

TITLE 33
PUBLIC EMPLOYMENT

DIVISION 1
NATIONAL PUBLIC SERVICE SYSTEM ACT

Chapter 1
General Provisions

- § 101. Short title.
- § 102. Statement of purpose; policy.
- § 103. Definitions.

§ 101. Short title.

This division may be cited as the “National Public Service System Act”.

Source

RPPL 1-37 § 1, modified.

Notes

Becheserrak v. ROP, 7 ROP Intrm. 111, 111 (1998).

Becheserrak v. ROP, 5 ROP Intrm. 63, 63, 71 (1993).

§ 102. Statement of purpose; policy.

(a) It is the declared purpose of the Olbiil Era Kelulau in establishing a system of personnel administration to build a career service in the national government which will attract, select, and retain the best available individuals on merit, free from coercion, discrimination, reprisal or political influences, with incentives in the form of genuine opportunities for promotions in the public service, which will eliminate unnecessary and inefficient employees, and which will provide technically competent and loyal personnel to render impartial service to the public at all times, and to render such service according to the dictates of ethics and morality.

(b) It is declared to be the policy of the national government to encourage the professional, managerial, technical and vocational education and training of citizens of the Republic and to effect the maximum use of qualified citizens of the Republic in filling positions in the public service, whether by appointment or promotion.

Source

RPPL 1-37 § 2, modified.

Notes

Ngiralmu v. ROP, 16 ROP 167, 170 (2009).
Becheserrak v. ROP, 5 ROP Intrm. 63, 69, 70, 73 (1993).

§ 103. Definitions.

In this division:

- (a) “Appropriate management official” means the President of the Republic, or persons duly appointed by him to manage employment and personnel matters within the executive branch of the national government or departments thereof.
- (b) [Repealed]
- (c) “Bureau” means the Bureau of Public Service System.
- (d) [Repealed]
- (e) “Department” means each ministry of the Executive Branch.
- (f) “Director” means the Director of the Bureau of Public Service System.
- (g) “Public service” means all offices and other positions in the national government not exempted by section 205 of this division or any other law of the Republic.
- (h) “Regular or permanent employee” means an employee who has a position in public service and who has successfully completed his or her initial probation period.

Source

RPPL 1-37 § 3, as amended by RPPL 4-23 § 1. Subsections (a), (b), (d) and (e) amended by RPPL 5-7 § 34(11)(a) on 10/3/97 effective 10/1/97.

Notes

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Renguul v. ASPLA, 8 ROP Intrm. 282, 283 (2001).
Becheserrak v. ROP, 5 ROP Intrm. 63, 72 (1993).

NATIONAL PUBLIC SERVICE SYSTEM 33 PNCA § 202

Chapter 2 Establishment of National Public Service System

- § 201. Establishment; name.
- § 202. Merit principles.
- § 203. Preference to citizens of the Republic.
- § 204. Existing regulations.
- § 205. Exempted employees and positions.
- § 206. Duties of the Director.

§ 201. Establishment; name.

There is hereby established in the national government a system of personnel administration based on merit principles and accepted personnel methods governing the classification of positions and the employment, conduct, movement, and separation of government officials and employees. This system of personnel administration shall be referred to as the National Public Service System.

Source

RPPL 1-37 § 4, modified.

§ 202. Merit principles.

The National Public Service System shall be administered in accordance with the merit principles set forth below:

- (a) equal opportunity for all regardless of sex, race, religion, political affiliation or place of origin.
- (b) nondiscrimination based on physical handicap; provided that the employment of a physically handicapped person will not be hazardous to the appointee or endanger the health or safety of his fellow employees or others.
- (c) impartial selection of the ablest person for the public service by means of tests which are fair, objective, and practical.
- (d) just opportunity for competent employees to be promoted within the public service.
- (e) reasonable job security for the competent employee, including the right of judicial review of personnel actions as provided in this division.

- (f) systematic classification of all positions through adequate job analysis.
- (g) proper employer-employee relations to achieve a well-trained, productive and happy work force.

Source

RPPL 1-37 § 5, modified

Notes

Ngiralmu v. ROP, 16 ROP 167, 170 (2009).
Becheserrak v. ROP, 7 ROP Intrm. 111, 111 (App. Div. 1998).
Becheserrak v. ROP, 5 ROP Intrm. 63, 70, 72 (1993).

§ 203. Preference to citizens of the Republic.

Notwithstanding the provisions of section 202, with a view toward insuring the fullest participation by citizens of the Republic in the national government, preference shall be given to qualified citizens of the Republic in making appointments and promotions and providing opportunities for higher education and in-service training.

Source

RPPL 1-37 § 6(1), modified.

§ 204. Existing regulations.

All regulations heretofore promulgated pursuant to Title 61 of the Trust Territory Code shall remain in force and effect until amended or repealed by the Director to the extent they do not conflict with the provisions of this division.

Source

RPPL 1-37 § 6(2), modified. “Board” amended to “Director” by RPPL 5-7 § 34(11)(b) on 10/3/97 effective 10/1/97.

§ 205. Exempted employees and positions.

(a) The National Public Service System shall apply to all employees and positions in the national government now existing or hereafter established and all personal service performed for the national government except the following, unless this division is specifically made applicable to them:

- (1) persons or organizations retained by contract where the Director of the Bureau

NATIONAL PUBLIC SERVICE SYSTEM 33 PNCA § 205

of Public Service System has certified that the service to be performed is special or unique and nonpermanent, is essential to the public interest and that, because of the degree of expertise or special knowledge required and the nature of the services to be performed, it would not be practical to obtain personnel to perform such service through normal public service recruitment procedures.

(2) positions of a temporary nature needed in the public interest where certified by the Director of the Bureau of Public Service System and when the need for the same does not exceed ninety (90) days; provided that in the event of a major disaster declared by the President, the Director may extend such ninety (90) day period for a maximum of an additional one hundred eighty (180) days for positions engaged in relief, repair or rehabilitation as a result of such disaster.

(3) members of any board, public corporation, commission or other agency, or appointed public officials whose appointments are made by the President with the advice and consent of the Senate.

(4) elected officials and members of the Council of Chiefs.

(5) persons appointed by the President or Vice President pursuant to section 6, Public Law No. 7-8-8 to fill the following positions: chief of staff, special advisors and assistants.

(6) the employees of the Olbiil Era Kelulau.

(7) personnel presently under contract of employment not included in paragraph (1) of this subsection during the life of such contract. No contract of employment shall be entered into, renewed, or amended after the effective date of this division, except subject to the provisions hereof.

(8) persons who are appointed to serve occasionally as classroom teachers when regular classroom teachers are absent from work during any one school year.

(9) any position involving intermittent performance which does not require more than forty (40) hours in any one month.

(10) positions of a part-time nature requiring the services of four hours or less a day but not exceeding one year in duration.

- (11) positions of a temporary nature which involve special projects having specific completion dates which do not exceed one year.
- (12) justices and judges.
- (13) the employees of the National Aviation Administration;
- (14) positions specifically exempted by any other law of the Republic.
- (15) Tax auditors hired by the Ministry of Administration after October 1, 1999.

(b) The Director shall determine the applicability of this section to specific positions not expressly covered by this division.

(c) Nothing in this section shall be deemed to affect the public service status of any incumbent as it existed on the effective date of this division.

Source

RPPL 1-37 § 8, modified. Subsection (a) amended by RPPL 4-3 § 2 and RPPL 4-23 § 2. Subsection (b) amended by RPPL 5-7 § 34(11)(c) on 10/3/97 effective 10/1/97. RPPL 5-19 § 13 amended subsection (a)(13) and the original (a)(13) became (a)(14). Subsection (a) was amended to add subsection (15) by RPPL 5-34 § 37, modified.

Notes

Heading specified in RPPL 4-23. Compare 1 PNCA § 205. Subsection (a)(14) added by RPPL 5-34 § 37 was renumbered to subsection (a)(15) to follow numbering format.

- Ngiralmu v. ROP, 16 ROP 167, 168, 169, 170, 171, 172 (2009).
- Becheserrak v. ROP, 5 ROP Intrm. 63, 72 (1993).
- Owens v. House of Delegates, 1 ROP Intrm. 513E, 513K (1988).

§ 206. Duties of the Director.

The Director shall represent the public interest in assuring compliance with basic policy concerning personnel administration, and in ensuring that the integrity of the National Public Service System is preserved. To this end, the Director shall have the following powers and duties:

- (a) to formulate policies and promulgate regulations to carry out the provisions of this division, including but not limited to, regulations governing the recruitment, hiring, placement, and promotion of employees, competitive and promotional examinations, eligibility criteria and qualifications for employment, provisional, short-term and emergency appointments, termination of employees, reductions in force, a period of

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probationary service which must be satisfied before an employee becomes a permanent employee (which period may not exceed six months), and such other matters as may be within the purview of this division. The appropriate management officials in the Executive Branch of the national government, along with the Bureau of Public Service System, shall be responsible for effectuation of regulations promulgated by the Director.

(b) to foster and develop, in cooperation with the appropriate management officials, the Bureau of Public Service System and others, programs to promote public service and to improve employee efficiency.

(c) to develop base salary schedules and compensation plans in accordance with the provisions of this division and other applicable laws of the Republic.

(d) to make such inquiries and investigations into personnel administration in the public service as he may deem desirable.

(e) to perform any other lawful acts necessary to carry out the purpose and provisions of this division.

Source

RPPL 5-7 § 34(11)(d) on 10/3/97 effective 10/1/97.

**Chapter 3
National Civil Service Board
[Repealed]**

§ 301 - § 306. [Repealed]

Source

RPPL 1-37 § 7(1)-(6), modified. Section 303 amended by RPPL 4-23 § 3(1). Section 306 amended by RPPL 4-23 § 3(2). Repealed by RPPL 5-7 § 34(11)(e) on 10/3/97 effective 10/1/97.

Cross Reference

For § 303, heading specified in RPPL 4-23. Compare 1 PNCA § 205. For § 305, Title 40, chapter 3, Unified National Budget. For § 306, heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Ellechel v. ROP, 7 ROP Intrm. 143 (1999).
Becheserrak v. ROP, 5 ROP Intrm. 63, 72 (1993).

**Chapter 4
Elements in National Public Service System**

- § 401. Elements; general.
- § 402. Recruitment and placement; examinations and evaluation.
- § 403. Same; filling of vacancies and new positions.
- § 404. Tenure.
- § 405. Resignations shall be in writing.
- § 406. Position classification.
- § 407. Compensation plan; uniform base salary schedule.
- § 408. Same; salary levels.
- § 409. Same; periodic review.
- § 410. Same; differentials and transfer allowances.
- § 411. Same; same; standby.
- § 412. Same; same; night work.
- § 413. Same; same; temporary hazardous work.
- § 414. Same; same; police hazardous duty differential.
- § 415. Same; same; advanced professional degree.
- § 416. Same; same; foreign service premium.
- § 417. Same; special medical differential.
- § 418. Same; transfer allowance.
- § 419. Same; within-grade and merit increases.
- § 420. Same; overtime compensation.
- § 421. Same; holiday pay.
- § 422. Performance ratings.
- § 423. Reduction-in-force.
- § 424. Racial, religious, or political consideration barred.
- § 425. Dismissal, demotion and suspension.
- § 426. Contesting suspension, dismissals and demotions.
- § 427. Leave with pay.
- § 428. Leave without pay.
- § 429. Employee representation.
- § 430. Application to contract personnel.
- § 431. Employee annual and sick leave benefits.
- § 432. Amendment.

§ 401. Elements; general.

In addition to such elements as may be provided by regulation, the National Public Service System

ELEMENTS IN NAT'L PUBLIC SERVICE SYSTEM 33 PNCA § 402

shall consist of the elements set out in sections 405 through 430.

Source

RPPL 1-37 § 9(1), modified.

§ 402. Recruitment and placement; examinations and evaluation.

All new positions which are created and all established positions which are covered by this division shall be filled only after careful examination and evaluation has been conducted on the qualifications of candidates and candidates have been interviewed for the position, unless otherwise provided in section 403:

(a) Where deemed appropriate by the Director, there shall be competitive examinations for the relative fitness of candidates for positions in the public service covered by this division. Examinations shall provide for ascertaining the physical and educational qualifications, experience, knowledge and skills of applicants and their relative capacity and fitness for the proper performance of the duties of the class of positions in which they seek to be employed. All examinations shall be open to the public and, except for promotional examinations or as otherwise provided by law, free and open to all candidates, but with such limitations as to health, physical condition, age, education, training, experience, and character as the Director may deem necessary and proper for the class for which the examination is to be given. All examinations shall be under the control of the Director or such suitable person or persons as he may designate to administer them. All persons who have passed an examination may be required to take such physical examinations as deemed necessary by the Director.

(b) Examinations may be promotional or open-competitive. Ample notice shall be given by the Director that an examination is to be conducted.

(c) In cases where the Director has determined that a competitive examination is not required, examination of records of education, training, experience, and any other relevant information of candidates shall be evaluated and rated by the Director.

Source

RPPL 1-37 § 9(1)(a) and (1)(b), modified. Amended by RPPL 4-23 § 4(1).

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 68, 69, 71, 72 (1993).

§ 403. Same; filling of vacancies and new positions.

All vacancies and new positions in the public service shall be filled in the following manner:

(a) Whenever there is a position to be filled, the appropriate management official shall request the Director to submit a list of persons eligible. The Director shall thereupon certify a list of the five persons who scored or were rated highest in the most recent examination or evaluation for that position. The management official shall conduct interviews and take the appointment only from the list of eligible persons certified, unless there is no person acceptable to the official on the list certified by the Director, in which case the former shall reject the list and request the Director to submit a new list. In such event the Director shall submit a new list of eligible persons selected in like manner.

(b) An appropriate management official may fill a vacant position in his department by promoting or transferring any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted or transferred, and if the position is in the same series as the position held by the employee or is clearly an upward or lateral move in the same career-ladder of positions.

(c) In the event that no eligible persons are available, the appropriate management official may, after notifying the Director, make a provisional appointment, for a period no longer than ninety (90) days, of any person who meets the qualification standards for the class involved. The Director shall then conduct an examination or evaluation within such ninety (90) day period.

Source

RPPL 1-37 § 9(1)(c), modified. Amended by RPPL 4-23 § 4(2). Amended by RPPL 9-8 § 4, modified.

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 64, 66, 67, 68, 69, 70, 71, 72, 73 (1993).

§ 404. Tenure.

Every member of the public service shall be entitled to hold his position during good behavior, subject to suspension, demotion, or dismissal as provided in this division and in the regulations promulgated by the Director.

ELEMENTS IN NAT'L PUBLIC SERVICE SYSTEM 33 PNCA § 407

Source

RPPL 1-37 § 9(2)(a), modified. Amended by RPPL 5-7 § 34(11)(f) on 10/3/97 effective 10/1/97.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 70, 72 (1993).

§ 405. Resignations shall be in writing.

In case an employee resigns without submitting his resignation in writing, the department head shall, within 15 days following the resignation, file with the Minister of Administration a statement showing termination of employment.

Source

RPPL 1-37 § 9(2)(b).

§ 406. Position classification.

All positions subject to this division shall be classified by the Director according to their duties and responsibilities, and shall be grouped into classes on the basis of their similarities in duties and responsibilities. Each class shall be given a title which shall apply to all positions in the class, the characteristics of which class and the standards for employment in any position in the class shall be prescribed by the Director after consultation with the appropriate management officials concerned. The Director may change a position from one class to another where substantial changes have occurred in the duties and responsibilities of such position. The Director shall determine the status of occupants of positions which have been changed from one class to another class. Class titles established under the provisions of this section shall be the official titles of all positions involved and shall be used for all personnel, and for budgetary and financial purposes.

Source

RPPL 1-37 § 9(3). Amended by RPPL 4-23 § 4(3).

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 71, 72 (1993).

§ 407. Compensation plan; uniform base salary schedule.

There shall be one salary schedule for all national government employees, with the exception of

those specifically exempted under section 205(a) of this division. Such uniform base salary schedule shall be provided for by law.

Source

RPPL 1-37 § 9(4)(a), modified.

§ 408. Same; salary levels.

The Director shall assign a salary level, based on applicable and established base salary levels, to each position occupied by employees of the national government, except those positions exempted under the provisions of section 205(a) of this division.

Source

RPPL 1-37 § 9(4)(b), modified. Amended by RPPL 4-23 § 4(4).

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 72 (1993).

§ 409. Same; periodic review.

The Director shall periodically conduct necessary and appropriate studies of rates of compensation and compensation practices in all geographic areas from which employees for the public service are normally recruited, and shall recommend and transmit the same to the President and the Olbiil Era Kelulau for further action. In developing such plan and schedules, consideration shall be given to the following:

- (a) the minimum standard of living which is compatible with decency and health.
- (b) the general economic conditions of the Republic.
- (c) compensation practices and conditions of the labor market.
- (d) conditions of employment in the public service in the Republic.
- (e) such other matters as the Director deems appropriate.

Source

RPPL 1-37 § 9(4)(c), modified. Amended by RPPL 4-23 § 4(5). Amended by RPPL 5-7 § 34(11)(g) on 10/3/97 effective 10/3/97.

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 72 (1993).

§ 410. Same; differentials and transfer allowances.

To compensate for unique circumstances of employment which create hardship or involve additional cost to them, the following differentials are provided national public service employees; provided that in no case may an employee's combined differentials, as set forth in sections 411 through 413, exceed thirty percent (30%) of the base salary rate, or of the adjusted base salary for the employee concerned when provided by law.

Source

RPPL 1-37 § 9(4)(d) ¶ 1, modified.

§ 411. Same; same; standby.

Employees whose duties require them to remain on a standby status, subject to call at any time, for a regularly scheduled period in excess of a normal forty (40) hour workweek, and who, in fact, are frequently called during this period of scheduled standby, shall be entitled to a differential of twenty percent (20%) of the base salary rate, or of the adjusted base salary rate, when provided by law.

Source

RPPL 1-37 § 9(4)(d)(I), modified.

§ 412. Same; same; night work.

Employees whose regular hours of duty include regularly scheduled hours falling between 7:00 p.m. and 6:00 a.m. shall be paid a differential of fifteen percent (15%) of the base salary rate, or of the adjusted base salary rate when provided by law, for all those hours which fall during that period.

Source

RPPL 1-37 § 9(4)(d)(ii), modified.

§ 413. Same; same; temporary hazardous work.

Employees whose occupation involves unusual and extreme hazards to their health and safety shall be paid a differential of twenty five (25) or fifteen (15) percent of the base salary rate, or of the adjusted base salary rate when provided by law, depending on whether the work performed is most severe or severe for all those hours in which hazardous work is performed.

(a) Hazardous work is considered most severe, and an employee shall receive the twenty five percent (25%) differential, when it is likely to result in serious incapacitation, a long period of compensable lost time, or possible loss of life, when accidents occur frequently in spite of reasonable safety precautions, or when it results in frequent exposure to hazardous conditions where failure to exercise extreme care and judgment may result in accidents which could result in total disability or fatality.

(b) Hazardous work is considered severe, and an employee shall receive a 15 percent differential, when frequent injuries are likely but do not usually result in serious incapacitation, where it could reasonably lead to possible eye injuries, loss of fingers or burns, or where it may result in moderate periods of compensable lost time.

Source

RPPL 1-37 § 9(4)(d)(iii), modified.

§ 414. Same; same; police hazardous duty differential.

Employees of the police force of the Bureau of Public Safety, Ministry of Justice, shall be eligible to receive a special hazardous duty differential of up to twenty five percent (25%) of their adjusted base salaries. The Director of the Bureau of Public Safety shall promulgate rules and regulations governing the specific eligibility criteria for employees of the police force to receive this differential.

Source

RPPL 1-74 § 1, modified.

§ 415. Same; same; advanced professional degree.

Any employee covered under the provisions hereof who has achieved professional capabilities through obtaining an LL.B. or J.D. degree, a doctorate in medicine or dentistry, or an earned doctorate in any other field from an accredited United States university or any other university accredited or accepted in the United States, and who is employed in a position having a

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requirement for such degree, shall receive, in addition to a base salary, a premium of fifty percent (50%) of the base salary for the pay level and step of the position.

Source

RPPL 1-37 § 9(4)(d)(v), modified.

§ 416. Same; same; foreign service premium.

Any employee covered under the provisions hereof who is a citizen of the Republic and is assigned on a permanent change of duty station to work at locations outside the geographic boundaries or administrative control limits of the Republic shall receive, in addition to a base salary, a foreign service premium of thirty percent (30%) of the base salary.

Source

RPPL 1-37 § 9(4)(d)(vi), modified.

§ 417. Same; special medical differential.

Any employee covered under the provisions hereof who is a Medical Officer or Dental Officer and who occupies a position the duties of which are predominantly clinical, as opposed to administrative, in nature, shall receive, in addition to a base salary, a special medical differential of twenty four percent (24%) of the base salary for the pay level and step of the position; provided that the Director may eliminate the payment of the special medical differential by regulation if he determines that medical staffing in the Republic is adequate to handle normal medical staff requirements without requiring medical personnel to work more than forty (40) hours per week or to be on standby beyond such forty (40) hours per week.

Source

RPPL 1-37 § 9(4)(d)(vii), modified. Amended by RPPL 5-7 § 34(11)(h) on 10/3/97 effective 10/1/97.

§ 418. Same; transfer allowance.

Where employees are recruited or transferred beyond normal commuting distance from their places of permanent residence for work elsewhere outside the Republic, such employees shall be entitled to all expenses connected with travel of themselves and their immediate families to the work location and transportation of their household effects. They shall also be entitled to per diem at established rates for the new location for a period not exceeding 90 calendar days from the date of entrance in the new position.

Source

RPPL 1-37 § 9(4)(d)(viii), modified.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 70 (1993).

§ 419. Same; within-grade and merit increases.

An employee, whose position is classified into the base salary schedule in 33 PNC §702(a), may be granted a within-grade increase upon completion of the following periods of satisfactory performance at the following steps in the rate ranges of the base salary schedule:

STEPS	Full period of satisfactory performance required before within-grade increase may be allowed
1 to 2	1 year
2 to 3	1 year
3 to 4	1 year
4 to 5	1 year
5 to 6	2 years
6 to 7	2 years
7 to 8	2 years
8 to 9	2 years
9 to 10	3 years
10 to 11	3 years
11 to 12	3 years
12 to 13	3 years
13 to 14	4 years

An employee may additionally be granted a merit increase not to exceed a one step increase in the base pay rate in any one-year period for sustained superior performance over such period. Such additional merit increase will not alter the waiting period required for qualifying for the next within-grade step increase. No employee shall be compensated above the maximum prescribed for his or her pay level except where he or she was receiving such compensation on the effective date of this division. The Director of the Public Service System shall promulgate rules and regulations to administer the application of merit increases, within 90 days after the effective date of this section, in accordance with 6 PNC Chapter 1.

Source

RPPL 1-37 § 9(4)(e), modified. Amended in its entirety by RPPL 7-20 § 4, modified.

§ 420. Same; overtime compensation.

An employee shall be paid overtime compensation at the rate of time and one-half of his base salary rate, or adjusted base salary rate, for all time when he is directed to work and does work:

- (a) in excess of eight (8) hours in one day, or
- (b) on the sixth and seventh days of the workweek, provided he has first worked forty (40) hours at straight time in the same workweek.

Source

RPPL 1-37 § 9(4)(f), modified.

§ 421. Same; holiday pay.

An employee who is required to work on a legal holiday which falls during his regularly scheduled workweek shall be compensated for the hours worked on that holiday at double the base salary rate, or adjusted base salary rate when provided by law, for his position. Any time worked in excess of eight hours will be compensated at the overtime rate provided in section 420. Holiday pay of work performed on a legal holiday will not be paid any employee who is paid a standby differential for the same hours. Any employee required to work on a holiday which falls outside of his regularly scheduled workweek shall be compensated for the hours worked in the same manner as for overtime work performed on any other day.

Source

RPPL 1-37 § 9(4)(g), modified.

§ 422. Performance ratings.

The Director shall develop a system of performance ratings for the purpose of appraising the service of employees in the public service and improving the employees' performance. Each department shall rate each employee under its jurisdiction in accordance with the system and shall transmit the final ratings to the appropriate management official. A copy of the performance rating shall also be given to the affected employee. The department head shall inform an employee in writing whenever his performance in position is substandard. Performance ratings shall be used for determining eligibility for step increases, incentive awards, and retention status in the case of reduction-in-force.

Source

RPPL 1-37 § 9(5), modified. Amended by RPPL 3-20 § 1(2) as amended by RPPL 4-23 § 4(6).

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 72 (1993).

§ 423. Reduction-in-force.

Regulations shall be developed and promulgated to govern the conditions under which an employee is to be released from his position due to lack of work, lack of funds or governmental reorganization. The regulations shall provide that an employee's individual merit, including qualifications for the position, seniority, education, training, experience and performance ratings, shall be the primary basis for establishing the order of layoffs.

Source

RPPL 1-37 § 9(6), modified.

Notes

Becheserrak v. ROP, 5 ROP Intrm. 63, 70, 73 (1993).

§ 424. Racial, religious, or political consideration barred.

No person holding any position in the public service shall be suspended, demoted, or dismissed from his position on account of sex, marital status, racial, religious, or political grounds, or place of origin.

Source

RPPL 1-37 § 9(7), modified.

§ 425. Dismissal, demotion and suspension.

An appropriate management official may, for disciplinary purposes, incompetency or other reasons provided by regulation, dismiss, demote or suspend any employee for such length of time as he considers appropriate, and without pay. No dismissal, demotion or suspension for a period of three working days or more, whether consecutively or not, shall take effect unless the management official gives the employee a written notice setting forth the specific reasons upon which the dismissal, demotion or suspension is based.

Source

RPPL 1-37 § 9(8)(a), modified.

Notes

Ngirutang v. ROP, 5 ROP Intrm. 280 (Tr. Div. 1994).
Becheserrak v. ROP, 5 ROP Intrm. 63, 69, 70, 73 (1993).

§ 426. Contesting suspension, dismissals and demotions.

Any employee may contest his dismissal, demotion or suspension as follows:

(a) by appeal to a grievance panel.

(1) Any regular employee who is suspended for more than three (3) working days, dismissed or demoted, may appeal to a grievance panel within fourteen (14) calendar days after receiving written notice of the suspension, dismissal or demotion. The grievance panel shall consist of one member selected by the employee, one member selected by the responsible management official, and one (1) member selected by the two (2) other panel members. If the two (2) members cannot agree on the third member, that member shall be selected by the Director. Hearings shall be public except when the appealing employee requests a closed hearing. Upon such appeal, the appealing employee and the responsible management official shall each have the right to a hearing, to present evidence, and to be represented by counsel of his or her own choosing. At the hearing, technical rules of evidence shall not apply, and the evidence taken may be recorded stenographically or by recording machine. Within sixty (60) days the grievance panel shall render its findings of fact and final decision in writing. An employee who fails to appeal within the time prescribed in this subsection may not bring an action in any court to contest his suspension, dismissal or demotion.

(2) If the grievance panel finds that the action is not justifiable, the grievance panel shall either order that the employee be reinstated to his or her position and compensated for lost salary, or modify the action of the management official if it finds the circumstances of the case so require, and, thereupon, order such disposition of the case as it may deem just and proper. If the grievance panel finds that the action is justifiable, the grievance panel shall sustain the action of management.

(3) When an appeal hearing is before the grievance panel, the Attorney General or his/her designee shall represent the government.

(b) by action in the court.

(1) Any regular employee who is suspended for more than three (3) working days, or dismissed or demoted, may bring an action for reinstatement and loss of pay in the Trial Division of the Supreme Court within sixty (60) calendar days after written notice of the decision of the grievance panel in the government's favor.

(2) If the court finds that the reasons for the action are not substantiated in any material respect, or that the procedures required by law or regulation were not followed, the court shall order that the employee be reinstated in his position, without loss of pay and benefits. If the court finds that the reasons are substantiated or only partially substantiated, and that the proper procedures were followed, the court shall sustain the action of the management official, provided that the court may modify the action of the management official if it finds the circumstances of the case so require, and may thereupon order such disposition of the case as it may deem just and proper.

Source

RPPL 1-37 § 9(8)(b), modified. Amended by RPPL 4-23 § 4(7). Amended by RPPL 5-7 § 34(11)(i) on 10/3/97 effective 10/1/97.

Cross Reference

Heading specified in RPPL 4-23. Compare 1 PNCA § 205.

Notes

- April v. Palau Pub. Utils. Corp., 17 ROP 247, 253, 254 (2010).
Lucio Obakerbau v. Nat'l Weather Serv., 14 ROP 132, 133, 135 (2007).
Kazuma v. ROP, 14 ROP 112, 113, 114 (2007).
Ellechel v. ROP, 7 ROP Intrm. 143, 145 (1999).
Becheserrak v. ROP, 7 ROP Intrm. 111, 112, 114, 115 (App. Div. 1998).
Becheserrak v. ROP, 5 ROP Intrm. 63, 70, 72 (1993).
Becheserrak v. ROP, 4 ROP Intrm. 103 (1993).
Yalap v. ROP, 3 ROP Intrm. 61 (1992).

§ 427. Leave with pay.

Leaves of absence with pay may be granted to employees by appropriate management officials for reasons of vacation, illness, maternity, training, education, or for such other reasons as will promote the good of the public service. Eligibility for such leave, the method and rate of earnings, and the length of time shall be established by regulation.

Source

RPPL 1-37 § 9(9)(a), modified.

§ 428. Leave without pay.

Leaves without pay may be granted, but only for such reasons as appropriate management officials may deem proper. Such leaves must not inconvenience the public service, and must be consistent with applicable regulations.

Source

RPPL 1-37 § 9(9)(b), modified.

§ 429. Employee representation.

Employees shall have the right to form associations for the purpose of presenting their view to the government and shall be free from restraints or reprisal in the exercise of this right. Where such associations are formed, the government shall permit reasonable opportunity to such employees to present their views. Where such employee associations do not exist, the government shall provide clear and reasonable procedures for employees to make known their views regarding matters affecting their working conditions, status, or pay. Such procedures may include the use of elected representatives.

Source

RPPL 1-37 § 9(10).

§ 430. Application to contract personnel.

Sections 402, 403, 404 and 423 of this division shall not apply to personnel employed by contract, except to the extent that the provisions contained in such sections, or similar provisions contained in other laws, apply to personnel employed by contract by virtue of other laws. Nothing in this division shall be construed to prohibit the hiring of expatriate personnel by contract by the President of the Republic, the Chief Justice, the President of the Senate or the Speaker of the House of Delegates, or their designees.

Source

RPPL 1-37 § 9(11), modified.

§ 431. Employee annual and sick leave benefits.

All non-Public Service employees subject to the provisions of 33 PNCA § 702 and 40 PNCA

§ 222(c) shall be eligible for annual and sick leave benefits equal to the maximum annual and sick leave hours allowed Public Service System employees. Contract employees hired and employees appointed after the effective date of this section shall not be entitled to payment of unused accrued annual leave upon termination of employment, provided that contract employees who resign or are otherwise terminated prior to the end of such contracts, appointed employees who resign or are otherwise terminated prior to the end of the term of office of the President or Vice President, as applicable, and are unable to use the remaining balance of their annual leave prior to their termination date, and employees who are denied, as indicated in writing, the taking of annual leave by their supervisors shall be entitled to payment of unused accrued annual leave upon termination of employment. Supervisors shall make reasonable efforts to encourage and allow the taking of annual leave by contract employees. This section shall not apply to employees under contract as of the effective date of this section, or those same employees who enter into subsequent contracts with the National Government.

Source

RPPL 4-21 § 7, modified.

Notes

Ngiralmaw v. ROP, 16 ROP 167, 171 (2009).

§ 432. Amendment.

The Judiciary shall be exempt from any regulations promulgated pursuant to Title 33 of the Palau National Code Annotated and from the following sections of this Chapter: 402, 403, 406, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 427, 428, 429, 430, and 431.

Source

RPPL 4-42 § 2, modified.

**Chapter 6
Code of Ethics**

- § 601. Definitions.
- § 602. Use of nonpublic information.
- § 603. Use of government property.
- § 604. Conflict of interest.
- § 605. Disclosure of financial interests.
- § 606. Campaign statements.
- § 607. Acceptance and use of contributions.
- § 608. Ethics Commission established.
- § 609. Duties of the Public Auditor.
- § 610. Record keeping.
- § 611. Penalties.
- § 612. Injunction.
- § 613. Public records.
- § 614. Transition.

§ 601. Definitions.

In this chapter:

- (a) “Business entity” means an organization or enterprise operated for profit.
- (b) “Candidate” means any individual who has filed nomination papers with the Election Commission or who has received a contribution or made an expenditure for nomination or election to any national or state elective office. An elected officer is deemed to be a candidate until he files a statement with the Ethics Commission stating that he does not intend to seek reelection to the office he currently holds or to seek election to any other office, and that he will not accept any further contributions or make any further expenditures of contributions after the filing of the statement.
- (c) “Commission”, when used alone, means the Ethics Commission.
- (d) “Compensation” means any thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by oneself or another, but shall not include compensation from the national or state government, or contributions.

(e) “Contribution” means a payment, forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, whenever made, except to the extent that full and adequate consideration is received, unless it is clear from surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of, or in coordination, cooperation or consultation with, the candidate is a contribution to the candidate unless full and adequate consideration is received for making the expenditure. A contribution to a committee or other entity is a contribution to the candidate if the candidate has a significant influence on the actions or decisions of the committee or entity and the committee or entity makes an expenditure on behalf of the candidate. The term “contribution” does not include volunteer personal services. The term “contribution” does not include informational materials such as books or pamphlets, contributions that are not used and, within seventy-two (72) hours of receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes, or any devise or personal inheritance.

(f) “Election” means any primary, general, runoff, recall or special election.

(g) “Employee” means any nominated, appointed, or elected officer or employee of any state government or the national government. “Former employee” means a person who has been an employee within the preceding two (2) years.

(h) “Employment” means any rendering of services for compensation.

(i) “Financial interest” means:

(1) Any business entity in which the employee has a direct or indirect ownership interest, provided that interest has a fair market value of five hundred dollars (\$500) or more;

(2) An employment, or prospective employment for which negotiations have begun;

(3) Any real or personal property in which the employee has a direct or indirect ownership interest, including a leasehold interest, having a fair market value of one thousand dollars (\$1,000) or more;

(4) Any source of income, including compensation and gifts, and loans from sources other than commercial lending institutions made in the normal course of business, aggregating five hundred dollars (\$500) or more in value received by or promised to the employee during the preceding twelve (12) months;

- (5) A directorship or officership in a business;
- (6) Any source of contributions aggregating one thousand dollars (\$1,000) or more in value received by or promised to the employee during the preceding four (4) years.

As used in this chapter, “indirect ownership interest” means any interest owned by the spouse or dependent children of the employee or by an agent on behalf of the employee, or the pro rata share of an interest owned by a business entity in which the employee or the employee’s spouse or dependent children cumulatively own a ten percent (10%) or greater interest.

- (j) “Foreign national” means any individual who is not a citizen of the Republic of Palau, or a business entity, any of the ownership interest of which is held, directly or indirectly, by an individual who is not a citizen of the Republic of Palau.
- (k) “Official act” or “official action” means a decision, recommendation, approval, disapproval, or other action, or a failure to act, which involves the use of discretionary authority.
- (l) “Official authority” includes administrative or legislative powers of decision, recommendations, approval, disapproval, or other discretionary action.
- (m) “Payment” means a transfer, distribution, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.
- (n) “Person” means any individual, corporation, partnership, association, or other entity.
- (o) “Public official” means any national elected official, any minister, any director of a bureau or chief of a division of the national government, any state chief executive officer, any member of a state legislature, any member of a national or state board, commission or authority, and any procurement officer or other employee responsible for the award of contracts on behalf of the Republic, or any of its separate branches or subdivisions, or on behalf of any state, or any of its separate branches or subdivisions; “public official” does not mean a traditional male or female leader who by virtue of their traditional title automatically receives or is appointed to a public position; however, a traditional leader who runs for an elected office shall be required to comply with the reporting requirements as set forth in this chapter.

Source

RPPL 5-32 § 3, modified. Subsection (o) amended by RPPL 9-7 § 13, modified.

Notes

Former section 601 was repealed by RPPL 5-32 § 17.

Renguul v. ASPLA, 8 ROP Intrm. 282, 283, 285 (2001).

§ 602. Use of nonpublic information.

No employee or former employee may use information acquired in the course of the employee's official duties for the employee's personal gain until such information has been made available to the general public.

Source

RPPL 5-32 § 4.

Notes

Former section 602 was repealed by RPPL 5-32 § 17.

§ 603. Use of government property.

No employee may use national or state time, equipment, facilities, assets or property for political activities or other private activities that serve no governmental or public purpose.

Source

RPPL 5-32 § 5.

§ 604. Conflict of interest.

(a) No employee may take, participate in taking or use his or her government position to attempt to influence any official action where it is reasonably foreseeable that the action could have a material financial effect on that employee, or on any financial interest of that employee, that is different from the effect on the public generally. An employee who is unable to disqualify himself on any matter because he is the only person authorized by law to perform the official action will not be in violation of this subsection if he has complied with the disclosure requirements in section 605.

(b) No employee may acquire a financial interest in any business or other undertaking which he has reason to believe may be directly affected by official actions to be taken by him.

(c) No employee may assist any person for compensation or act in a representative capacity before any national or state government agency in any matter that relates in any way to the governmental duties of the employee.

(d) No employee may use or attempt to use the employee’s official position to secure or grant privileges, exemptions, advantages, contracts, or treatment, for himself or others, including but not limited to the following:

(1) Seeking other employment or contracts for services for the employee by the use or attempted use of the employee’s office or position; and

(2) Soliciting, receiving or accepting compensation or other consideration for the performance of the employee’s official duties or responsibilities except as provided by law;

(3) Soliciting, receiving or accepting any gift or other item of monetary value from any person seeking official action from, doing business with, or conducting activities regulated by the employee’s agency, or from any person whose interests may be substantially affected by the performance or nonperformance of the employee’s duties; provided that this subdivision shall not apply to wedding gifts, customary gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(e) No employee may engage in any outside employment or other outside activity that is incompatible with the full and proper discharge of the employee’s office or position. The Ethics Commission shall, for each government agency, designate those outside activities that are deemed to be incompatible with the duties of the employees of that agency.

Source

RPPL 5-32 § 6, modified.

§ 605. Disclosure of financial interests.

(a) For the purpose of this section, the term “reporting period” refers to the preceding calendar year with respect to annual statements filed by public officials, and the preceding twelve-month period with respect to assuming office and leaving office statements filed by public officials and statements filed by candidates.

(b) No later than February 1 of each year, within thirty (30) days of assuming office and

within thirty (30) days of leaving office, all public officials shall file with the Commission financial disclosure statements for the reporting period disclosing their financial interests. All candidates shall file the required statements no later than sixty (60) days prior to the date of the election for state or national offices.

(c) Financial disclosure statements required by this section shall state for the reporting period:

- (1) The name and mailing address of each source and amount of income, including compensation and gifts from persons other than the public official's or candidate's spouse or children, totaling five hundred dollars (\$500) or more, received by or promised to the public official or candidate, provided that contributions, and salary and benefits from the national or any state government, need not be reported under this subsection.
- (2) The mailing address of every business entity incorporated, regulated, or licensed to conduct business in the Republic, and every business entity which plans to do business in the Republic or has done business in the Republic during the two years prior to the time the statement is required to be filed, in which the public official or candidate had a direct or indirect ownership interest having a fair market value of five hundred dollars (\$500) or more, and the amount of that interest.
- (3) Every business entity in which the public official or candidate was an officer, director, partner, trustee, employee or held a position of management.
- (4) The name of each creditor to whom the value of one thousand dollars (\$1,000) or more was owed at any time during the reporting period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed.
- (5) The location and the value of any real property in the Republic in which the public official or candidate held a direct or indirect ownership interest having a fair market value of one thousand dollars (\$1,000) or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration.

(6) For annual, assuming office and leaving office statements, the names of all persons who made contributions totaling one hundred dollars (\$100) or more to the public official during the preceding four years.

(d) Where a public official's or candidate's financial interests for a reporting period are identical to those reported on the last disclosure statement filed under subsection (c), the public official or candidate may file for that reporting period, in lieu of the disclosure statement required by subsection (c), a statement certifying that his or her financial interests have not changed since the filing of the last statement filed under subsection (c). All such statements shall comply with subsection (f) of this section.

(e) Where an amount is required to be reported, the person disclosing may indicate whether the amount is at least one thousand dollars (\$1,000) but less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) but less than fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) but less than one hundred thousand dollars (\$100,000); or one hundred thousand dollars (\$100,000) or more.

(f) The public official or candidate shall verify, under penalty of perjury, that he has used all reasonable diligence in preparing the disclosure statement and that to the best of his knowledge the statement is true and correct.

(g) The Election Commission, upon receipt of the nomination paper of any person seeking a state or national elective office, shall notify the Ethics Commission of the name of the candidate for state or national office and the date on which the person filed the nomination petition. The Election Commission, upon the expiration of the time allowed for filing, shall release to the public a list of all candidates who have failed to file financial disclosure statements.

(h) Any statement filed pursuant to this section may be amended at any time. Amending an incorrect or incomplete statement may be considered as evidence of good faith.

Source

RPPL 5-32 § 7, modified.

Notes

Uehara v. Republic of Palau, 17 ROP 167, 170, 171, 177 (2010).

§ 606. Campaign statements.

(a) For each election at which a candidate is seeking elective office, the candidate shall

file with the Commission a pre-election campaign statement which shall cover the period beginning with the date the candidate received his first contribution for the election and ending thirty (30) days before the election and shall be filed no later than twenty (20) days before the election.

(b) Each candidate who receives from a single source contributions totaling five hundred dollars (\$500) or more after the closing date of the pre-election campaign statement and before the election shall file a late contribution statement disclosing the total amount of such contributions, the name and address of the contributor, the amount of the contribution and the date of the contribution. The statement shall be delivered to the Commission for filing by personal delivery or facsimile transmission no later than forty eight (48) hours after the contribution is made. A late monetary contribution need not be reported nor shall it be deemed to be accepted if it is not cashed, negotiated and deposited and is returned within forty eight (48) hours of its receipt, and a late non-monetary contribution need not be reported and shall not be deemed to be accepted if it is not used in any way and is returned to the contributor within forty eight (48) hours of its receipt.

(c) For each election at which a candidate is seeking elective office, the candidate shall file with the Commission a post-election campaign statement which shall cover the entire period during which the candidate received contributions in connection with that election. The post-election campaign statement shall be filed no later than one hundred twenty (120) days after the election.

(d) Each pre-election and post-election campaign statement required by this chapter shall contain all of the following information:

(1) The total amount of contributions received and expenditures made during the period covered by the campaign statement;

(2) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more, the person's name and address, and the date and amount of each contribution received from that person during the period covered by the campaign statement;

(3) For each person to whom an expenditure of five hundred dollars (\$500) or more has been made during the period covered by the campaign statement, the person's name and address, the amount of each expenditure and a brief description of the consideration for which each expenditure was made;

(4) A verification by the candidate, executed under penalty of perjury, that he has used all reasonable diligence in the preparation of the statement and that to the best of his knowledge the statement is true and correct; and

(5) Any other information that the Commission may reasonably deem necessary to fulfill the purposes of this chapter or to more fully inform citizens regarding the financing of campaigns in the Republic.

(e) A monetary contribution need not be reported and shall not be deemed to be accepted if it is not cashed, negotiated or deposited and is returned to the contributor within seventy two (72) hours of its receipt, and a non-monetary contribution need not be reported and shall not be deemed to be accepted if it is not used in any way and is returned to the contributor within seventy two (72) hours of its receipt.

(f) Any statement filed pursuant to this section may be amended at any time. Amending an incorrect or incomplete statement may be considered as evidence of good faith.

Source

RPPL 5-32 § 8, modified.

§ 607. Acceptance and use of contributions.

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution in connection with an election to any national or state elective office, or in connection with any convention or caucus to select candidates for any national or state elective office or in support of or in opposition to any national or state ballot measure; or for any person, including any candidate, to solicit, accept, or receive any such contribution from a foreign national.

(b) No contribution of two hundred fifty dollars (\$250) or more may be made unless by check or money order, drawn on a bank located in the Republic, containing the name of the contributor and the name of the payee. No expenditure of two hundred fifty dollars (\$250) or more may be made in cash.

(c) No contribution may be made, directly or indirectly, by any person in a name other than the name by which the person is identified for legal purposes.

(d) Unless returned to the contributor, all monetary contributions shall be deposited into a single account in a bank located in the Republic within seventy two (72) hours of their receipt, and all expenditures of two hundred fifty dollars (\$250) or more shall be made by

way of a check drawn on this account. The candidate shall inform the Commission of the name of the bank and the account number within five business days of establishing the account.

(e) A candidate may expend contributions only for purposes reasonably related to the election of that candidate to the office sought by the candidate.

(f) No employee may, as a candidate or on behalf of any other candidate, solicit, accept, or receive, directly or indirectly, any contribution, under circumstances in which a reasonable person, in the position of the employee, would believe that the contribution is intended to influence the employee in the performance of the employee's official duties or is intended as a reward for any official action on the employee's part.

(g) No employee or candidate may use, or promise, threaten or attempt to use, any actual or anticipated government authority to assist or obstruct any individual in obtaining any employment, nomination, confirmation, promotion, or change in compensation or employment, in exchange for the individual agreeing to vote or contribute to, or to withhold his vote for or contribution to, any candidate.

(h) No candidate for the office of the President or Vice President of the Republic may, directly or indirectly, solicit a contribution from any employee of the executive branch of the national government with knowledge that the person from whom the contribution is solicited is an employee of the executive branch of the national government. No candidate for the Olbiil Era Kelulau may, directly or indirectly, solicit a contribution from any employee of the Olbiil Era Kelulau with knowledge that the person from whom the contribution is solicited is an employee of Olbiil Era Kelulau. No candidate for the chief executive office of any state may, directly or indirectly, solicit a contribution from any employee of the executive branch of that state with knowledge that the person from whom the contribution is solicited is an employee of the executive branch of that state. No candidate for any state legislature may, directly or indirectly, solicit a contribution from any employee of that state legislature with knowledge that the person from whom the contribution is solicited is an employee of that state legislature. This subsection shall not prohibit a candidate from requesting contributions from an employee if the solicitation is part of a solicitation made to a significant segment of the public which may include employees.

(i) No employee may participate in political activities of any kind while in uniform.

Source
RPPL 5-32 § 9.

§ 608. Ethics Commission established.

- (a) There is established a commission to be known as the Ethics Commission. The Commission shall consist of three (3) members appointed by the President with the advice and consent of the Senate. The term of each member shall be four (4) years. Members of the Commission shall hold no other public office or public employment. The chairman of the Commission shall be elected by a majority of the Commission. Members of the Commission may be removed by the President only for good cause. Vacancies shall be filled for the remainder of any unexpired term in the same manner as the original appointment. Commission members shall be compensated at a rate of thirty five dollars (\$35) for each meeting the Commission member attends.
- (b) The Commission shall adopt regulations to carry out the purposes of this chapter.
- (c) The Commission shall prescribe and supply the forms for statements and reports required by this chapter.
- (d) The Commission shall determine whether required documents have been filed and, if so, whether they comply on their face with the requirements of this chapter.
- (e) The Commission shall notify promptly all persons who have failed to file a report or statement in the form and at the time required by this chapter.
- (f) The Commission may employ staff, including legal counsel to advise and represent the Commission in actions filed by or against it, and to assist the Commission to issue advisory opinions upon the request of any person governed by this chapter as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the chapter.
- (g) The Commission shall initiate, receive, and consider charges concerning alleged violations of this chapter, initiate or make investigations, and hold hearings.
- (h) The Commission may subpoena witnesses, administer oaths and take testimony relating to matters before the Commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the Commission. Before the Commission may exercise any of the powers authorized herein with respect to any investigation or hearing, it shall, by a vote of a majority of its members, define the nature and scope of its inquiry.

(i) On an affirmative vote of a majority of its members, the Commission shall have authority to bring civil actions on its own behalf, and take other actions consistent with the law to enforce the provisions of this chapter.

(j) The members of the Commission and its staff may not take an active part in political management or in political campaigns during their term of office or employment, nor may they make contributions to political campaigns during their term of office or employment.

Source

RPPL 5-32 § 10, modified. Subsection (e) is amended by RPPL 6-26 § 32(b). Amendment by RPPL 6-26 § 32(b) is repealed in its entirety by RPPL 6-30 § 2.

§ 609. Duties of the Public Auditor.

The Public Auditor shall conduct mandatory audits of campaign statements filed by candidates for the Office of President and Vice President of the Republic and shall conduct random audits of other statements filed under this chapter for the purpose of encouraging compliance with and detecting violations of this chapter. The Public Auditor shall conduct an audit of any statement filed under this chapter if requested to do so by the Commission, Attorney General or Special Prosecutor. The Public Auditor shall annually prepare and transmit to the Commission, Attorney General and Special Prosecutor a report containing the findings of the Public Auditor with respect to the accuracy and completeness of each report and statement reviewed and his findings with respect to any statement or report that should have been but was not filed.

Source

RPPL 5-32 § 11, modified. Amended by RPPL 6-26 § 32(b). Amendment by RPPL 6-26 § 32(b) is repealed in its entirety by RPPL 6-30 § 2.

§ 610. Record keeping.

It shall be the duty of each public official and candidate to maintain such detailed accounts, records, bills and receipts as are necessary to prepare financial and campaign statements and comply with the provisions of this chapter. These records shall be retained for a period of four (4) years from the filing date of the statement to which they relate.

Source

RPPL 5-32 § 12, modified.

§ 611. Penalties.

(a) Criminal penalties. Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor. In addition to other penalties provided by law, a fine of up to ten thousand dollars (\$10,000) shall be imposed for each violation. For violations of the reporting requirements, a fine of up to three (3) times the amount the person failed to report properly may be imposed for conviction of each violation. Prosecution under this subsection must be commenced within four (4) years after the date on which the violation occurred, or in the case of a public official, four (4) years after the public official leaves government service. Prosecution under this section may be undertaken by the Attorney General or Special Prosecutor.

(b) Civil penalties. Any person who intentionally or negligently violates any provision of this chapter shall be liable in a civil action brought by the Commission, Attorney General, the Special Prosecutor or a citizen of the Republic for an amount not more than ten thousand dollars (\$10,000) or, in the case of a violation of the reporting provisions of this chapter, an amount not more than the amount or value not properly reported or ten thousand dollars (\$10,000), whichever is greater. If a judgment is entered against the defendant in an action brought by a citizen of the Republic, the plaintiff shall receive fifty percent (50%) of the amount recovered, and shall be entitled to recover from the defendant his costs of litigation, including reasonable attorneys' fees. Before a citizen may bring an action pursuant to this section, the citizen must submit a written request to the Commission, Attorney General and Special Prosecutor asking that they bring a civil action and a written statement setting [forth] the specific facts upon which the citizen bases his or her allegation. If the Commission, Attorney General and Special Prosecutor fail to bring a civil action within sixty (60) days after receipt of the written request, or bring an action that is later dismissed without prejudice to the filing of another action, the citizen may thereafter bring a civil action pursuant to this section. An action under this subsection must be commenced within four (4) years after the date on which the violation occurred.

(c) Any public official or candidate who fails to timely file any statement required by this chapter shall pay to the Commission a penalty of fifty dollars (\$50) per day for each day that the disclosure is delinquent. All funds received by the Commission shall be deposited in the national treasury.

(d) If two or more persons are responsible for any violation, they shall be jointly and severally liable.

Source
RPPL 5-32 § 13, modified.

Notes

The bracketed [forth] in subsection (b) reads as “for the” in the original legislation.

Uehara v. Republic of Palau, 17 ROP 167, 176, 180 (2010).

§ 612. Injunction.

(a) The Commission, Attorney General, Special Prosecutor or any citizen of the Republic of Palau may sue for injunctive relief to enjoin violations of, or to compel compliance with, the provisions of this chapter.

(b) Upon a preliminary showing in an action brought by the Commission, the Attorney General, the Special Prosecutor or a citizen that a violation of section 602, 604 or 607(g) has occurred, the court shall restrain the execution of any official action in relation to which such violation occurred, pending final adjudication. If the court ultimately determines that a violation of section 602, 604 or 607(g) has occurred and that there is a substantial likelihood that the official action would not otherwise have been taken or approved, the court shall set the official action aside as void. The court may, in its discretion, choose not to grant relief otherwise required by this subsection if it determines that to do so would work a severe hardship on the public or innocent persons relying on the official action.

(c) A citizen of the Republic who prevails in obtaining relief under this section shall be entitled to his costs of litigation, including reasonable attorneys’ fees.

Source

RPPL 5-32 § 14, modified.

§ 613. Public records.

Every report and statement filed pursuant to this chapter is a public record open for public inspection and reproduction during regular business hours of the Commission, commencing as soon as practicable, but in any event not later than three (3) business days after the day on which it was received. No conditions shall be imposed upon persons wishing to inspect reports and statements filed under this chapter. Copies shall be provided at a charge of twenty cents (\$.20) per page.

Source

RPPL 5-32 § 15, modified.

§ 614. Transition.

Sections 602, 603, 604, 605, 606 and 607 of this chapter shall not be enforced until ninety (90) days after the effective date of this chapter. During that period, the Office of the Attorney General shall, through a combination of written materials and oral presentations, educate public officials and employees about their duties under this chapter. After that period, this function shall be assumed by the Commission. An allegation that the Office of the Attorney General or the Commission failed to adequately educate public officials and employees shall not constitute a defense for violating this chapter.

Source

RPPL 5-32 § 16, modified. Amendment by RPPL 6-26 § 32(b) is repealed in its entirety by RPPL 6-30 § 2.

Notes

The effective date of RPPL 5-32 was August 4, 1999.

**Chapter 7
Base Salary Schedule**

§ 701. Purpose.

§ 702. Base salary schedule.

§ 703. Reclassification; existing net salaries protected.

§ 704. Further review and action regarding government wages and salaries.

§ 701. Purpose.

The purpose of this chapter is to establish a new base salary schedule for the National Public Service System. This salary schedule shall apply to all persons in the employ of each of the three branches of the national government unless they are specifically exempted therefrom by law.

Source

RPPL 1-38, § 1, modified.

Notes

The Olbiil Era Kelulau is exempted. See 33 PNCA § 205(a)(6).

§ 702. Base salary schedule.

(a) The base salary schedule appearing in the table below provides the official annual salary rates which shall be paid to all civil service and contract employees of the National Government unless otherwise specifically established by law. Hourly rates shall be calculated by dividing the applicable annual salary level and dividing by two thousand eighty (being forty hours per week for fifty-two weeks in a year) and rounded to the nearest tenth of a dollar.

BASE SALARY SCHEDULE

33 PNCA § 702

ANNUAL BASE SALARY SCHEDULE

Grade	Steps													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	6630	6809	6994	7185	7381	7650	7930	8221	8524	8917	9331	9765	10221	10795
2	6929	7117	7311	7511	7717	8000	8294	8599	8917	9331	9765	10221	10699	11302
3	7243	7441	7645	7854	8070	8367	8676	8997	9331	9765	10221	10699	11202	11835
4	7572	7780	7994	8214	8441	8752	9076	9414	9764	10220	10698	11201	11728	12393
5	7918	8136	8361	8592	8830	9157	9498	9852	10220	10698	11201	11728	12282	12980
6	8282	8511	8747	8990	9240	9583	9941	10312	10699	11201	11729	12283	12865	13597
7	8663	8903	9151	9406	9669	10029	10405	10795	11201	11728	12282	12864	13474	14244
8	9665	9935	10214	10501	10796	11202	11624	12063	12520	13113	13737	14391	15078	15944
9	10791	11095	11409	11731	12064	12520	12995	13489	14003	14670	15371	16107	16880	17854
10	12059	12401	12754	13117	13491	14005	14539	15094	15672	16423	17212	18040	18909	20005
11	13485	13870	14267	14675	15096	15674	16275	16900	17550	18395	19282	20213	21192	22424
12	15090	15523	15969	16429	16902	17552	18229	18932	19663	20614	21612	22660	23760	25147
13	16895	17382	17884	18401	18934	19665	20426	21217	22040	23109	24232	25411	26649	28209
14	19169	19725	20297	20886	21493	22327	23194	24096	25034	26253	27533	28877	30289	32067
15	22502	23158	23833	24528	25245	26228	27252	28316	29422	30861	32371	33957	35623	37721
16	26436	27210	28006	28827	29672	30833	32041	33296	34602	36300	33082	39954	41919	44395
17	31077	31990	32930	33898	34896	36266	37690	39172	40713	42716	44819	47028	49347	52268
18	37162	38258	39386	40548	41745	43389	45098	46876	48725	51129	53653	56303	59086	62592

Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
EPS1	9,6150	10,817	12,019	13,221	14,423	15,625	16,827	18,029	19,231	20,433
Yr	20,000	22,500	25,000	27,500	30,000	32,500	35,000	37,500	40,000	42,500
EPS2	20,673	21,154	21,635	22,115	22,596	23,077	24,038	26,442	31,250	33,654
Yr	43,000	44,000	45,000	46,000	47,000	48,000	50,000	55,000	65,000	70,000

(1) Transition to this new salary schedule shall take effect on January 1, 2006 and shall continue until all civil service employees and contract employees are transferred accordingly into this salary schedule. All regular civil service employees and contract employees shall be placed in this salary schedule in accordance with the classification guideline and procedures to be established by the Bureau of Public Service System and approved by the President. Once all civil service and contract employees are transferred into this salary schedule, then Section 703 and 704 and its applicable subsections will automatically be suspended.

(b) Addition of two grades to the pay schedule.

(1) [Grades 31 and 32], which shall be referred to herein and hereafter as Executive, Professional, and Special (“EPS”) grades EPS1 and EPS2, respectively, in all official personnel documents[,] tables and schedules, are designated exclusively for assignment of rates of pay for unique and specialized executive, professional, and special contract positions, as defined by the appropriate management official and certified in accordance with 33 PNCA § 205(a)(1). Public Service System employees and those under contract as of the effective date of this section shall not be eligible for pay within grades EPS1 and EPS2.

(2) Contract employees not defined by the appropriate management official and not certified in accordance with 33 PNCA § 205(a)(1) as eligible for EPS1 and EPS2 grades shall be paid according to [grades 1 through 30] of the Base Wage and Salary Schedule provided in subsection (a) of this section.

(3) The Public Service System Regulations regarding step increases shall not apply to employees in the EPS1 and EPS2 grades, nor to any non-Public Service System employees within [grades 1 through 30].

(4) The minimum salary for any full-time civil service employee who is a Palauan citizen and who works as a Medical Doctor for the Ministry of Health shall be \$65,000 per year, and the maximum salary for such Medical Doctors, including all salary adjustments and differentials authorized by law, shall be \$75,000. The minimum salary established by this section shall not apply to a medical officer but shall only apply to a doctor who has earned an M.D. degree or its equivalent from an accredited and internationally recognized medical school, and whose job requires that he practice medicine full time, excluding administrative work, for the Ministry. The maximum salary established by this section shall not apply to U.S. Board certified specialists.

(c) Unless otherwise approved by a joint resolution of the Olbiil Era Kelulau, the following eligibility restrictions regarding maximum pay or grade allowable apply:

(1) Judicial Branch

(A) Contract employees not covered under the eligibility designations and restrictions provided in subparagraph (2) or as otherwise provided herein shall be paid according to grades 1 through 18 of the Base Wage and Salary Schedule provided in subsection (a) of this Section.

(B) EPS1, steps 1 through 10: Other Judicial Branch professionals, as determined by the Chief Justice.

(C) Associate Judges of the Court of Common Pleas shall receive an annual salary of fifty five thousand dollars (\$55,000), if he or she is an attorney, and twenty five thousand dollars (\$25,000) if he or she is not, as determined by the Chief Justice. The Senior Judge of the Court of Common Pleas shall receive an annual salary of sixty thousand dollars (\$60,000) if he or she is an attorney, and twenty eight thousand dollars (\$28,000) if he or she is not an attorney, as determined by the Chief Justice. Full-Time Associate Judges of the Land Court shall receive an annual salary of sixty thousand dollars (\$60,000) if he or she is an attorney, and shall receive an annual salary of between thirty thousand dollars (\$30,000) and forty five thousand dollars (\$45,000), as determined by the Chief Justice, if he or she is not an attorney. Part-Time Associate Judges of the Land Court shall be paid based on an annual salary to be determined by the Chief Justice but in no case shall it be more than thirty five thousand dollars (\$35,000) annually. The Senior Land Court Judge shall receive an annual salary of not less than sixty five thousand dollars (\$65,000) and not more than seventy thousand dollars (\$70,000), exclusive of housing and other benefits, as determined by the Chief Justice.

(D) Each Associate Justice of the National Court shall receive an annual salary of not less than forty five thousand dollars \$45,000 and not more than sixty thousand dollars (\$60,000).

(E) The Presiding Judge shall receive an annual salary of not less than fifty thousand dollars (\$50,000) and not more than seventy five thousand dollars (\$75,000).

(F) Each Associate Justice shall receive an annual salary of not less than sixty five thousand dollars (\$65,000) and not more than eighty thousand dollars (\$80,000).

(G) The Chief Justice shall receive an annual salary not to exceed ninety thousand dollars (\$90,000).

These Judicial Branch Salaries shall become effective as of January 1, 2006.

(2) Executive Branch

(A) As of October 1, 2010 the President shall receive an annual salary of ninety thousand dollars (\$90,000) to be paid in equal biweekly installments while the President is in office.

(B) As of October 1, 2010 the Vice President shall receive an annual salary of sixty five thousand dollars (\$65,000) to be paid in equal biweekly installments while the Vice President is in office.

(C) As of October 1, 2010 each Minister shall receive an annual salary of fifty thousand dollars (\$50,000) to be paid in equal biweekly installments while the Minister is in office.

Source

RPPL 1-38, § 2, modified. Subsection (a) amended by RPPL 3-59 § 1. Subsection (a) amended by RPPL 4-2 § 7. and RPPL 4-21 § 3, modified. Subsection (c) added by RPPL 4-36 § 3. Subsection (c)(1)(C) amended by RPPL 4-43 § 22(b). Subsection (b)(4) added by RPPL 5-2 § 18; amended by RPPL 5-7 § 37(a). Subsection (c)(1)(C) amended by RPPL 5-22 § 4 & by RPPL 6-26 § 24 and RPPL 6-43 § 4. Subsection (a) amended by RPPL 7-13 § 17. Subsection (c)(1) amended by RPPL 7-13 § 18. Subsection (c)(1)(C) was amended by RPPL 7-51 § 3. Subsection (c)(2) is amended in its entirety by RPPL 8-15 § 12, modified. Subsection (a) amended by RPPL 9-8 § 3.

Notes

The following bracketed portions in subsection (b)(1),(2) & (3) as follows: [Grades 31 and 32]; [grades 1 through 30] should be amended to follow the new base salary schedule incorporated by RPPL 7-13 § 17. RPPL 7-13 § 18's amendment to 33 PNC § 702(a) was not codified because of its obvious conflict with RPPL 7-13 § 17. Also, the EPS 1 and EPS 2 annual salary schedule previously codified was determined not to have been repealed as suggested by RPPL 7-13 § 17 because reference to the EPS schedules is maintained in the amendments made by RPPL 7-13 § 18.

The first paragraph of RPPL 7-13 § 18 reads:

Section 18. Amendment. Base Salary Schedule, 33 PNC § 702(c)(1), as amended by RPPL No. 5-22 and RPPL No. 6-26 and Section 4 of RPPL No. 6-43, is further amended to read as follows:

"Section 702. Base Salary Schedule.

(a) The base salary schedule appearing in the table below provides the official hourly base and annual salary rates which shall be paid to all employees of the National Government unless otherwise specifically established by law: National Public Service System employees shall be paid within the wages provided by grades 1 through 18, in accordance with the respective pay levels assigned to their positions by the appropriate legal authority.....

RPPL 4-21 § 3(c) was suspended by DOI on 6-8-94 and effectively repealed by RPPL 4-28 § 1.

Kerradel v. Micronesian Ind. Corp., 1 ROP Intrm. 118 (Tr. Div. 1984).

§ 703. Reclassification; existing net salaries protected.

(a) The President shall by executive order establish a new national government employee job classification plan to replace the existing classification plan. The executive order shall be promulgated before and shall take effect on the effective date of this section.

(b) The Minister of Finance shall implement the new classification plan as it relates to the payment of salaries and wages; provided that in no case shall the net salary or wages of any government employee be reduced as a result of the new classification plan or this chapter. The term “net salary or wages” means the salary or wages received by an employee after deductions are made for taxes withheld. The Minister of Finance is not authorized to make adjustments to the reclassification plan for the purpose of maintaining net salary or wages in the case of any tax increase that may be enacted into law.

Source

RPPL 1-38 § 3, modified.

Notes

Section 703 should be suspended pursuant to the last sentence of § 702(a)(1).

RPPL 4-21 § 8 which repealed § 703 was suspended by DOI on 6-8-94 and effectively repealed by RPPL 4-28 § 1.

§ 704. Further review and action regarding government wages and salaries.

The President shall review the National Government wage and salary schedule for civil service, contract, and appointed positions and prepare a report to the Olbiil Era Kelulau along with recommended actions to be taken prior to Fiscal Year 1996 regarding:

- (a) continuation or amendment of the provisions of RPPL 4-21;
- (b) position classification and reclassification studies for all branches of the National Government;
- (c) restructuring of the Public Service Base System Wage and Salary Schedule to develop a position classification system having an appropriate ratio of grades compared to number of employees;
- (d) devising a means by which civil service employees who remain in the last step of their grade for a period of more than five (5) years are given the opportunity for advancement to a higher grade;

BASE SALARY SCHEDULE

33 PNCA § 704

- (e) recommending retention of teacher positions within the civil service system, or conversion of all teachers and school-level administrators to contracts;
- (f) determining if pay proportionately higher to other civil service positions is desirable in order to attract and retain qualified Palauans to upper management, other professional, and highly technical positions; and
- (g) any other measures that are necessary.

Source

RPPL 4-21 § 10, modified.

Notes

Section 704 should be suspended pursuant to the last sentence of § 702(a)(1).

**DIVISION 2
MISCELLANEOUS PROVISIONS**

**Chapter 10
Work Conditions**

§ 1001. Basic workweek.

§ 1001. Basic workweek.

The basic workweek for the Republic is established as follows: Monday through Friday from 7:30 a.m. to 11:30 a.m. and 12:30 p.m. to 4:30 p.m.

Source
PDC § 125, modified.

BOARDS, COMMISSIONS, AUTHORITIES, ETC. 33 PNCA § 1103

**Chapter 11
Boards, Commissions, Authorities, Etc.**

- § 1101. Definition.
- § 1102. Conflict prohibition.
- § 1103. Limitation on board service.
- § 1104. Repeal.
- § 1105. Term of members of boards, commissions, authorities, and other entities.

§ 1101. Definition.

As used in this chapter, the term “board” means all boards, commissions, authorities, and committees duly established by laws enacted by the National Government.

Source

RPPL 3-19 § 1, modified.

Commission Comment

Sections 2 and 6 of RPPL 3-19 were suspended by the Assistant Secretary of the Interior on December 9, 1989.

§ 1102. Conflict prohibition.

Effective on thirty (30) days from the effective date of this chapter, no permanent, part-time, or temporary employee of any board shall be eligible to be a member of that board or entity under the direct jurisdiction of a particular board. Any employee having such a conflict shall have until thirty (30) days after the effective date of this chapter to elect to maintain one or the other of the two positions and shall tender his resignation for the position not chosen.

Source

RPPL 3-19 § 3, modified.

Commission Comment

The effective date of RPPL 3-19 was December 9, 1989.

§ 1103. Limitation on board service.

No permanent officer or employee of the National Government shall be a member of more than two boards. Any permanent officer or employee who shall be affected by the provisions of this

section shall have thirty (30) days after the effective date of this chapter to comply with the requirements of this section.

Source

RPPL 3-19 § 4, modified.

Commission Comment

The effective date of RPPL 3-19 was December 9, 1989.

§ 1104. Repeal.

All laws in any way inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency with the provisions of this chapter, [and] are hereby abrogated to the extent of such inconsistency.

Source

RPPL 3-19 § 5, modified.

§ 1105. Term of members of boards, commissions, authorities, and other entities.

No person who is a member of any board, commission, authority or other entity created by law shall hold his office beyond the expiration of the term for which he was appointed unless such person shall be reappointed and fully qualified consistent with applicable law. The President shall, not later than ninety (90) days prior to the expiration of the term of appointment of any member of any board, commission, authority, or other entity created by law, submit to the Senate for advice and consent the name of an appointee to serve in the position occupied by such member upon such expiration.

Source

RPPL 3-42 § 2(2)(a), modified.

Notes

Previously codified at § 901 of Title 1.

Chapter 12
Designated Employee Drug Testing

- § 1201. Findings and Purpose.
- § 1202. Definitions.
- § 1203. Drug Testing.
- § 1204. Consequences for employee of positive drug test; probation; dismissal; defenses.
- § 1205. Consequences for applicant of positive drug test; refusal to hire; defenses.
- § 1206. Refusal to take test or enroll in substance abuse program; dismissal.
- § 1207. Referral to Attorney General.
- § 1208. Leave for testing.
- § 1209. Promulgation of regulations.
- § 1210. Identification of employees subject to testing.

§ 1201. Findings and Purpose.

- (a) The use of illegal drugs is becoming a more significant problem in the Republic of Palau. In particular, the use of illegal drugs by some officials and employees of the National Government can present significant problems.
- (b) The use of illegal drugs increases absenteeism and reduces productivity, thus constituting a waste of limited public resources.
- (c) The use of drugs by some government employees whose duties include the operation of vehicles and heavy equipment, or other functions the negligent performance of which could injure themselves or others, threatens public safety.
- (d) Government officials and employees are charged with enforcing the Constitution and laws of the Republic. When these officials and employees engage in the illegal use of drugs, it undermines the credibility and integrity of the Republic and suggests to others that the government is not serious about enforcing the Republic's drug laws.
- (e) This law is intended to determine whether government employees are using or recently have used illegal drugs and to dismiss those employees from government service if they cannot be rehabilitated.

Source
RPPL 4-46 § 1.

Notes

ROP v. Takeo, 8 ROP Intrm. 307, 308, 309 (2001).

§ 1202. Definitions.

- (a) “Controlled substance” means marihuana, cocaine, heroin, methamphetamine and any other controlled substance as defined in 34 PNCA 3002 for which the Ministry of Health has the capability of testing without incurring unreasonable costs;
- (b) “Minister” means the Minister of Health.
- (c) “Designated Employee” means any Bureau of Public Safety police officer, customs officer, immigration officer, airport security officer, quarantine officer, or employee or elected or appointed officer of the National Government who performs duties, the negligent performance of which would constitute a threat to public health or safety, as determined by the National Civil Service Board pursuant to section 1204 of this chapter.

Source

RPPL 4-46 § 1.

Notes

ROP v. Takeo, 8 ROP Intrm. 307, 308 (2001).

§ 1203. Drug testing.

- (a) Within 90 days of the effective date of this chapter, the Minister or his designee shall devise and implement a program to conduct blood or urine tests not less than once per calendar year of all designated employees to determine the presence of any controlled substance. Within 180 days of the effective date of this chapter, all designated employees shall submit to a blood or urine test for the presence of any controlled substance. This program shall include a procedure for contracting with a private laboratory for the testing of designated employees of the Ministry of Health. All applicants for employment with the National Government shall submit to a drug test prior to employment. The Minister or his designee shall conduct such tests in the manner he determines will most effectively detect the presence of controlled substances. Nothing in this chapter shall be construed as requiring the National Government to purchase additional equipment for the purpose of conducting the tests mandated by this section.

(b) If a designated employee or applicant tests positive for any controlled substance, a second test shall be performed promptly thereafter, but in no case more than five working days after receipt of the results of the first test, to determine if the first test was accurate.

Source

RPPL 4-46 § 1.

Notes

ROP v. Takeo, 8 ROP Intrm. 307, 308 (2001).

§ 1204. Consequences for employee of positive drug test; probation; dismissal; defenses.

(a) If on the second test required by section 1203, a designated employee tests positive for any controlled substance, the employee shall, subject to subsection (b) of this section, be placed on probation and shall enroll in and successfully complete a substance abuse program approved by the Minister. The designated employee shall submit to another blood or urine test 180 days after the date of the second positive test. If that test reveals that the employee has continued to use a controlled substance, the appropriate management official shall, subject to subsection (b) of this section, take all necessary actions to dismiss or terminate the contract of the designated employee pursuant to this Title or other applicable law and, notwithstanding any other provision of law, the designated employee shall be dismissed or his contract shall be terminated.

(b) The designated employee shall not be subject to the disciplinary measures set out in this section if the Director, or his designee, determines that (1) the controlled substance detected was prescribed for the designated employee by a physician and that the designated employee was using the controlled substance in the manner prescribed by the physician, or (2) the designated employee has demonstrated by clear and convincing evidence that the presence of the controlled substance is due to some reason other than the employee's voluntary use of a controlled substance.

Source

RPPL 4-46 § 1. Subsection (b) amended by RPPL 5-7 § 34(11)(j) on 10/3/97 effective 10/1/97.

Notes

A comma was inserted between "section 1203" and "designated employee" in subsection (a) by the Code Commission.

ROP v. Takeo, 8 ROP Intrm. 307, 308 (2001).

§ 1205. Consequences for applicant of positive drug test; refusal to hire; defenses.

If on the second test required by section 1203 an applicant for employment tests positive for any controlled substance, or the applicant refuses to submit to a test, the applicant shall not be hired and shall not be eligible to reapply for employment with the National Government for a period of three years, unless (1) the applicant establishes that the controlled substance detected was prescribed for the applicant by a physician and that the applicant was using the controlled substance in the manner prescribed by the physician, or (2) the applicant demonstrates by clear and convincing evidence that the presence of the controlled substance is due to some reason other than the applicant's voluntary use of a controlled substance.

Source

RPPL 4-46 § 1.

§ 1206. Refusal to take test or enroll in substances abuse program; dismissal.

If a designated employee refuses to submit to any test under this chapter, or, after testing positive on a second test required by section 1203, does not enroll in or successfully complete a substance abuse program approved by the Minister within a reasonable period of time, the appropriate management official shall take all necessary actions to immediately dismiss or terminate the contract of the employee pursuant to this Title or other applicable law and, notwithstanding any other provision of law, the designated employee shall be dismissed or his contract shall be terminated.

Source

RPPL 4-46 § 1.

NotesROP v. Takeo, 8 ROP Intrm. 307, 308 (2001).**§ 1207. Referral to Attorney General.**

The names of all designated employees who test positive for any controlled substance shall be referred to the Attorney General.

Source

RPPL 4-46 § 1.

§ 1208. Leave for testing.

Designated employees shall be granted leave with pay for the purpose of being tested in accordance with this Chapter.

Source
RPPL 4-46 § 1.

§ 1209. Promulgation of regulations.

The Minister shall promulgate regulations as may be necessary to implement this Chapter.

Source
RPPL 4-46 § 1.

§ 1210. Identification of employees subject to testing.

Not later than 90 days after the effective date of this chapter, and annually thereafter, the National Civil Service Board shall identify and provide to the Minister a list of employment classifications, and the names of all employees occupying such classifications, whose assigned duties include the operation of vehicles or heavy equipment, or whose duties include functions the negligent performance of which would constitute a threat to public health or safety.

Source
RPPL 4-46 § 1.

Notes
ROP v. Takeo, 8 ROP Intrm. 307, 308 (2001).

**DIVISION 3
PENSION AND RETIREMENT**

**Chapter 20
Pension Plan and Retirement Fund Act of 1987**

**Subchapter I
General Provisions**

§ 2001. Short title.

§ 2002. Definitions.

§ 2001. Short title.

This chapter shall be known and may be cited as the “Pension Plan and Retirement Fund Act of 1987”.

Source

RPPL 2-26 § 1, modified.

§ 2002. Definitions.

As used in this chapter the following words shall have the following meanings unless the context clearly demands otherwise:

- (a) “Appropriate management official” shall mean the Chief Justice for employees of the judicial branch of government, a presiding officer of the Olbiil Era Kelulau for employees of the legislative branch of government, the President, Vice President or minister under whom employees of the executive branch of government work, and the governor or his designee for state employees.
- (b) “Board” shall mean the Board of Trustees of the Republic of Palau Civil Service Pension Plan and Trust.
- (c) “Cost-of-living Increase” means an adjustment to the base periodic payments under the Civil Service Pension Plan for the purpose of offsetting increases in the cost of living in Palau due to economic inflation.

- (d) “Government” shall mean the National Government of the Republic of Palau and all State Governments.
- (e) “Operation Plan” or “Trust Funds Operation Plan” shall mean the Republic of Palau Civil Service Pension Trust Fund Operation Fund as set forth in section 2021 of this chapter.
- (f) “Plan” shall mean the Republic of Palau Civil Service Pension Plan and Trust.
- (g) “President” shall mean the President of the Republic of Palau.
- (h) “Trust Fund” or “Fund” shall mean the assets of the Republic of Palau Civil Service Pension Plan and Trust and all contributions made thereto.

Source

RPPL 2-26 § 2, terms arranged in alphabetical order and section modified. Subsection (a) added by RPPL 4-40 § 41, modified. A new subsection (c) is added and the following subsections re-lettered appropriately by RPPL 5-41 § 29(a).

**Subchapter II
Board of Trustees**

- § 2010. Board of Trustees.
- § 2011. Liability of Trustees.
- § 2012. Administrative Agent.

§ 2010. Board of Trustees.

- (a) Establishment. There is hereby established the Pension Fund Board of Trustees, which shall consist of seven members, each of whom shall be of at least 30 years of age and each of whom shall not have been convicted of felony.
- (b) Appointment. Members of the Board shall be appointed by the President with the advice and consent of the Senate.
- (c) Term. Members of the Board shall be appointed for term[s] of four years; provided that the terms of the initial members shall be staggered so that of the initial appointees, two shall serve a term of two years, two shall serve a term of three years and three shall

serve a term of four years.

(d) Duties of the Board. The Board shall:

- (1) exercise overall supervision of the Fund.
- (2) establish the amount of employee contributions to the Fund.
- (3) establish the amount of government contributions to the Fund.
- (4) appoint an Administrative Agent for the Fund and review the activities of the Administrative Agent of the Fund.
- (5) review all investment of Fund assets.
- (6) provide overall guidance to the Administrative Agent for the investment of the Fund.
- (7) establish regulations for the administration of the Fund.
- (8) have the power to adopt such rules, regulations and policies as may be necessary for the exercise of the powers of the Plan and the performance of the duties of the Board in its administration and operation of the Plan.
- (9) establish and maintain its internal organization and management.
- (10) adopt a seal.
- (11) have the power to sue and be sued in its own name.
- (12) have the power to employ, retain or contract for the services of qualified managers and specialists, as individuals or organizations.
- (13) perform such other functions as may be required by law.

(e) Initial Board actions exempt from Administrative Procedure Act. The Board shall be exempt and every action, rule, regulation, order or other action of the Board shall be exempt from the requirements of Title 6 of the Palau National Code, also known as the Administrative Procedure Act, while the Board is acting to adopt and is adopting the

initial Trust Fund Operation Plan, but not thereafter.

(f) Quorum. Four members of the Board shall constitute a quorum for conducting the business of the Board.

(g) Majority required for Board action. Four members of the Board shall be required to concur in any action of the Board.

(h) Compensation. Each member of the Board shall be compensated at a rate of \$50.00 for each Board Meeting which a Board member attends, provided however, that no Board Member shall receive more than \$500.00 for each calendar year for services rendered as member of the Board.

(i) Expenses. Each Board Member shall be entitled to reimbursement for documented expenses incurred while in performance of his duties for the Board.

Source

RPPL 2-26 § 4, modified.

Notes

Koshiba v. Alonz, 7 ROP Intrm. 154, 156 (1999).

§ 2011. Liability of Trustees.

Trustees shall not be held liable for any action taken in their official capacity, provided however, that Trustees shall be personally liable for any breach of their fiduciary duty.

Source

RPPL 2-26 § 6, modified.

§ 2012. Administrative Agent.

(a) Appointment. The Board shall appoint an administrative agent to handle the day-to-day functions relating to the investment of and accounting of the assets of the Fund. The Board shall provide overall supervision of the Administrative Agent. The agent may be a person, a corporation, or some other business entity, experienced in the financial management of trust funds.

(b) Agent's Bond. The agent shall secure bonding for his performance in such amounts

and of such kind as may be required by the Board, but in no event shall the agent be bonded in an amount less than one-half (1/2) the assets of the Bond.

(c) Agent exempt from civil service. The Administrative Agent shall be exempted from the requirements of the National Public Service System Act found in Title 33 of this Code and all regulations promulgated thereunder.

Source

RPPL 2-26 § 7, modified.

**Subchapter III
Trust Fund**

- § 2020. Fund established.
- § 2021. Trust Fund Operation Plan.
- § 2022. Investment of assets.
- § 2023. Borrowing prohibited.
- § 2024. Cost of Fund administration.
- § 2025. Accounting of the Fund.
- § 2026. Authorization.
- § 2027. Authorization and appropriation.
- § 2028. Actuarial studies.

§ 2020. Fund established.

There is hereby established a fund, separate and apart from any other funds or accounts of the National Government of the Republic of Palau, to be known as the Republic of Palau Civil Service Pension Trust Fund. All sums appropriated by the Olbiil Era Kelulau representing contributions to the Fund, all sums representing contributions of participating agencies to the Fund, and all employee contributions to the Fund shall, without exception, be deposited in the Republic of Palau Civil Service Pension Plan and Trust.

Source

RPPL 2-26 § 3, modified.

§ 2021. Trust Fund Operation Plan.

- (a) The Board shall adopt a document to be known as the Republic of Palau Civil Service Pension Trust Fund Operation Plan, which document shall have the force and effect of law, and which shall, in detail, set forth the procedures for the administration of the Plan and coverages of the Plan. The Plan shall include coverage for all former government employees who served under the United States Naval Government following World War II, the Trust Territory Government, and the constitutional government of the Republic; provided, that the Board shall make a determination that sufficient funds are available to provide such coverage and at the same time maintain the Fund on a sound actuarial basis; and provided, further, that no person who retires after October 1, 1997 may receive benefits under the Plan unless he or she has contributed to the Plan for at least five years or has made an actuarially equivalent lump sum contribution.
- (b) The Board may, from time to time, amend the Republic of Palau Civil Service Pension Trust Fund Operation Plan, such amendment of the Republic of Palau Civil Service Pension Trust Fund Operation Plan being at the discretion of the Board and subject to the requirements of Title 6 of this Code.
- (c) The Board shall amend the Trust Fund Operation Plan (“Plan”) to reflect that employee benefits shall be adjusted by the cost-of-living increase mandated by section 2044. The Board may also periodically determine the need for adjustments to employee and government contributions in order to fund or partially fund the additional cost of annual cost-of-living adjustments, in addition to, or in place of, any supplemental funding recommended to the President and the Olbiil Era Kelulau under Section 2044, and amend the Plan accordingly.
- (d) Effective Immediately, the Board of Trustees of the Civil Service Pension Plan shall seek to commission a feasibility and actuarial study regarding the conversion of the Plan from a defined benefit system to a defined contribution system and the incorporation of private sector employers and employees as participants in the Plan. The cost of the study shall be borne by the Civil Service Pension Plan. Once the study is complete, it shall submit a report on the study findings along with recommendations to the President and the Olbiil Era Kelulau.
- (e) No Member receiving benefits under the Plan may receive greater than thirty thousand dollars (\$30,000) per year. A prior year of service as an employee may be included in calculating the Member’s benefits under the Plan only if the Member’s benefits are not greater than thirty thousand dollars (\$30,000) per year. This subsection

shall apply only to members who retire after the effective date of this Act.

(f) The amount of benefits that a Member receives under the Plan shall not be recalculated if the Member is re-employed after the Member begins receiving benefits under the Plan. This subsection shall apply only to members who retire after the effective date of this Act.

(g) A Member shall not receive benefits under the Plan during the time that the Member is re-employed subsequent to retirement. This subsection shall apply only to members who retire after the effective date of this Act.

Source

RPPL 2-26 § 5, modified. Last clause of subsection (a) added by RPPL 5-7 § 21(b). Subsections (c) and (d) added by RPPL 5-41 § 29 (b) and (c), modified. Subsection (c) was “amended” but not changed by RPPL 6-12 § 20[2044], modified. Subsection (d) is amended by RPPL 8-10 § 3(B). Subsections (e), (f) and (g) are added by RPPL 9-2 § 4, modified.

§ 2022. Investment of assets.

(a) The Board shall authorize the Agent to invest and reinvest the assets of the Fund. The Board shall have full power to delegate the management and investment of the Fund.

(b) The assets of the Fund may be invested in stocks, bonds, negotiable instruments, real properties, or such other financial instruments or other assets as the Agent may determine; provided that all the assets shall be invested with the highest standard of care to insure the preservation of the principal of the Fund. Investment in speculative ventures of any kind or nature is expressly prohibited.

(c) The assets of the Fund shall not be invested in any manner whereby the Trustees of the Fund shall benefit from the investment of Fund assets, either directly or indirectly. However, nothing contained in this section shall be construed in such a manner as to prevent any Trustee from receiving a pension benefit from the Plan to which he is otherwise entitled.

(d) The Board shall submit quarterly reports to the OEK regarding the status of investments of Pension Plan funds.

Source

RPPL 2-26 § 11, modified. Subsection (d) is added by RPPL 5-41 § 29(d).

§ 2023. Borrowing prohibited.

The assets of the Fund shall not be loaned to or borrowed by any person, corporation, enterprise, any state government of the Republic of Palau, the National Government of the Republic of Palau, or any governmental entity of the Republic of Palau whatsoever; provided that, the Fund or a portion of the Fund may be invested, such investment instrument constituting a borrowing of the Fund, at interest; provided further that such investment shall not be to the government of the Republic of Palau or any state or municipal government thereof.

Source

RPPL 2-26 § 12, modified.

§ 2024. Cost of Fund administration.

- (a) The costs of administering the Fund shall be paid out of the assets of the Fund.
- (b) The costs of administering the Fund shall be accounted for in each and every report of the Fund. The report shall detail each and every transaction of the administration of the Fund.
- (c) The Board shall insure that the costs of administering the Fund are minimized to insure the principal and assets of the Fund shall be preserved for the benefit of the state and national government employees of the Republic of Palau.

Source

RPPL 2-26 § 13, modified.

§ 2025. Accounting of the Fund.

- (a) The Public Auditor shall maintain an oversight function on all of the assets of the Fund pursuant to the provisions of this chapter and the provisions of 40 PNCA chapter 2. Copies of all documents relating to transactions of the Fund shall be forwarded to the Office of the Public Auditor immediately following each and every transaction of the Fund.
- (b) The Public Auditor shall issue quarterly reports on the fiscal soundness of the Fund, such reports to be forwarded to the Board, the President of the Republic of Palau and presiding officers of the Olbiil Era Kelulau, and the Chief Justice of the Supreme Court.

(c) The Board shall establish and maintain detailed records and accounts of all of its financial transactions.

(d) The Public Auditor shall conduct annual audits and reviews of all operations, books, records, procedures, and transactions of the Board and report his findings to the President and the Olbiil Era Kelulau.

Source

RPPL 2-26 § 14, modified. Subsections (c) and (d) added by RPPL 4-49 § 2.

Notes

Koshiba v. Alonz, 7 ROP Intrm. 154, 157 (1999).

§ 2026. Authorization.

(a) There is hereby authorized the sum of five hundred thousand dollars (\$500,000) to the Republic of Palau Civil Service Pension Plan and Fund, and said sum to be used as start up funding for initial benefit payments and costs of administering the Fund and for such other related purposes as the Board deems fit. This sum shall be appropriated at such a time as funds become available, but in any event no later than is necessary to maintain the Plan on a sound actuarial basis.

(b) There is hereby authorized the sum of five hundred thousand dollars (\$500,000) in FY '88, and two hundred thousand dollars (\$200,000) in FY '89 to the Republic of Palau Civil Service Pension Plan and Fund, said sums to be used to maintained the Republic of Palau Civil Service Pension Plan and Fund on a sound actuarial basis.

Source

RPPL 2-26 § 10, modified.

§ 2027. Authorization and appropriation.

There is hereby authorized the sum of at least two hundred twenty-eight thousand seven hundred twenty-seven dollars (\$228,727) per year for the five consecutive fiscal years commencing Fiscal Year 1991 for the purpose of implementing Civil Service Pension Plan benefits for all former national government, Trust Territory Government, and Naval Government employees pursuant to section 5(a) of RPPL No. 2-26. For Fiscal Year 1990, the Board of Trustees of the Civil Service Pension Plan shall provide the necessary funds for implementing these extended benefits out of current investments by November 1, 1989. The initial benefits payments to the pension beneficiaries to which coverage will be extended pursuant to this section and section 5(a) of

RPPL No. 2-26 shall be distributed by no later than December 25, 1989.

Source

RPPL 3-21 § 5, modified.

§ 2028. Actuarial studies.

In Fiscal Year 1998, and at least every three years thereafter, the Board shall obtain an actuarial study for the Plan. Each study shall be completed no later than March 1 of the year in which it is required and shall include the funding requirements from the national government for the following fiscal years to maintain the Pension Fund in an actuarially and financially sound condition. The Board shall provide copies of all actuarial studies and related reports to the President, the presiding officers of the Olbiil Era Kelulau, and to the Minister of Administration.

Source

RPPL 4-49 § 3. RPPL 4-32 § 20 previously required an actuarial study in 1995.

**Subchapter IV
Contributions**

§ 2030. Contributions.

§ 2031. Retired chiefs and state legislators.

§ 2030. Contributions.

(a) Employee Contribution

(1) Each employee of the national government and all state governments, as defined by the Board, and any other covered employees including all employees of national and state agencies, without regard to whether the employee is employed part-time, or on a temporary, seasonal or impermanent basis, shall contribute to the Fund by a deduction taken from the payroll of the employee. All persons within the scope of the definition of employees who have any appointment or contract for a term exceeding ninety (90) calendar days or who have held an employment position for a period exceeding one hundred eighty (180) calendar days shall be covered employees.

(2) The amount of the deduction shall be a percentage of the employee's gross

pay, such percentage to be determined by the Board, as part of the Trust Fund Operation Plan. Such percentage shall not originally exceed six percent (6%) of the employees' gross pay. Any subsequent change of such percentage shall be made through an amendment of the Trust Fund Operation Plan and shall be subject to the requirements of Title 6 of this Code.(3) The rate of employee contributions to the Fund shall not be altered more than one time every 12 months. Further, no change in the rates of employee contributions to the Fund shall be made unless it is clearly established that the change will not result in an unsound actuarial basis for the Fund. The Board may establish an early retirement program, subject to the requirements of Title 6 of this Code.

(b) Government Contribution.

(1) The Government of the Republic of Palau shall make regular contributions to the Fund equal to the amount contributed by each and every employee of the Republic of Palau.

(2) Every State Government or other public agency shall make regular contributions to the Fund equal to the amount contributed by each and every one of their employees.

(3) The Government of the Republic of Palau shall from time to time contribute additional sums to the Fund in order to keep the Fund on a sound actuarial basis. The Board shall recommend to the President of the Republic of Palau and to the Speaker of the House of Delegates and the President of the Senate the necessity and amount of the contribution required to keep the Fund on a sound actuarial basis.

(4) The Board may seek injunctive and other equitable relief, including writs of attachment, to order member agencies to pay over contributions to the Plan in accordance with this subsection. Delinquent sums owed pursuant to this subsection shall accrue interest at the rate of 18 percent (18%) annually commencing three calendar days following the distribution of the payroll upon which such sum is owed. All such sums delinquent as of the effective date of this section shall have a penalty added thereto in the form of 18 percent (18%) annual interest retroactive to the third calendar day following the distribution of the payroll upon which each such sum was due.

(c) Each PCC employee opting to participate in the Plan retroactively shall be required to

pay into the Plan his or her proportionate contribution for each year of retroactive participation. All employees of PCC shall be enrolled in the Civil Service Pension Plan effective as of their start date with PCC or October 1, 1987, whichever is later. All employment between January, 1977 and September 30, 1987 with the Micronesian Occupational College is considered employment with PCC for purposes of this section, and any employee of the Micronesian Occupational College who retired before October 1, 1987 can participate in the Civil Service Pension Plan. All retroactive employee contributions can be paid in a lump sum or in installments, subject to an agreement between the Pension Plan Administrator and the member executed within 90 days of the effective date of this subsection. The Civil Service Pension Plan Administrator shall report to the Olbiil Era Kelulau how many PCC employees choose to opt into the Plan.

Source

RPPL 2-26 § 8, as amended by RPPL 3-21 § 1(1) and (2), modified. Subsection (c) is added by RPPL 6-12 § 11, modified. Amended by RPPL 9-2 § 6, modified.

Notes

Koshiha v. Alonz, 7 ROP Intrm. 154 (1999).

§ 2031. Retired chiefs and state legislators.

(a) A retired chief who receives remuneration for performing an obligation arising automatically due to his traditional title of chief shall not be subject to the pension fund contributions of this chapter on any money so earned. This exemption shall not apply to wages and salary received from any voluntarily assumed functions.

(b) A retired person who serves as a state legislator shall not be subject to the pension fund contributions of this chapter on any money earned from his service in a state legislature.

Source

RPPL 5-34 § 32(c), modified.

**Subchapter V
Retirement and Benefits**

- § 2040. Mandatory retirement age
- § 2041. [Repealed]
- § 2042. Death prior to retirement without Survivor Benefit.
- § 2043. Death prior to retirement with Survivor Benefit.
- § 2044. Annual cost-of-living increases.

§ 2040. Mandatory retirement age.

(a) All employees who are sixty (60) years of age or older shall retire, except for those in employment positions exempted by the Board or those individuals who receive specific exemptions from the Board. All justices of the Supreme Court and judges of the National Court are exempt from mandatory retirement at the age of sixty (60). All employees under the age of sixty and with thirty years of service may retire no later than December 31, 2013 and receive full pension benefits to which they are entitled. After December 31, 2013 no employee shall be entitled to pension benefits until reaching the age of sixty (60).

(b) [Reserved].

(c) Each employee of the national government shall provide written notice to the appropriate management official six (6) months before retiring, except for those employees retiring pursuant to the mandatory retirement program under subsection (a). The Board shall waive the requirement that retiring employees provide six (6) months notice in cases where the appropriate management official certifies to the Board in writing that requiring such notice would not be in the best interest of the national government, or where the requirement would result in undue hardship on the employee. Employees eligible to retire before January 1, 1997 may do so without providing the six-month written notice.

(d) The Board shall adopt such amendments to the Plan as are necessary to effectuate the purposes of this Chapter.

(e) Upon retirement, any unused sick leave of a government employee shall be credited to his years of service for the purpose of computing his benefit level.

Source

RPPL 2-26 § 9, as amended by RPPL 3-21 § 1(3), modified. Amended by RPPL 4-40 § 41. Amended by RPPL 4-

49 § 1. Subsections (a) & (c) are amended by RPPL 5-30 § 1. For amendment to subsection (a) in RPPL 6-37 § 29 please see Notes below. Subsections (a) & (b) are amended by RPPL 7-56 § 2. Subsections (a) & (b) are amended by RPPL 8-10 § 3(C), modified. Subsection (a) is further amended by RPPL 9-2 § 3, modified.

Notes

RPPL 6-37 § 29 included an amendment to 33 PNCA § 2040(a) changing one word “two” to “five” for the number of additional years that a public employee could be employed “Beginning July 1, 1999”. The Code Commission decided that the amendment was invalid because RPPL 6-39 was enacted September 29, 2003 and essentially made the former law followed by the government invalid.

§ 2041. [Repealed]

Source

RPPL 3-21 § 4, modified. Repealed by RPPL 5-34 § 30.

§ 2042. Death prior to retirement without Survivor Benefit.

Upon death of a Member or Former Member occurring before commencement of his Normal, Early or Late Retirement Benefit or Disability Retirement Benefit, leaving no persons eligible for survivor benefits as provided in section 2043 the following shall be payable:

- (a) if the Former Member is not an employee at the date of death, a refund of the total amount of contributions made by the member.

- (b) if the member was an Employee at the date of death and had completed one (1) year of Total Service, such Member shall be entitled to a death benefit equal to the Actuarial Equivalent of the Member’s Present Value of the Member’s Accrued Benefit. Payment of the death benefit payable under this section shall be made to the estate of the Member in the form of a single lump sum payment.

Source

RPPL 3-21 § 3(1), modified. Amended by RPPL 9-5 § 22.

§ 2043. Death prior to retirement with Survivor Benefit.

Upon death of a Member occurring before commencement of his or her Normal, Early or Late Retirement Benefit or Disability Retirement Benefit, leaving persons eligible for survivor benefits, the following shall be payable:

- (a) If the Former Member is not an employee at his or her date of death and a spouse or

beneficiary survives, the death benefits payable shall begin soon as is administratively practical after the date of the death of the Member. The total death benefits payable under the foregoing sentence shall be the Actuarial Equivalent of the Member's Present Value of Accrued Benefit.

(b) If the Member is an Employee at his or her date of death and a spouse or beneficiary survives, the death benefits payable shall begin as soon as is administratively practical after the date of the death of the Member. The total death benefit payable under the foregoing sentence shall be the Actuarial Equivalent of the Member's Present Value of Accrued Benefit. This subsection shall apply only to members who die after the effective date of this Act.

(c) Any Member or Former Member may elect to designate a beneficiary or beneficiaries to receive any survivor benefits under this Plan. Such election shall be in writing and on such form as the Administrator may require. Such Member or Former Member may also elect, in his or her sole discretion, on forms provided by the Administrator, to have the total death benefit paid in one of the following optional forms of death benefit distribution:

(1) the Actuarial Equivalent of the death benefit shall be paid in the form of a monthly annuity for the life of such beneficiary, or

(2) to the extent available, the Actuarial Equivalent of one and one-half (1-1/2) times the deceased's Average Annual Salary shall first be used to provide the surviving beneficiary with a monthly annuity for life. Any remainder shall be paid to the surviving beneficiary in the form of a single lump sum, or

(3) to the extent available, the Actuarial Equivalent of one and one-half (1-1/2) times the deceased's Average Annual Salary shall first be used to provide a surviving beneficiary with a monthly annuity for life. If the beneficiary designated to receive this annuity does not survive, the Actuarial Equivalent of the benefit such beneficiary would otherwise receive shall be paid in the form of an annuity or annuities to the surviving beneficiary or beneficiaries to be shared in accordance with the last sentence of the paragraph next following. Any remainder of the Actuarial Equivalent shall be paid in the form of a single lump sum to the surviving beneficiary or beneficiaries designated by the Member pursuant to his or her election. The number of such designated beneficiaries shall be limited to three (3). If more than one (1) named beneficiary designated in the next preceding sentence to receive benefits survives, the Actuarial Equivalent of each such

beneficiaries' benefit shall be equal to the Actuarial Equivalent of the total benefit payable such beneficiaries divided by the number of surviving beneficiaries, or;

(4) the Actuarial Equivalent of the benefit shall be paid in the form of a single lump sum to the surviving beneficiary or beneficiaries designated by the Member pursuant to his or her election. The number of such designated beneficiaries shall be limited to three (3). If more than one (1) named beneficiary designated in the next preceding sentence to receive survives, the Actuarial Equivalent of each such beneficiaries' benefit shall be equal to the Actuarial Equivalent of the total benefit payable such beneficiaries divided by the number of surviving beneficiaries, or

(5) in the event that a Member or Former Member does not elect one of the optional forms of death benefit distribution in (1), (2), (3), or (4) above, the Actuarial Equivalent of the total death benefit shall be payable to the surviving spouse of the deceased in the form of a monthly annuity for life. Notwithstanding the foregoing, the Administrator may, in his sole discretion and in lieu of any survivor annuity payable hereunder, distribute a single lump sum payment to a survivor if the value of such survivor's benefit under this section is less than two thousand dollars (\$2,000). A Member or Former Member may elect to designate a contingent beneficiary or contingent beneficiaries to receive benefits under this section in the event that no primary beneficiary survives such Member or Former Member. Such election shall be in writing and in such form as the Administrator may require. In the event that no primary beneficiary survives the Member or Former Member, the surviving contingent beneficiary or contingent beneficiaries shall receive any benefits payable under this section in the same form as would otherwise have been payable to the primary beneficiary or beneficiaries.

Source

RPPL 3-21 § 3(2), modified. Amended by RPPL 9-2 § 5. Subsections (b) & (c) amended by RPPL 9-5 § 21, modified.

§ 2044. Annual cost-of-living increases.

(a) All employees covered by the Plan shall be eligible for a one-year cost-of-living increase. There shall be a two point five percent (2.5%) increase of benefits for retirees and survivors effective October 1, 2000, effective for fiscal year 2001 only. The two point five percent (2.5%) increase shall be canceled as of September 30, 2001, and benefits shall revert to the amounts paid as of September 30, 2000. Each retiree and survivor shall also receive an additional payment of twenty five dollars (\$25) per month

effective as of May 1, 2000 through and including September 2001. The Board shall recommend to the President and the Olbiil Era Kelulau any additional funding that may be required to fund each annual cost-of-living adjustment, including, but not limited to, resources within the Trust Fund or a supplemental appropriation by the Olbiil Era Kelulau.

(b) Amendment to the Trust Fund Operation Plan. The Board shall amend the Trust Fund Operation Plan (“Plan”) to reflect that employee benefits shall be adjusted by the cost-of-living increase mandated by subsection (a). The Board may also periodically determine the need for adjustments to employee and government contributions in order to fund or partially fund the additional cost of annual cost-of-living adjustments, in addition to, or in place of, any supplemental funding recommended to the President and the Olbiil Era Kelulau under § 2044, and amend the Plan accordingly.

Source

RPPL 5-41 § 29(a), modified, which had the heading “Annual cost-of-living increases” and included cost-of-living increases until September 30, 2004. Section amended to subsections (a) and (b) by RPPL 6-12 § 20, modified.

**Subchapter VI
Miscellaneous**

§ 2050. False information.

§ 2051. Penalties.

§ 2052. Severability.

§ 2050. False information.

Any government or member agency which shall willfully withhold information or furnish false information to the Board of Trustees of the Republic of Palau Civil Service Pension Plan or to any employee of the Pension Plan shall be civilly liable for a penalty of one thousand dollars (\$1,000) for each violation of this section. The Board may enforce this section in the courts of the Republic and all funds collected pursuant to this section shall be paid into the Civil Service Pension Trust Fund.

Source

RPPL 3-21 § 2, modified.

§ 2051. Penalties.

(a) Any person who knowingly makes a false statement or prepares a false report, as such statements or records may be required under this chapter, the Republic of Palau Civil Service Pension Operations Plan, or any rule, regulation, or order promulgated under the authority of this chapter, shall be guilty of a felony and upon conviction thereof shall be subject to imprisonment for a period of not more than one (1) year, a fine of not more than one thousand dollars (\$1,000), or both.

(b) The Fund shall be entitled to restitution of any sums lost to the Fund through false statements made by any person, whether or not such statements were made knowingly or unknowingly, and whether or not the person making such false statements intended to defraud the Fund.

(c) The Trial Division of the Supreme Court of the Republic of Palau shall have jurisdiction over all matters relating to the Fund and all suits, civil or criminal, relating to recovery of the Fund, assets lost to the Fund due to false statements made to the Board or any other representative of the Fund.

Source

RPPL 2-26 § 15, modified.

§ 2052. Severability.

If any provision of this chapter, or any rule, regulation or order promulgated thereunder shall be held invalid by a Court of competent jurisdiction for any reason whatsoever, those portions of this chapter, and the rules, regulations and orders promulgated thereunder which are not held to be invalid shall continue in effect and force.

Source

RPPL 2-26 § 16, modified.

Notes

ROP v. Etpison, 5 ROP Intrm. 313, 316 (Tr. Div. 1995).

DIVISION 4

**Chapter 30
Citizen Job Placement**

**Subchapter I
General Provisions**

- §3001. Purpose and policy.
- §3002. Citizen job placement office.
- §3003. Rules and regulations.

§3001. Purpose and policy.

The purpose of this Division is to create an effective system to strengthen Palau’s citizen labor pool by transferring the tasks of human resources and job placement of all interested citizens from the existing Bureau of Labor and Human Resources to be under the direction of the Director of the Bureau of Public Service System. The Olbiil Era Kelulau finds that the System of personnel administration under the Ministry of Finance is an efficient system and would be most appropriate to assist all citizens interested in building their career both in the public sector as well as the private sector.

Source
RPPL 9-14 § 20[3001].

§3002. Citizen job placement office.

There is hereby established a Citizen Job Placement Office that shall provide free public employment services for citizen workers seeking employment. This Office shall be headed by an employment officer that reports directly to the Director of the Bureau of Public Service System.

Source
RPPL 9-14 § 20[3002].

§3003. Rules and regulations.

The Director of the Bureau of Public Service System shall promulgate rules and regulations

necessary to implement this Act.

Source
RPPL 9-14 § 20[3003].

Subchapter II
Labor Development

- § 3011. Short title.
- § 3012. Regional cooperation and exchange of information.
- § 3013. Exchange of Bureau personnel.
- § 3014. United States Department of Labor funds and programs.
- § 3015. Apprenticeship training program.
- § 3016. Annual report.

§ 3011. Short title.

This subchapter may be cited as the “Palau Labor Development Act of 1975.”

Source
(P.L. No. 6-31, § 1.) 49 TTC § 101, modified. Formerly codified at 30 PNCA § 301 and was re-codified by RPPL 9-14 § 21 as 33 PNCA § 3011.

Notes
All references to “Division of Labor” are hereby amended to reference “Bureau of Labor and Human Resources” pursuant to RPPL 7-43 § 3.

§ 3012. Regional cooperation and exchange of information.

- (a) The Director of the Bureau of Labor and Human Resources shall initiate and maintain with the several nations of the Pacific area who are participants in the Conference of South Pacific Labor Ministers, through the Department of Labor, Commonwealth of Australia, a program of the periodic exchange of information concerning labor in the Republic, including, but not limited to, the exchange of information concerning training programs and facilities, applicable legislation and statistics.
- (b) The Director shall maintain a file of all information received from other such countries, which shall be compiled and transmitted to the Olbiil Era Kelulau as part of the annual report of the Bureau required by this chapter.

Source

(P.L. No. 6-31, § 2.) 49 TTC § 102, modified. Formerly codified at 30 PNCA § 302 and was re-codified by RPPL 9-14 § 21 as 33 PNCA § 3012.

§ 3013. Exchange of Bureau personnel.

The Director is authorized to explore with other countries of the Pacific area who are participants in the Conference of South Pacific Labor Ministers, programs for the exchange of labor administration personnel for training and experience in the field of labor administration. To this end, the Director is authorized to implement such programs by providing for the periodic exchange of Bureau personnel, and for the in-service training of labor administration personnel from other such countries in the Republic.

Source

(P.L. No. 6-31, § 3.) 49 TTC § 103, modified. Formerly codified at 30 PNCA § 303 and was re-codified by RPPL 9-14 § 21 as 33 PNCA § 3013.

§ 3014. United States Department of Labor funds and programs.

- (a) The Director is authorized and directed to develop and maintain a list of all programs and services offered by the United States Department of Labor.

- (b) The Director shall transmit copies of the list to the Olbiil Era Kelulau as a part of the annual report of the Bureau required by this chapter, together with a statement as to the advisability of the applicability of each program or service to the Republic, and a statement of the current eligibility of the Republic for participation in these programs and services.

- (c) The Director shall take such steps as may be appropriate, upon the request of the Olbiil Era Kelulau, to secure the extension of these programs and services to the Republic.

Source

(P.L. No. 6-31, § 4.) 49 TTC § 104, modified. Formerly codified at 30 PNCA § 304 and was re-codified by RPPL 9-14 § 21 as 33 PNCA § 3014.

§ 3015. Apprenticeship training program.

(a) The Director shall submit to the Olbiil Era Kelulau and to the President a plan for an apprenticeship training program, whereby employers would be reimbursed for a portion of the salary of an apprentice by the national government until these apprentices have been fully qualified in their trade. This program shall be limited to trades which the Director believes essential to the future development needs of the Republic, and shall include, but not be limited to, programs in the fields of construction, agriculture and mechanics.

(b) The plan for the program shall include a statement of the funds necessary to implement the program, together with a request for the funds. To the maximum extent possible, the Director is authorized and directed to seek funding for the program out of the regular operating budget of the Bureau.

Source

(P.L. No. 6-31, § 5.) 49 TTC § 105, modified. Formerly codified at 30 PNCA § 305 and was re-codified by RPPL 9-14 § 21 as 33 PNCA § 3015.

§ 3016. Annual report.

(a) The Director shall, not later than January 31 of each year, transmit to the Olbiil Era Kelulau and to the President a complete report of the activities of the Bureau over the previous year, together with any other information required by this chapter or other laws. The report shall also contain recommendations for legislation by the Olbiil Era Kelulau, in particular, legislation devoted to the development of labor skills of citizens of the Republic.

(b) On January 1 and July 1 of each year, the Director of the Bureau of Labor and Human Resources shall submit to the Olbiil Era Kelulau a report containing the following information for the immediately preceding six (6) month period: (1) the number of Palauan citizens participating in the apprenticeship program; (2) the number of participants successfully completing the program; (3) the number of successful participants who found employment related to the skills training received in the program; (4) whether such employment is in the private or public sector; (5) the amount of funds deposited in the Palau Apprenticeship Program Fund; (6) the amount of funds expended; and (7) a detailed accounting of how the funds were expended. This report shall be in addition to the annual report filed by the Director pursuant to 30 PNCA § 3016.

Source

(P.L. No. 6-31, § 6.) 49 TTC § 106, modified. Subsection (b) added by RPPL 4-48 § 9(b), modified. Formerly codified at 30 PNCA § 306 and was re-codified by RPPL 9-14 § 21 as 33 PNCA § 3016.

**Subchapter III
Hazardous Jobs**

§ 3021. Work with or near high explosives; hazardous job wage differential required.

§ 3022. Liability of employer who violates section 3021.

§ 3021. Work with or near high explosives; hazardous job wage differential required.

(a) All nongovernmental employers in the Republic shall be required to pay the normal hourly wage plus a twenty five (25%) percent differential to all employees who are citizens of the Republic for every hour or portion thereof during which such employees work with, or within five hundred feet (500ft) of, any high explosive.

(b) In this section, “high explosive” shall include, but not be limited to, dynamite, trinitrotoluene, trinitrotoluol, nitroglycerin, plastic explosives, and blasting caps of all varieties.

Source

PDC § 1102(a), as added by PL 5-3-2 § 1, modified. Formerly codified at 30 PNCA § 401 and was re-codified by RPPL 9-14 § 22 as 33 PNCA § 3021.

§ 3022. Liability of employer who violates section 3021.

(a) Any nongovernmental employer in the Republic who fails to pay to any employee the hazardous job wage differential to which such employee is entitled under section 3021 of this title shall be liable to such employee for the wage differential which should have been paid, plus triple damages.

(b) Such an employee is hereby authorized and empowered to bring an action in any court of competent jurisdiction to enforce section 3021 of this title on behalf of himself and all others similarly situated.

Source

PDC § 1102(b), as added by PL 5-3-2 § 1, modified. Formerly codified at 30 PNCA § 402 and was re-codified by RPPL 9-14 § 22 as 33 PNCA § 3022.

**Subchapter IV
Disabled Person’s Anti-Discrimination Act**

- § 3031. Short title.
- § 3032. Definitions.
- § 3033. Construction.
- § 3034. Employment discrimination prohibited.
- § 3035. Exceptions.
- § 3036. Cause of action.
- § 3037. Government employment preference.
- § 3038. Access to government buildings.
- § 3039. Parking in spaces reserved for persons with disabilities.

§ 3031. Short title.

This chapter shall be known and may be cited as the “Disabled Person’s Anti-Discrimination Act”.

Source

RPPL 3-69 § 1, modified. Formerly codified at 30 PNCA § 501 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3031.

§ 3032. Definitions.

As used in this chapter:

- (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities.
- (b) “Person with a disability” means an individual with a disability who can perform the essential functions of the job the individual holds or desires.

Source

RPPL 3-69 § 2, modified. Formerly codified at 30 PNCA § 502 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3032.

§ 3033. Construction.

As used in this chapter:

(a) the terms “discriminate” and “discrimination” include refusal to hire and employ or to bar or to discharge from employment or to treat unequally with regard to terms, conditions or privileges of employment;

(b) the term “employer” includes private individuals, businesses, and corporations, public corporations, and national and state governments.

Source

RPPL 3-69 § 3. Formerly codified at 30 PNCA § 503 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3033.

§ 3034. Employment discrimination prohibited.

It shall be unlawful for an employer to discriminate against a person with a disability with respect to employment, for reasons relating to the person’s disability.

Source

RPPL 3-69 § 4. Formerly codified at 30 PNCA § 504 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3034.

§ 3035. Exceptions.

Nothing in this chapter shall:

(a) prohibit the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the operation of a particular business or enterprise; or

(b) prohibit an employer from refusing to hire or from discharging any person with a disability for reasons relating to the ability of the person with a disability to perform the work in question.

Source

RPPL 3-69 § 5, modified. Formerly codified at 30 PNCA § 505 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3035.

§ 3036. Cause of action.

Any person aggrieved by discrimination as described in section 3033 of this chapter may have a cause of action in any court of appropriate jurisdiction for damages and such other remedies as may be appropriate. In addition to such remedies, a person aggrieved by a violation of section 3034 of this chapter may be entitled to receive punitive damages in an amount not to exceed one thousand dollars (\$1,000) in the court's discretion.

Source

RPPL 3-69 § 6, modified. Formerly codified at 30 PNCA § 506 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3036.

§ 3037. Government employment preference.

The President of the Republic of Palau or the President's designee shall, within sixty (60) days of the effective date of this chapter, prescribe rules which shall prohibit as nearly as conditions of good administration warrant, discrimination because of a disability in an executive agency or in the National Public Service System established by 33 PNCA Division 1 with respect to a position the duties of which, in the opinion of the Personnel Division of the Bureau of Public Service System, can be performed efficiently by a person with a disability, except that the employment may not endanger the health or safety of the person with a disability or others. Such rules shall also establish guidelines for a program of preferential treatment to be afforded to person's with disabilities or disabled individuals in matters of employment by executive agencies and the National Public Service System.

Source

RPPL 3-69 § 7, modified. Formerly codified at 30 PNCA § 507 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3037.

§ 3038. Access to government buildings.

(a) No later than January 1, 1999, the Ministry of Public Infrastructure, Industries and Commerce shall designate at least one parking space close to the main entrance of each national government building open to the public; these parking spaces shall be clearly designated, through use of words or symbols, as being available for use only by persons with disabilities and shall cite this section of the PNCA.

(b) For national government buildings open to the public built after the effective date of this section, the Ministry of Public Infrastructure, Industries and Commerce shall

construct doorways wide enough to accommodate wheelchairs users, wheelchair ramps to allow persons in wheelchairs to enter the first floor of each building and at least one male and one female toilet facility with oversized doorways and safety rails to accommodate wheelchair users.

(c) Within ninety (90) days of the effective date of this chapter, the Minister of Public Infrastructure, Industries and Commerce shall submit to the Olbiil Era Kelulau a detailed estimate of the cost of installing wheelchair ramps to allow persons in wheelchairs to enter the first floor of each national government building open to the public, and shall, in consultation with the Ministries of Education and Health, identify sources of grant funding for which this project may be eligible.

Source

RPPL 5-13 § 2, modified. Formerly codified at 30 PNCA § 508 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3038.

Notes

“Ministry of Public Infrastructure, Industries and Commerce” in subsections (a),(b) & (c) read “Ministry of Resources and Development” which has been amended by RPPL 7-43 § 2, *see* 2 PNCA § 102.

§ 3039. Parking in spaces reserved for persons with disabilities.

(a) The Bureau of Public Safety shall issue a disability parking emblem to any vehicle owner who is a person with a disability, or whose spouse or dependent child is a person with a disability. No person may park a vehicle in a space reserved for persons with disabilities unless a disability parking emblem is displayed on the vehicle and one of the occupants of the vehicle is a person with a disability. Any person who violates this section shall be fined fifty dollars (\$50) for each violation.

(b) For the purposes of this section, the term “person with a disability” means a person who is confined to a wheelchair or who uses crutches, a cane, or a walker.

(c) No later than ninety (90) days after the effective date of this section, the Bureau of Public Safety shall promulgate regulations to implement this section.

Source

RPPL 5-13 § 2, modified. Formerly codified at 30 PNCA § 509 and was re-codified by RPPL 9-14 § 23 as 33 PNCA § 3039.

