea; any fishing method which involves towing nets along the sea floor, as opposed to pelagic trawling, where the nets are towed higher in the water column. Bottom trawling could be practiced by one vessel or by multiple vessels fishing cooperatively.
- (b) “Exclusive economic zone or EEZ” means the zone that is two hundred miles (200) miles from the baselines from which the Territorial Sea is measured, which has specific legal characteristics as defined by Palauan and International Law.
- (c) “Palauan National” means any person claiming citizenship, whether sole or dual in the Republic of Palau.
- (d) “Palauan Vessel” means any ship, boat or other motor powered marine craft that is registered in or licensed in the Republic of Palau. For the purposes of this chapter, it also means any ship, boat or other motor powered marine craft that is owned in whole or in part by a Palauan National or Palauan business entity.
- (e) “Territorial sea” means the area established by the breadth of its territorial waters up to a limit not exceeding twelve (12) miles, measured from baselines determined in accordance with Palauan and International Law.

Source
RPPL 7-17 § 2, modified.

BOTTOM TRAWLING PROHIBITED 27 PNCA § 303

Notes

RPPL 7-17 § 1 reads: “ Findings and purpose. The Olbiil Era Kelulau finds that the 1982 UN Convention on the Law of the Sea lays down the general duty to protect and preserve the marine environment and specifically requires measures to be taken to protect and preserve rare or fragile ecosystems, the habitat of depleted, threatened, or endangered species and other forms of marine life. Nations are required to take into account the interdependence of stocks and effects on associated and dependent species when managing stocks, both in the exclusive economic zone (EEZ), and on the high seas. The obligations also include taking, or cooperating with other Nations in taking, measures necessary for their nationals to conserve the living resources of the high seas.

The Olbiil Era Kelulau finds that in bottom trawl fishing, trawl nets can contact the sea bottom almost continually, and often dig into the sea-floor 10-25 cm, depending on how hard the sea floor is. Bottom trawling has been found to destroy up to 98% of the coral cover of seamounts as well as cause the depletion of the targeted fish stocks. Bottom trawling removes large numbers of species from the food chain, leading to impacts on the relevant ecosystems.

The Olbiil Era Kelulau finds that the use of bottom trawling has serious and possibly irreversible effects, including destruction of coral reefs and associated vulnerable species. There is concern about the effect on the fish stocks targeted and about the impacts on the biodiversity of the deep-sea marine environment, including in particular the destructive effects of such fishing on the coral reefs and related biodiversity of seamounts. Such fishing not only adversely impacts on targeted species and on sedentary species attached to the coral reefs, but also impacts on mobile species dependent on the reefs for food and shelter. These impacts have motivated thousands of deep-sea scientists to state that scientific studies around the world have shown that bottom trawling is devastating to corals and sponges and to urge the United Nations and appropriate international bodies to establish a moratorium on bottom trawling on the high seas. The Olbiil Era Kelulau hereby states its support for such a global moratorium on bottom trawling.

The Olbiil Era Kelulau finds that coastal nations are permitted to regulate fishing within their Territorial Sea and EEZ. A number of countries have taken action to address deep-sea trawling on seamounts within their own waters. With this Act, Palau intends to prohibit its nationals, companies, and vessels from engaging in bottom trawling anywhere in the world. With this Act, Palau also intends to prohibit anyone from engaging in bottom trawling within Palau's Territorial Sea and EEZ.

§ 302. Bottom trawling within Palauan waters and Palauan EEZ.

(a) It shall be unlawful to engage in or assist in bottom trawling in the territorial sea of the Republic of Palau.

(b) It shall be unlawful to engage in or assist in bottom trawling in the Exclusive Economic Zone of the Republic of Palau.

Source

RPPL 7-17 § 3, modified.

§ 303. Bottom trawling by Palauan nationals, companies, or vessels.

(a) It shall be unlawful for any Palauan National to engage in or assist in bottom

trawling, anywhere in the world.

(b) It shall be unlawful for any business entity, regardless of type, which is registered in or otherwise licensed to do business in the Republic of Palau to engage in or assist in bottom trawling, anywhere in the world.

(c) It shall be unlawful for any Palauan vessel to engage in or assist in bottom trawling, anywhere in the world.

Source
RPPL 7-17 § 4.

§ 304. Civil penalty.

Any person or business entity who engages in, or assists in bottom trawling in violation of this chapter, or who allows their vessel(s) or equipment to be used for bottom trawling in violation of this chapter, shall forfeit to the National Government of Palau such vessel(s) and equipment.

Source
RPPL 7-17 § 5, modified.

§ 305. Criminal penalty.

Any person who engages in, or assists in bottom trawling in violation of this chapter, shall upon conviction thereof, be imprisoned for not more than ten (10) years and/or fined not more than five hundred thousand dollars (\$500,000). This criminal fine may be imposed against both individual persons, and against any business entity whose vessel(s) or equipment is used for bottom trawling in violation of this chapter. The criminal penalties are in addition to the civil penalties that may be due under this chapter.

Source
RPPL 7-17 § 6, modified.

**DIVISION 2
DOMESTIC FISHING**

**Chapter 10
District Entities for Development of Marine Resources
[Repealed]**

§ 1001 - § 1006. [Repealed]

Source

(P.L. No. 7-111, §§ 1-5, 7.) 45 TTC §§ 162-167, modified. Repealed by RPPL 5-7 § 34(3) on 10/3/97, effective 10/1/97.

**Chapter 11
Palau Fishing Authority
[Repealed]**

**Subchapter I
General Provisions
[Repealed]**

§ 1101 - § 1103. [Repealed]

Source

PL 7-7-8 §§ 1-2, modified. Repealed by RPPL 5-7 § 34(3) on 10/3/97, effective 10/1/97.

**Subchapter II
The Authority
[Repealed]**

§ 1121 - § 1126. [Repealed]

Source

PL 7-7-8 §§ 3-10, modified. Amended by RPPL 3-42 § 2(b). Repealed by RPPL 5-7 § 34(3) on 10/3/97, effective 10/1/97.

**Subchapter III
Administration of Authority
[Repealed]**

§ 1141 - § 1154. [Repealed]

Source

PL 7-7-8 §§ 4(11), 11-23. Repealed by RPPL 5-7 § 34(3) on 10/3/97, effective 10/1/97.

MARINE PROTECTION ACT OF 1994 27 PNCA § 1203

Chapter 12 Marine Protection Act of 1994

- § 1201. Short title.
- § 1202. Purpose.
- § 1203. Definition.
- § 1204. Prohibited acts.
- § 1205. Permits and aquarium fish.
- § 1206. Regulations.
- § 1207. Labeling and cultured species regulations.
- § 1208. Enforcement.
- § 1209. Criminal penalties.
- § 1210. Civil penalties.
- § 1211. Severability.

§ 1201. Short title.

This chapter shall be known and may be cited as the “Marine Protection Act of 1994.”

Source

RPPL 4-18 § 1, modified.

§ 1202. Purpose.

The purpose of this chapter is to promote sustainably and develop the marine resources of the Republic while also preserving the livelihood of the commercial fishermen of the Republic.

Source

RPPL 4-18 § 2, modified.

§ 1203. Definition.

The following definitions are to be used in interpreting this chapter. Any term not listed below is to be accorded its ordinary dictionary definition or where applicable, its definition under subchapters I and III of chapter 1 of Title 27 of the PNCA:

- (a) “Cultured species” means any species produced through aquaculture or mariculture

systems, authorized by the proper authorities;

(b) “Exclusive economic zone” means that area contiguous to the territorial sea, the inner boundary of which is the seaward boundary of the territorial sea, and the outer boundary is a line every point of which is two hundred (200) nautical miles seaward of the nearest point on the baseline as defined in this chapter;

(c) “Export” means (1) an actual or attempted shipment, transport, or transfer of fish out of the Republic of Palau; or (2) a transfer of fish to any person within the Republic of Palau with the knowledge, intent or belief that the fish will be shipped, transported or transferred out of the Republic of Palau; when used in this chapter, “export” means to ship, transport, transfer, send, take, remove or carry a fish from the Republic to any other place in the world;

(d) “To fish” means to catch, take, or harvest fish, or to attempt to take, catch, or harvest fish using any method whatsoever;

(e) “Fish”, as a noun, means any species of animal, other than birds, which lives in the sea;

(f) “Fishery zones” means the internal waters, territorial sea, and exclusive economic zone as defined in this chapter and all other waters over which the Republic may have jurisdiction in accordance with international laws;

(g) “Marine resources” means all species of marine animals and plants other than marine birds;

(h) “Minister” means the Minister of Natural Resources, Environment, and Tourism;

(i) “Person” means any individual, corporation, partnership, association, or other private sector entity; the government of the Republic or any of its subdivisions; and any foreign government, or subdivision thereof;

(j) “Reef fish” means any species of fish which predominately inhabits reef areas, the territorial sea, or internal waters;

(k) “Take” means to harass, destroy, sell, damage, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct;

MARINE PROTECTION ACT OF 1994 27 PNCA § 1204

(l) "Territorial sea" means that area seaward of the baseline, the inner boundary of which is the baseline and the outer boundary is a line every point of which is twelve (12) nautical miles seaward of the nearest point on the baseline.

Source

RPPL 4-18 § 3, modified. Subsection (c) added by RPPL 4-35 § 1(a). Subsection (c) amended by RPPL 7-18 § 1, modified. Subsection (j) added by RPPL 7-44 § 2(1), modified.

§ 1204. Prohibited acts.

Within the Republic of Palau, including the internal waters, territorial sea, and exclusive economic zone as defined in this chapter, all other waters over which the Republic has jurisdiction in accordance with international laws, and all land over which the Republic has jurisdiction, it shall be unlawful for any person to:

(a) fish for, sell, receive, export, cause to be exported, possess, or buy from April 1 to October 31, inclusive, any of the following species of groupers (*temekai, tiau*), only if such species originated in the Republic of Palau; provided, however that cultured species of the marine resources listed in this subsection, shall be exempt from the prohibition of this subsection:

- (1) *Plectropomus areolatus (tiau)*;
- (2) *P. laevis (tiau, katuu 'tiau, mokas)*;
- (3) *P. leopardus (tiau)*;
- (4) *Epinephelus polyphemadion (ksau temekai)*;
- (5) *E. fuscoguttatus (meteungerel 'temekai)*.

(b) fish for, sell, receive, export, cause to be exported, possess, or buy any of the fish set forth [in] subsections (a)(1)-(5) during the open fishing season unless the fish is at least twelve inches (12") in length from the tip of the head to the tip of the tail:

- (1) juvenile parrotfish - *Bolbometopon muricatum (Berdebed)* which means for purposes of this chapter, a parrotfish less than twenty-five (25) inches in length; and

(2) juvenile wrasse - *Cheilinus undulatus* (*Ngimer*) which means for purposes of this chapter, a wrasse less than twenty-five (25) inches in length.

(c) export, cause to be exported, fish for, sell, buy, receive, or possess the following species, only if such species originated in the Republic of Palau:

(1) adult parrot fish - *Bolbometopon muricatum* (*Kemedukl*); and

(2) adult wrasse - *Cheilinus undulatus* (*maml*).

(d) fish for, sell, receive, export, cause to be exported, possess, or buy rabbitfish (*meyas*, *siganus canaliculatus*), only if such species originated in the Republic of Palau, from February 1 to March 31, inclusive.

(e) fish for, sell, receive, possess, export, cause to be exported or buy the following species of rock lobsters (*cheraprukl*): raiklus, bleached, or *melech* smaller than three and one-half (3 ½) inches in total length of the carapace, as measured from the tip of the rostrum to the end of the carapace, or a berried female of any size whatsoever, only if such species originated in the Republic of Palau;

(f) except as authorized by regulation or permit issued by the Minister, fish while using any form of underwater breathing apparatus other than a snorkel;

(g) export black teatfish (*Holothuria nobilis* (*bakelungal*)), white teatfish (*Holothuria fufcogilua* (*bakelungal*)), prickly redfish (*Thelenota ananas* (*temetamel*)), surf redfish (*Actinopyga mauritiana* (*badelchelid*)), sandfish (*Holothuria scabra* (*molech*, *delal a molech*)), humphead parrotfish (*Bolbometopon muricatum* (*kemedukl*, *berdebed*)), coconut crab (*Birgus latro* (*ketat*)), mangrove crab (*Scylla serrata* (*chemang*)), rock lobster (*Panulirus longipes fermoristriga*, *Panulirus versicolor*, *Panulirus pencillatus* (*cherprukl*)), and wrasse (*Cheilinus undulatus* (*ngimer*, *maml*)), except cultured species thereof only if such species originated in the Republic of Palau; provided, however, that cultured species of the marine resources listed in this subsection shall be exempt from the prohibition of this subsection;

(h) export sea cucumbers (*Actinopyga miliaris* (*cheremrum*)) except cultured species thereof, only if such species originated in the Republic of Palau; provided, however, that cultured species of the marine resources listed in this subsection shall be exempt from the prohibition of this subsection;

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(i) fish for, sell, buy, receive, possess, export, or cause to be exported any coconut crab (*Birgus latro*), except cultured species thereof, smaller than four (4) inches in the greatest distance across the width of its carapace or a berried female coconut crab of any size whatsoever, only if such species originated in the Republic of Palau; provided, however, that cultured species of the marine resources listed in this subsection shall be exempt from the prohibition of this subsection:

(1) a person may possess a coconut crab measuring smaller than what is specified in this subsection if the crab is obtained from a hatchery certified by the Ministry, as brood stock in accordance with section 1205(a)(3) of this chapter; and

(2) cultured crabs farmed pursuant to this chapter shall not be for export or sale outside of Palau; such cultured crabs farmed pursuant to this chapter shall only be for sale to restaurants and markets within Palau.

(j) fish for, sell, buy, receive, possess, export or cause to be exported any mangrove crab (*Scylla serrata*), except cultured species thereof, smaller than six (6) inches in the greatest distance across the width of its carapace or a berried female mangrove crab of any size whatsoever, only if such species originated in the Republic of Palau provided, however, that cultured species of the marine resources listed in this subsection shall be exempt from the prohibition of this subsection:

(1) a person may possess a mangrove crab measuring smaller than what is specified in this subsection if the crab is obtained from a hatchery certified by the Ministry, as brood stock in accordance with section 1205(a)(3) of this chapter; and

(2) cultured crabs farmed pursuant to this chapter shall not be for export or sale outside of Palau; such cultured crabs farmed pursuant to this chapter shall only be for sale to restaurants and markets within Palau.

(k) export clam (*Tridacna gigas* (*Otkang*)); *T. squamosa* (*Ribkungel*); *T. derasa* (*Kism*); *T. maxima* (*Melibes*); *T. crocea* (*Oruer*); *Hippopus porcellanus* (*Duadeb*); and *Hippopus hippopus* (*Duadeb*), or part thereof, except cultured species, only if such species originated in the Republic of Palau; provided, however, that cultured species of the marine resources listed in this subsection shall be exempt form the prohibition of this subsection;

(l) fish with a gill net or surround net having a mesh size of less than three (3) inches measured diagonally;

- (m) fish, after one (1) year after the effective date of this chapter, with a *kesokes* net with no bag portion or with the bag portion having a mesh size of less than three (3) inches measured diagonally;
- (n) retain possession of, or abandon, a *kesokes* net having a mesh size of less than three (3) inches measured diagonally or with a bag portion having a mesh size less than three (3) inches measured diagonally. This subsection will come into effect two (2) years after the effective date of this chapter;
- (o) until such time as the regulations promulgated pursuant to section 1205 are in effect, take aquarium fish;
- (p) make any entry or statement in any writing completed or submitted in connection with the export of fish which is false or misleading; and
- (q) except as provided in section 1205, export any live reef food fish, provided, however, that cultured species of reef fish are exempted from this prohibition.

Source

RPPL 4-18 § 4, modified. Subsections (a) - (e), & (g) - (j) amended by RPPL 4-35 § 1(e). Subsection (k) amended by RPPL 4-35 § 1(f). Subsection (f) amended by RPPL 4-35 § 1(b). Subsection (p) added by RPPL 4-35 § 1(c). Opening paragraph and subsections (a), (b), (c), (d), (e), (g), (h), (i), (j), and (k) amended by RPPL 7-18 § 1. The phrase “only if such species originated in the Republic of Palau” which appears in subsections (a), (b), (c), (d), (e), (g), (h), (i), (j), and (k) was changed by RPPL 7-20 § 6 from the wording which originally appeared in RPPL 7-18 § 1 “regardless of where such species may have originated”. Subsection (q) added by RPPL 7-44 § 2(2), modified. Subsections (i) and (j) are amended by RPPL 8-44 § 2, modified. Subsection (a) and (b) are amended by RPPL 8-58 § 2, modified.

Notes

The bracketed “[in]” in subsection (b) does not appear in the original legislation.

RPPL 8-58 § 1 reads: Legislative findings. The Olbiil Era Kelulau finds that the population and size of groupers (*temekai ma tiau*) in Palau is constantly declining. The Olbiil Era Kelulau finds that this is due to over-fishing and unsustainable fishing practices of such species. Therefore, this Act will reduce the harvesting period to ensure that such species reproduce and are available for future generations.

RPPL 8-44 § 1 reads: Legislative Findings. The Olbiil Era kelulau finds that marine and aquaculture projects should be encouraged and supported by the Republic. The Olbiil Era Kelulau finds that currently there are marine and aquaculture farms raising coconut crabs (*ketat*) and mangrove crabs (*chemang*), however certain provisions of the Marine Protection Act governing these two common crab species currently prohibit the selling, buying, receiving, possessing, and exporting of undersized crabs of such species as prescribed in Section 1204(I) and (j) of Title 27 of the Palau National Code. A coconut crab or mangrove crab aquaculture farm must possess undersized crabs as the aquaculture process necessarily involves raising crabs from eggs for eventual consumer purchase or consumption once the crabs have grown to sufficient size. The Olbiil Era Kelulau finds that the current law hinders individuals, schools, and organizations from cultivating the two specie of crabs for sale. Therefore, the Olbiil Era Kelulau finds

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it necessary and appropriate to amend the current law to allow for the possession of an undersize crab for marine and aquaculture farms.

In 2011, Palau Community College's Cooperative Research and Extension Department had a breakthrough in collecting and hatching eggs and rearing young crabs to a mature size. The Olbiil Era Kelulau finds that in order to distinguish the possession of undersized crabs from the wild and those from hatcheries, it is necessary for the Ministry of Natural Resources, Environment and Tourism to certify such hatcheries from which aquaculture farmers may obtain their undersized crabs.

ROP v. S.S. Enterprises, Inc., 9 ROP 48, 50 (2002).

Sugiyama v. ROP, 9 ROP 5, 6, 7 (2001).

Sugiyama v. ROP, 9 ROP 5, 6, 7 (2001).

§ 1205. Permits and aquarium fish.

(a) The taking of fish for the following purposes is allowed only with a valid and current permit from the Minister or his designee:

- (1) for local aquarium use; and
- (2) for scientific research, maricultural research, or medical research.
- (3) for the taking and holding of limited brood stocks for approved marine or aquaculture projects;
- (4) for the holding, selling, buying, or export of any cultured species listed in section 1204 during closed season, for approved marine or aquaculture projects.

(b) The Minister shall, within ninety (90) days of the effective date of this chapter and in accordance with Title 6 of the Palau National Code Annotated, promulgate regulations regarding the taking and export of fish for aquarium purposes.

Source

RPPL 4-18 § 5, modified. Subsection (a)(3) and (a)(4) added by RPPL 7-18 § 1.

§ 1206. Regulations.

The Minister may promulgate such rules and regulations, in accordance with 6 PNC chapter 1, as he or she deems necessary to protect the species identified in section 1204 of this chapter from over harvesting, or to otherwise carry out the purposes of this chapter. Within ninety (90) days after the effective date of this section, the Minister, after consulting with the Chief of the

Division of Fish and Wildlife Protection, and the Attorney General, shall promulgate such rules and regulations, in accordance with 6 PNC chapter 1, regarding the importation of all of the species listed in § 1204 into the Republic of Palau, and regarding the lawful use of such species, these rules and regulations shall include provisions regarding: documentation regarding where such species was purchased, and from where it originated, how long such documentation must be maintained, details of the importer, and any other information that may be necessary to show from where the species was imported.

Source

RPPL 4-18 § 6, modified. Amended in its entirety by RPPL 7-18 § 1. Amended in its entirety by RPPL 7-20 § 6.

§ 1207. Labeling and cultured species regulations.

(a) The Minister of Natural Resources, Environment, and Tourism shall immediately promulgate regulations instituting a labeling and reporting system by which all exporters of fish report the weight of fish by species exported.

(b) The Minister of Natural Resources, Environment, and Tourism shall immediately promulgate regulations instituting a licensing, labeling and cultured species certification system.

Source

RPPL 4-18 § 7, modified. Amended by RPPL 4-35 § 1(g)(a). Subsection (b) added by RPPL 4-35 § 1(g)(b). Amended in its entirety by RPPL 8-44 § 3, modified.

§ 1208. Enforcement.

(a) Any person violating this chapter shall be prosecuted by the Attorney General of the Republic of Palau to the full extent possible under the law. The Attorney General shall take appropriate action to stop any violation of this chapter, including court action seeking to enjoin violations.

(b) The provisions of this chapter and any regulations or permits issued pursuant thereto shall be enforced by the Minister or his designee, the Bureau of Public Safety or any state government; provided that the Bureau of Public Safety shall have primary enforcement responsibility. The Minister or his designee may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other agency of the national government or of any state government for purposes of enforcing this chapter.

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(1) The judges of the courts of the Republic may, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulations issued thereunder.

(2) Any person authorized by the Minister or his designee to enforce this chapter, any authorized Bureau of Public Safety employee, or any authorized employee of a state government may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation and exportation. Such person may make arrests without a warrant for any violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Such person may search or seize, with or without a warrant, as authorized by law. Any marine resources protected by this chapter shall be held by any person authorized by the Minister or his designee pending civil or criminal proceedings, or the institution of any action for forfeiture of such marine resources; except that the Minister or his designee may, in lieu of holding such marine resources related thereto, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Minister or his designee, but upon forfeiture of any such property to the Republic, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Minister or his designee in such a manner, consistent with the purposes of this chapter, as the Minister or his designee shall prescribe by regulation.

(3) All marine resources protected by this chapter taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this chapter, any regulation made pursuant thereto, or any permits issued hereunder shall be subject to forfeiture to the Republic. All traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any such marine resources related thereto in violation of this chapter, any regulation made pursuant thereto, or any permit issued thereunder shall be subject to forfeiture to the Republic upon conviction of a criminal violation pursuant to subsection 1209(a) of this chapter.

(4) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the export laws and admiralty and maritime laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs and admiralty and maritime laws upon any officer or employee of the Ministry shall, for the purposes of this chapter, be exercised or performed by the Minister or by such persons as he may designate.

(5) The Attorney General of the Republic may seek to enjoin any person who is alleged to be in violation of any provision of this chapter or regulation issued under authority thereof.

(c) The Minister is authorized to promulgate such regulations pursuant to the Administrative Procedure Act as may be appropriate to enforce this chapter, and charge reasonable fees for expenses to the national government connected with permits authorized by this chapter including processing applications and reasonable inspections, and with the transfer, handling, or storage of marine life protected by this chapter and evidentiary items seized and forfeited under this chapter. All such fees collected pursuant to this subsection shall be deposited in the National Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing these services. Appropriated funds may be expended pending reimbursement from the parties in interest.

Source

RPPL 4-18 § 8, modified. Subsection (b) and (b)(2) amended by RPPL 5-7 § 59.

Notes

ROP v. S.S. Enterprises, Inc., 9 ROP 48, 50, 52 (2002).

§ 1209. Criminal penalties.

(a) Anyone who violates subsections (a)-(e), (g)-(j), (l)-(o) or (q) of section 1204 herein shall, upon conviction, be penalized as follows: upon the first conviction, be fined not less than two hundred fifty dollars (\$250); upon the second conviction, be fined not less than five hundred dollars (\$500) and sentenced to serve up to thirty (30) days in jail; upon the third conviction, be fined not less than one thousand dollars (\$1,000) and sentenced to serve up to six (6) months in jail; any conviction after a third conviction, be fined not less

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than five thousand dollars (\$5,000) and sentenced to serve up to one (1) year in jail. In assessing fines under this subsection, the court shall take into account any and all prior violations of subsections (a)-(e), (g)-(j), (l)-(o), or (q) whether such violation resulted in convictions or not.

(b) Anyone who violates subsection (f) of section 1204 shall, upon conviction, be fined not less than five hundred dollars (\$500) or imprisoned for not more than one (1) year, or both.

(c) Anyone who violates subsection (k) of section 1204 shall, upon conviction, be fined not less than three hundred dollars (\$300) or imprisoned for a period of not more than two (2) years, or both, for each violation.

(d) Anyone who violates subsection (p) of section 1204 shall, upon conviction, be fined not less than four hundred dollars (\$400) or imprisoned for a period of not less than six (6) months and not more than two (2) years, or both, for each violation.

Source

RPPL 4-18 § 9(1), modified. Subsection (a) amended by RPPL 4-35 § 1(d)(a)(1). Subsections (b) - (d) added by RPPL 4-35 § 1(d)(a)(2) - 1(d)(a)(4). The last sentence in § 1209(a) was added by RPPL 7-18 § 1. Subsection (a) amended by RPPL 7-44 § 2(3).

Notes

Former subsection (b) of this section is now codified at 27 PNCA § 1210(a).

§ 1210. Civil penalties.

(a) Civil penalties are separate from criminal punishment and may be filed independently of or in addition to such criminal charges and sentences.

(b) Any person who is found by the Supreme Court in a civil proceeding to have committed an act prohibited by this chapter, shall be liable to the affected state and national government jointly for a civil penalty which shall not exceed two hundred thousand dollars (\$200,000) for each violation.

(c) Any person who is found by the Supreme Court in a civil proceeding:

(1) to have abetted, aided, compensated, controlled, directed, employed, facilitated, funded, managed, operated, paid, sought to gain from, supervised, supported, or otherwise engaged in actions of complicity with another person

found liable for violation of the chapter; and

(2) to have done so in connection with such violation;

shall be liable to the affected state and national government jointly for a civil penalty which shall not exceed two hundred thousand dollars (\$200,000) for each violation.

(d) In determining the amount of such penalty, the Supreme Court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violators, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(e) The Attorney General is authorized to initiate all civil proceedings under this chapter and to recover the amount assessed as a civil penalty.

(f) Any person who violates this chapter shall be liable in a civil action brought by a person residing within the Republic. If a judgment is entered against the defendant in an action brought by a resident of the Republic, the plaintiff shall receive fifty percent (50%) of the amount recovered, and shall be entitled to recover from the defendant the plaintiff's costs of litigation, including reasonable attorneys' fees. Before a resident may bring an action pursuant to this section, the resident must submit a written request to the Attorney General asking that the Attorney General bring a civil action. If the Attorney General fails to bring a civil action within sixty (60) days after receipt of the written request, the resident may thereafter bring a civil action pursuant to this section.

Source

RPPL 4-18 § 9(2), modified. Subsection (a) amended by RPPL 4-35 § 1(d)(b)(1). Subsections (b) - (d) added by RPPL 4-35 § 1(d)(b)(2) - 1(d)(b)(4). Subsection (e) added by RPPL 5-7 § 59, modified. Subsection (b) amended by RPPL 7-18 § 1, modified. Subsection (c) added and former subsections (c), (d), and (e), changed to subsections (d), (e), and (f) by RPPL 7-18 § 1, modified.

Notes

The format and numbering in RPPL 7-18's subsection (c) have been changed to conform with the standard format and numbering used in the PNCA. In subsection (c)(1) the phrase "engaged in actions of complicity" originally read "engaged in complicitous activities".

Subsection (a) was previously codified at § 1209(b). Former § 1210 is now codified at § 1211.

Sugiyama v. ROP, 9 ROP 5, 6, 7 (2001).

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§ 1211. Severability.

If any provision of this chapter shall be held invalid, such invalidity shall not affect the other provisions of the chapter which can be given effect without such invalid provision, and to this extent, the provisions of this chapter are severable.

Source

RPPL 4-18 § 11, modified.

Notes

27 PNCA § 1211 was previously codified at § 1210.

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