

**TITLE 6  
ADMINISTRATIVE LAW**

**Chapter 1  
Administrative Procedure Act**

**Subchapter I  
General Provisions**

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

**§ 101. Short title.**

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

**Source**

RPPL 1-53 § 101.

**Notes**

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

**Commission Comment**

Section 401(a) of RPPL 1-53 repealed chapter 1 of Title 17 of the Trust Territory Code in its entirety.

**§ 102. Definitions.**

In this chapter:

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

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

**Source**

RPPL 1-53 § 102, modified.

**Notes**

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

**§ 103. Applicability.**

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

**ADMINISTRATIVE PROCEDURE ACT      6 PNCA § 105**

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

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

**Source**

RPPL 1-53 § 103.

**Notes**

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

**§ 104. Suspension of chapter's provisions.**

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

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

**Source**

RPPL 1-53 § 104, modified.

**§ 105. Informal settlements.**

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

**Source**

RPPL 1-53 § 105.

**Subchapter II  
Rule-Making**

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

**§ 121. Required rule-making.**

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

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

**Source**

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

**Notes**

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

**§ 122. Public inspection.**

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

**ADMINISTRATIVE PROCEDURE ACT      6 PNCA § 125**

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

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

**Source**

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

**§ 123. Same; invalidity if none made available.**

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

**Source**

RPPL 1-53 § 201(b), modified.

**§ 124. Model rules.**

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

**Source**

RPPL 1-53 § 201(c), modified.

**§ 125. Notice procedure for adoption of rules.**

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

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

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

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

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

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

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

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

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

**Source**

RPPL 1-53 § 202, modified.

**ADMINISTRATIVE PROCEDURE ACT      6 PNCA § 128**

**§ 126. Emergency rules.**

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

**Source**

RPPL 1-53 § 203, modified.

**§ 127. Effective date and filing of rules.**

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

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

**Source**

RPPL 1-53 § 204, modified.

**§ 128. Publication of rules.**

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

calendar year.

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

**Source**  
RPPL 1-53 § 205.

**§ 129. Petition for adoption of rules.**

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

**Source**  
RPPL 1-53 § 206.

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

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

**Source**  
RPPL 1-53 § 207.

**§ 131. Declaratory rulings by agencies.**

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

**ADMINISTRATIVE PROCEDURE ACT      6 PNCA § 133**

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

**Source**

RPPL 1-53 § 208, modified.

**§ 132. Presidential review.**

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

**Source**

RPPL 1-53 § 209.

**§ 133. Legislative veto.**

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

**Source**

RPPL 1-53 § 210.

**Notes**

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

**Subchapter III  
Adjudicative Proceedings**

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

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

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

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

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

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

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

**ADMINISTRATIVE PROCEDURE ACT      6 PNCA § 143**

**Source**

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

**Notes**

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

**§ 142. Same; record; findings of fact.**

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

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

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

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

**Source**

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

**§ 143. Rules of evidence; official notice.**

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

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

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

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

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

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

**Source**

RPPL 1-53 § 302, modified.

**§ 144. Decisions and orders.**

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

**Source**

RPPL 1-53 § 303.

**ADMINISTRATIVE PROCEDURE ACT      6 PNCA § 146**

**§ 145. Ex parte consultations.**

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

(b) An agency member may:

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

**Source**  
RPPL 1-53 § 304.

**§ 146. Licenses.**

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

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

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

instituted and determined.

**Source**

RPPL 1-53 § 305, modified.

**§ 147. Judicial review of contested cases.**

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

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

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

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

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

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

## ADMINISTRATIVE PROCEDURE ACT 6 PNCA § 148

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

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

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

### Source

RPPL 1-53 § 306.

### Notes

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

### Cross-reference

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

### § 148. Appeal.

An aggrieved party may obtain a review of any final judgment of the court under this chapter by

appeal to the Appellate Division of the Supreme Court. The appeal shall be taken as in other civil cases.

**Source**

RPPL 1-53 § 307.

**Notes**

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

**Cross-reference**

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

**Subchapter IV  
Transition**

§ 161. Rules adopted pursuant to Trust Territory Code.

**§ 161. Rules adopted pursuant to Trust Territory Code.**

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

**Source**

RPPL 1-53 § 402, modified.