

**TITLE 14
CIVIL PROCEEDINGS AND ALTERNATIVE DISPUTE RESOLUTION**

**DIVISION 1
CIVIL PROCEDURE**

**Chapter 1
Process**

**Subchapter I
Issuance, Service and Return**

- § 101. Definition.
- § 102. Issuance of process; designation of private persons.
- § 103. Service and execution of process.
- § 104. Return of service or execution.

§ 101. Definition.

In this title, “process” shall include all forms of writs, warrants, summonses, citations, libels, and orders used in judicial proceedings.

Source
6 TTC § 1(1), modified.

Cross-reference
For rules of civil procedure promulgated by the Supreme Court pursuant to ROP Const., Art. X, § 14, and § 101 of Title 4 of this Code, see Courts of Republic of Palau Rules of Civil Procedure (eff. December 23, 1983).

Notes
The title of Title 14 of the Palau National Code is hereby amended to be retitled as “CIVIL PROCEEDINGS AND ALTERNATIVE DISPUTE RESOLUTION” by RPPL 11-5 § 2.

§ 102. Issuance of process; designation of private persons.

The court issuing any process in any proceeding may specially appoint and name in the process any person it deems suitable to execute or serve the process, except that a witness summons may not be served by a party or by a person who is less than eighteen (18) years of age. A private person to whom a process is directed for service or execution shall, upon acceptance of the said process, be responsible for the proper execution of service of such process according to law. No

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private person shall be compelled by any court or official to accept a process directed to him for service or execution. The special appointments authorized by this section shall be used freely when this will effect a saving of time or expense.

Source

(Code 1966, § 249(a) and (c).) 6 TTC § 1(2), modified.

§ 103. Service and execution of process.

Every official who is made responsible by law for the service or execution of process and every private person who accepts the responsibility for the service or execution of process shall serve or execute such process as prescribed by law within a reasonable time after the receipt of such process unless prevented from doing so by conditions beyond his control.

Source

(Code 1966, § 250.) 6 TTC § 2.

§ 104. Return of service or execution.

The Director of the Bureau of Public Safety or policemen shall certify, and a private person shall report under oath, or affirm by endorsement on or attached to every process delivered to him for execution or service, the manner and time of such execution or service or the reason for failure to make such execution or service. The process so endorsed, together with a statement of all fees and expenses charged, shall be returned without delay to the court or official by which issued. In no event shall the process be returned later than the date specified by the issuing court or official.

Source

(Code 1966, § 251.) 6 TTC § 3, modified.

Subchapter II Fees and Costs

§ 131. Fees.

§ 132. Prepayment for service.

§ 133. Disposition of proceeds.

§ 131. Fees.

Any qualified person authorized to execute or serve process, other than a member of the Bureau of Public Safety executing or serving a process in criminal or civil contempt proceedings, or in juvenile delinquency proceedings, shall be entitled to collect the following fees for duties performed by him:

- (a) for serving any form of process, one dollar (\$1) plus three cents (\$0.03) per mile for any travel actually performed and necessary in connection with the service. Any process delivered to the Director of the Bureau of Public Safety or any policeman shall be sent by him to a policeman who is located where he can serve it more quickly or with less travel;
- (b) for levying a writ of execution and making a sale thereunder, the fees provided above for serving of any process, plus five dollars (\$5) for conducting the sale, and five cents (\$0.05) for every one dollar (\$1) collected up to fifty dollars (\$50), and two cents (\$0.02) for every one dollar (\$1) collected over fifty dollars (\$50).
- (c) in addition to the above, such qualified person shall be allowed his actual, reasonable and necessary expenses for caring for any property seized under an attachment or levy of execution; provided, however, that no caretaker or watchman shall be allowed in excess of one dollar (\$1) for each twelve (12) hours of service.

Source

(Code 1966, §§ 256 and 249(b).) 6 TTC § 31, modified.

Notes

Ngarametal Ass'n v. Office of the Attorney General, 2021 Palau 14 ¶ 25.

§ 132. Prepayment for service.

Except when the process is issued on behalf of the Republic or an officer or agency thereof, the qualified person authorized to serve or execute process may require the person requesting him to act to prepay his fees and estimated expenses or give reasonable security therefor before serving or executing any process.

Source

(Code 1966, § 257.) 6 TTC § 32, modified.

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§ 133. Disposition of proceeds.

The qualified person authorized to serve or execute process, shall be entitled to retain for his own use the fees authorized in this subchapter, provided he is not an employee of the Republic as a member of the Bureau of Public Safety or otherwise when the services are performed. If he is such an employee, he shall remit monthly to the Director of the Bureau of National Treasury all fees collected for services and travel in servicing or executing process, less any reasonable expenses actually paid by him personally for travel in connection with these duties.

Source

(Code 1966, § 258.) 6 TTC § 33, modified.

Subchapter III Long Arm Jurisdiction and Service of Process Act

- § 141. Short title.
- § 142. Jurisdiction over acts of nonresidents.
- § 143. Service outside Palau.
- § 144. Manner of service.
- § 145. Default judgment.
- § 146. Effect of jurisdiction limited.
- § 147. Effect of subchapter on other method of service.

§ 141. Short title.

This subchapter may be cited as the “Long Arm Jurisdiction and Service of Process Act of 1982.”

Source

RPPL 1-26 § 1, modified.

Notes

A.J.J. Enterprises v. Ngirchechol, 4 ROP Intrm. 347, 348 (Tr. Div. 1994).

§ 142. Jurisdiction over acts of nonresidents.

Any persons, corporation or legal entity, whether or not a resident of the Republic, who in person or through an agent does any of the acts enumerated in this section thereby submits to the jurisdiction of the courts of the Republic as to any cause of action arising from:

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- (a) the transaction of any business within the Republic;
- (b) the operation of a motor vehicle within the Republic;
- (c) the operation of a vessel or craft within the territorial waters or airspace of the Republic;
- (d) the commission of a tortuous act within the Republic;
- (e) contracting to insure any person, property or risk located within the Republic at the time of contracting;
- (f) the ownership, use or possession of any property within the Republic;
- (g) entering into an express or implied contract, by mail or otherwise, with a resident of the Republic to be performed in whole or in part by either party in the Republic;
- (h) acting within the Republic as director, manager trustee, or other officer of any corporation organized under the laws of or having a place of business within the Republic, or as executor or administrator of any estate within the Republic;
- (i) causing injury to persons or property within the Republic arising out of an act or omission outside of the Republic by the defendant, provided in addition, that at the time of the injury either:
 - (1) the defendant was engaged in the solicitation or sales activities within the Republic; or
 - (2) products, materials or things processed, serviced or manufactured by the defendant anywhere were used or consumed within the Republic; and
- (j) living in a marital relationship within the Republic notwithstanding subsequent departure from the Republic, as to all obligations arising for alimony, child support, or property rights under the laws of the Republic, if the other party to the marital relationship continues to reside in the Republic.

Source

RPPL 1-26 § 2, modified.

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Notes

Koror State Government v. M/V Pacific Falcon, 9 ROP 252 , 253 (Tr. Div. 2001).
A.J.J. Enterprises v. Ngirchechol, 4 ROP Intrm. 347, 348 (Tr. Div. 1994).
Kruger v. Dean Worldwide, Inc., 4 ROP Intrm. 282, 283-87 (Tr. Div. 1994).

§ 143. Service outside Palau.

Service of process may be made upon any person subject to the jurisdiction of the courts of the Republic under this subchapter by personally serving the summons upon the defendant outside the Republic, or by certified mail to the last known address of such person to be served, or by certified mail upon the Registrar of Corporations, Secretary of State, Department of Justice or other like governmental body of the nation or state in which such person to be served resides. Such service has the same force and effect as though service had been personally made within the Republic.

Source

RPPL 1-26 § 3, modified.

Notes

Davidson v. Office of the Special Prosecutor, 16 ROP 214, 217 (2009).
Koror State Government v. M/V Pacific Falcon, 9 ROP 252 , 253 (Tr. Div. 2001).
A.J.J. Enterprises v. Ngirchechol, 4 ROP Intrm. 347, 348-50 (Tr. Div. 1994).
Kruger v. Dean Worldwide, Inc., 4 ROP Intrm. 282, 284 (Tr. Div. 1994).

§ 144. Manner of service.

Service of summons shall be under this subchapter in like manner as service within the Republic by any officer or person authorized to make service of summons in the state or jurisdiction where the defendant is served. An affidavit of the server shall be filed with the court issuing said summons stating the time, manner and place of service. The court may consider the affidavit or any other competent proofs in determining whether service has been properly made.

Source

RPPL 1-26 § 4, modified.

Notes

A.J.J. Enterprises v. Ngirchechol, 4 ROP Intrm. 347, 348 (Tr. Div. 1994).
Kruger v. Dean Worldwide, Inc., 4 ROP Intrm. 282, 282-83 (Tr. Div. 1994).

§ 145. Default judgment.

No default shall be entered against any person served with process pursuant to section 143 of this subchapter until the expiration of at least thirty (30) days after service. A default judgment rendered on service made under this subchapter may be set aside only on a showing which would be timely and sufficient to set aside a default judgment entered upon personal service within the Republic.

Source

RPPL 1-26 § 5, modified.

Notes

A.J.J. Enterprises v. Ngirchechol, 4 ROP Intrm. 347, 348-49, 353 (Tr. Div. 1994).

§ 146. Effect of jurisdiction limited.

Only causes of action arising from acts or omissions enumerated in this subchapter may be asserted against a defendant in an action in which jurisdiction over him is based upon the provisions of this subchapter.

Source

RPPL 1-26 § 6, modified.

§ 147. Effect of subchapter on other method of service.

Nothing contained in this subchapter limits or affects the right to serve process in any manner now or hereafter provided by law.

Source

RPPL 1-26 § 7, modified.

Notes

A.J.J. Enterprises v. Ngirchechol, 4 ROP Intrm. 347, 348 (Tr. Div. 1994).

Kruger v. Dean Worldwide, Inc., 4 ROP Intrm. 282, 286 (Tr. Div. 1994).

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**Chapter 2
Absent Defendants**

§ 201. Order to appear or plead.

§ 202. Personal service of order.

§ 203. Procedure if absent defendant fails to appear or plead.

§ 204. Judgment may be set aside.

§ 201. Order to appear or plead.

In any action in a court for annulment, divorce or adoption or to enforce or remove any lien upon or claim to real or personal property within the Republic, or to adjudicate title to any interest in such property, where any defendant cannot be served within the Republic, or does not voluntarily appear, the court may order the absent defendant to appear or plead by a certain day.

Source

(Code 1966, § 338.) 6 TTC § 51, modified.

§ 202. Personal service of order.

Such orders may be served on the absent defendant personally, wherever found, or, in the case of property, upon the person or persons in possession or charge thereof, if any, or by mailing, postage prepaid, a copy of the order to the absent defendant at his last known address. Where personal service is not practicable, the order shall be posted in one or more conspicuous places as the court may direct, for a period of not less than two weeks.

Source

(Code 1966, § 338.) 6 TTC § 52.

§ 203. Procedure if absent defendant fails to appear or plead.

If an absent defendant does not appear or plead within the time allowed, the court may proceed as if the absent defendant had been served with process within the Republic, but any adjudication shall, as regards the absent defendant without appearance, affect only the property or status which is the subject of the action.

Source

(Code 1966, § 338.) 6 TTC § 53, modified.

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§ 204. Judgment may be set aside.

Any defendant not so personally notified may at any time within one year after final judgment enter his appearance and thereupon the court shall set aside the judgment and permit such defendant to plead, on payment of such costs as the court deems best; provided, however, that this right shall not extend to decrees of annulment, divorce or adoption.

Source

(Code 1966, § 338.) 6 TTC § 54.

Chapter 3
Venue

- § 301. General provisions.
- § 302. Admiralty and maritime.
- § 303. Actions brought in high court.
- § 304. Change of venue.

§ 301. General provisions.

(a) Except as otherwise provided, a civil action in which one of the defendants lives in the Republic shall be brought in a court within whose jurisdiction the defendant or the largest number of defendants live or have their usual places of business or employment.

(b) If an action is based on a wrong not connected with a contract, it may be brought in a court within whose jurisdiction the cause of action arose.

(c) An action to collect a tax may be brought in a court within whose jurisdiction the defendant may be served.

(d) A civil action against a defendant who does not live in the Republic may be brought in a court within whose jurisdiction the defendant can be served or his property can be attached.

(e) A civil action by or against the executor, administrator, or other representative of a deceased person for a cause of action in favor of or against the deceased may be brought in any court in which it might have been brought by or against the deceased.

Source

(Code 1966, § 339(a).) 6 TTC § 101, modified.

Notes

St. Pierre v. The "Micronitor", 6 TTR 249 (1973).

§ 302. Admiralty and maritime.

Suit in an admiralty and maritime matter shall be brought in the district within which the defendant can be served, or within which his property can be attached, or, when the suit is against property itself, in the district within which the ship, goods or other thing involved can be seized.

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Source

(Code 1966, § 339(b).) 6 TTC § 102.

§ 303. Actions brought in high court.

(a) An action in the high court to enforce or remove any lien upon or claim to real or personal property within the Trust Territory, or to adjudicate title to any interest in such property, or any action affecting title to land within the Trust Territory or any interest therein, shall be brought in the district where the property or some part of it is located.

(b) Any other action in the high court in which one of the parties is a resident of the Trust Territory shall be brought in the district in which one of the parties thereto lives or has his usual place of business or employment or, if the action is based upon a wrong not connected with a contract, it may be brought in the district in which the cause of action arose.

(c) In all other cases, actions in the high court may be brought in the district within which any defendant can be served or his property attached.

Source

(Code 1966, § 339(c).) 6 TTC § 103.

Notes

St. Pierre v. The "Micronitor", 6 TTR 249 (1973).

§ 304. Change of venue.

(a) Nothing in this chapter shall impair the jurisdiction of a court over any matter involving a party who does not make timely and sufficient objection to the venue.

(b) If a matter is brought in the wrong venue, the court in which it is brought may, on its own motion or otherwise, transfer it to any court in which the matter might properly have been brought.

(c) The high court, if it deems the interests of justice will be served thereby, may hear any matter in a district other than that in which it is brought, or may hear it partly in one district and partly in another district or districts, or may transfer it from one district to another.

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Source

6 TTC § 104.

Notes

St. Pierre v. The "Micronitor", 6 TTR 249 (1973).

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Chapter 4 Limitation of Actions

- § 401. Presumption of satisfaction of judgment.
- § 402. Limitation of twenty years.
- § 403. Limitation of two years.
- § 404. Actions by or against the estate of a deceased person.
- § 405. Limitation of six years.
- § 406. Disabilities.
- § 407. Mutual account.
- § 408. Extension of time by absence from the Republic.
- § 409. Extension of time by fraudulent concealment.
- § 410. Effect upon causes existing on May 28, 1951.
- § 411. Limitation of time for commencing.
- § 412. Reckoning of period.
- § 413. Contrary agreements.
- § 414. Existing rights of action.

§ 401. Presumption of satisfaction of judgment.

A judgment of any court shall be presumed to be paid and satisfied at the expiration of twenty (20) years after it is rendered.

Source

(Code 1966, § 315.) 6 TTC § 301, modified.

Notes

Minor v. Rechucher, 22 ROP 102, 111 (2015).

KSPLA v. Idid Clan, 22 ROP 66, 72 (2015).

Palau Pub. Lands Auth., v. Koror State Pub. Lands Auth., 19 ROP 24, 26 (2011).

Olkeriil v. Republic of Palau, 17 ROP 202, 209 (2010).

§ 402. Limitation of twenty years.

(a) The following actions shall be commenced only within twenty (20) years after the cause of action accrues:

- (1) actions upon a judgment;

(2) actions for the recovery of land or any interest therein.

(b) If the cause of action first accrued to an ancestor or predecessor of the person who presents the action, or to any other person under whom he claims, the twenty (20) years shall be computed from the time when the cause of action first accrued.

Source

(Code 1966, § 316.) 6 TTC § 302, modified.

Notes

- Robert v. Robert, 2021 Palau 34 ¶ 28.
Ngeruburk Clan v. Skebong, 2019 Palau 39 ¶ 12.
Blailes v. Otong Clan, 2018 Palau 11 ¶ 15.
Minor v. Rechucher, 22 ROP 102, 110, 111 (2015).
Badureang Clan v. Koror State Public Lands Authority, 20 ROP 80, 84, 85 (2013).
Koror State Pub. Lands Auth. v. Idong Lineage, 17 ROP 82, 85, 86 (2010).
Idid Clan v. Demei, 17 ROP 221, 229 (2010).
Aimeliik State Pub. Lands Auth. v. Rengchol, 17 ROP 276, 281 (2010).
In re Rudimch, 16 ROP 289, 298 (Tr. Div. 2009).
In re Estate of Otang, 12 ROP 200, 202 (Tr. Div. 2005).
Ilebrang Lineage v. Omtilou Lineage, 11 ROP 154, 156, 157 (2004).
Tmiu Clan v. Ngerchelbuchebe Clan, 12 ROP 152, 155 (2005).
Isimang v. Arbedul, 11 ROP 66, 69, 70, 71, 72, 75, 77, 78 (2004).
Otobed v. Etpison, 10 ROP 119, 120 (2003).
Rechucher v. Ngiraked, 10 ROP 20, 25 (2002).
Sugiyama v. Tikei Clan, 9 ROP 73, 76 (2002).
Pedro v. Tiakl, 8 ROP Intrm. 221, 224 (2000).
Aguon v. Aguon, 5 ROP Intrm. 122, 124, 125 (1995).
Rebluud v. Fumio, 5 ROP Intrm. 55, 56 (1995).
Teriong v. Rdechhor, 3 ROP Intrm. 191, 193 (1992).
Rurcherudel v. Uchel, 3 ROP Intrm. 140, 143 (1992).
NSPLA v. Aguon, 3 ROP Intrm. 110, 113-14 (1992).
Osarch v. Kual, 2 ROP Intrm. 90 (1990).
Eldridge v. Eldridge, 8 TTR 432, 438 (1984).
Kalo v. Karapaun, 5 TTR 536 (1971).
Osaki v. Pekea, 5 TTR 255 (1970).
Armaluuk v. Orrukem, 4 TTR 474 (1969).
Oneitam v. Suain, 4 TTR 62 (1968).
Nokas v. Upuili, 2 TTR 509, 511 (1963).
Kanser v. Pitor, 2 TTR 481 (1963).
Ei v. Inasios, 2 TTR 317 (1962).
Rusasech v. Trust Territory, 1 TTR 472 (1958).
Martin v. Trust Territory, 1 TTR 481 (1958).
Santos v. Trust Territory, 1 TTR 463 (1958).
Esebei v. Trust Territory, 1 TTR 495 (1958).

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§ 403. Limitation of two years.

The following actions shall be commenced only within two years after the cause of action accrues:

- (a) actions for assault and battery, false imprisonment, or slander;
- (b) actions against the Director of the Bureau of Public Safety, policeman or other person duly authorized to serve process, for any act or omission in connection with the performance of his official duties.
- (c) actions for malpractice, error, or mistake against physicians, surgeons, dentists, medical or dental practitioners, and medical or dental assistants.
- (d) actions for injury to or for the death of one caused by the wrongful act or neglect of another, or a depositor against a bank for the payment of a forged or raised check, or a check which bears a forged or unauthorized endorsement.

Source

(Code 1966, § 317.) 6 TTC § 303, modified.

Notes

In re Ownership of Ngerchelngael Island, 22 ROP 266, 271, 274, 275 (Land Ct. 2014).

Minor v. Rechucher, 22 ROP 102, 111 (2015).

Omelau v. ROP Div. of Fish and Wildlife Prot., 16 ROP 319, 324 (Tr. Div. 2009).

Muna v. Trust Territory, (App. Div., May 1977).

Butirang v. Uchel, 3 TTR 382 (1967).

§ 404. Actions by or against the estate of a deceased person.

Any action by or against the executor, administrator or other representative of a deceased person for a cause of action in favor of, or against, the deceased shall be brought only within two (2) years after the executor, administrator or other representative is appointed or first takes possession of the assets of the deceased.

Source

6 TTC § 304.

Notes

Baules v. Toribiong, 2016 5 ¶¶ 25, 30

Minor v. Rechucher, 22 ROP 102, 111 (2015).

In re Rudimch, 16 ROP 289, 295 (Tr. Div. 2009).

In re Estate of Orrukem, 14 ROP 194 (Tr. Div.) (2006).
Crisostomo v. Trust Territory, (App. Div., April 1976).
Obkal v. Armaluuk, 5 TTR 3 (1970).

§ 405. Limitation of six years.

All actions other than those covered in the preceding sections of this chapter shall be commenced within six (6) years after the cause of action accrues.

Source

(Code 1966, § 319.) 6 TTC § 305.

Notes

Robert v. Robert, 2021 Palau 34 ¶ 28.
In re Baird II, 2021 Palau 17 ¶ 13.
Ngeruburk Clan v. Skebong, 2019 Palau 39 ¶ 12.
Galo v. Bank of Hawaii, 2019 Palau 1 ¶ 11.
Singeo v. HANPA, 2017 Palau 21 ¶ 13.
Minor v. Rechucher, 22 ROP 102, 110, 111 (2015).
Anastacio v. Palau Pub. Utils. Corp., 18 ROP 22, 29 (Tr. Div. 2011).
Omelau v. ROP Div. of Fish & Wildlife Prot., 17 ROP 314, 319 (Tr. Div. 2009).
Omelau v. ROP Div. of Fish and Wildlife Prot., 16 ROP 319, 320 (Tr. Div. 2009).
In re Rudimch, 16 ROP 289, 298 (Tr. Div. 2009).
In re Estate of Otang, 12 ROP 200, 202 (Tr. Div. 2005).
Isimang v. Arbedul, 11 ROP 66, 69, 70, 73, 75, 77, 78 (2004).
Tmilchol v. Ngirchomlei, 7 ROP Intrm. 66 (1998).
Foster v. Bucket Dredger, 7 ROP Intrm. 234, 238 (Tr. Div. 1997).
Kumangai v. Isechal, 1 ROP Intrm. 587, 588 (1989).
Techong v. Peleliu Club, (App. Div., April 1976).
Crisostomo v. Trust Territory, (App. Div., April 1976).
Techong v. Peleliu Club, 6 TTR 275 (1973).

§ 406. Disabilities.

If the person entitled to a cause of action is a minor or is insane or is imprisoned when the cause of action first accrues, the action may be commenced within the times limited in this chapter after the disability is removed.

Source

(Code 1966, § 320.) 6 TTC § 306.

Notes

Minor v. Rechucher, 22 ROP 102, 111 (2015).
Sugiyama v. NECO Engineering, Ltd., 9 ROP 262, 266 (Tr. Div. 2002).

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§ 407. Mutual account.

In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action upon which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account.

Source
6 TTC § 307.

Notes
Singeo v. HANPA, 2017 Palau 21 ¶¶ 6, 14.
Minor v. Rechucher, 22 ROP 102, 111 (2015).
Tmilchol v. Titiml, 7 ROP Intrm. 251, 254 (Tr. Div. 1998).
George N. Market, Inc. v. Peleliu Club, 6 TTR 458 (1974).
Techong v. Peleliu Club, 6 TTR 275 (1973).

§ 408. Extension of time by absence from the Republic.

If at the time a cause of action shall accrue against any person he shall be out of the Republic, such action may be commenced within the times limited in this chapter after he comes into the Republic. If, after a cause of action shall have accrued against a person he shall depart from and reside out of the Republic, the time of his absence shall be excluded in determining the time limited for commencement of the action.

Source
(Code 1966, § 322; P.L. No. 4C-55, § 1.) 6 TTC § 308, modified.

Notes
Minor v. Rechucher, 22 ROP 102, 111 (2015).

§ 409. Extension of time by fraudulent concealment.

If any person who is liable to any action shall fraudulently conceal the cause of action from the knowledge of the person entitled to bring it, the action may be commenced at any time within the times limited within this chapter after the person who is entitled to bring the same shall discover or shall have had reasonable opportunity to discover that he has such cause of action, and not afterwards.

Source
(Code 1966, § 323; P.L. No. 4C-55, § 2.) 6 TTC § 309.

Notes

- Ngeruburk Clan v. Skebong, 2019 Palau 39 ¶ 13.
Minor v. Rechucher, 22 ROP 102, 111 (2015).
Isimang v. Arbedul, 11 ROP 66, 75, 77, 78 (2004).
Sugiyama v. NECO Engineering, Ltd., 9 ROP 262, 265 (Tr. Div. 2002).

§ 410. Effect upon causes existing on May 28, 1951.

For the purposes of computing the limitations of time provided in this chapter, any cause of action existing on May 28, 1951 shall be considered to have accrued on that date.

Source

(Code 1966, § 324.) 6 TTC § 310.

Notes

- Minor v. Rechucher, 22 ROP 102, 111 (2015).
Andres v. Desbedang Lineage, 8 ROP Intrm. 134, 135 (2000).
Rebluud v. Fumio, 5 ROP Intrm. 55, 56 (1995).
NSPLA v. Aguon, 3 ROP Intrm. 110, 113-14 (1992).
Osaki v. Pekea, 5 TTR 255 (1970).
Penno v. Katarina, 3 TTR 416 (1968).
Oneitam v. Suain, 4 TTR 62 (1968).
Kanser v. Pitor, 2 TTR 481 (Tr. Div., 1963).
Naoro v. Inekis, 2 TTR 232 (1961).
Temael v. Trust Territory, 1 TTR 520 (1958).
Rusasech v. Trust Territory, 1 TTR 472 (1958).
Esebei v. Trust Territory, 1 TTR 495 (1958).

§ 411. Limitation of time for commencing.

A civil action or proceedings to enforce a cause of action mentioned in this chapter may be commenced within the period of limitation herein prescribed, and not thereafter, except as otherwise provided in this chapter.

Source

(P.L. No. 4C-55, § 3.) 6 TTC § 311.

Notes

- Minor v. Rechucher, 22 ROP 102, 111 (2015).
Kumangai v. Isechal, 1 ROP Intrm. 587, 588 (1989).

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§ 412. Reckoning of period.

Except as otherwise provided, periods herein prescribed shall be reckoned from the date when the cause of action accrued.

Source

(P.L. No. 4C-55, § 3.) 6 TTC § 312.

Notes

Minor v. Rechucher, 22 ROP 102, 111 (2015).

§ 413. Contrary agreements.

No agreement made subsequent to the effective date of this section for a period of limitation different from the period described in this chapter shall be valid.

Source

(P.L. No. 4C-55, § 3.) 6 TTC § 313.

Notes

Minor v. Rechucher, 22 ROP 102, 111 (2015).

§ 414. Existing rights of action.

Revision of this chapter shall not be construed to extinguish any rights or remedies which have accrued to any party prior to such revision, unless specifically provided otherwise.

Source

(P.L. No. 4C-55, § 3.) 6 TTC § 314.

Notes

Minor v. Rechucher, 22 ROP 102, 111 (2015).

ACTIONS AGAINST THE REPUBLIC OR TT 14 PNCA § 501

Chapter 5 Actions Against the Republic or Trust Territory

§ 501. Claims permitted in trial division; set-offs, counterclaims, etc.; injury; funds for payments of judgments.

§ 502. Exceptions.

§ 503. Actions in tort.

§ 501. Claims permitted in trial division; set-offs, counterclaims, etc.; injury; funds for payments of judgments.

(a) Actions upon the following claims may be brought against the government of the Trust Territory or Republic in the Trial Division of the high court or Supreme Court which shall have exclusive original jurisdiction thereof:

(1) civil actions against the government of the Trust Territory or Republic for the recovery of any tax alleged to have been erroneously or illegally collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the tax laws.

(2) any other civil action or claim accruing on or after September 23, 1967, against the government of the Trust Territory or Republic founded upon any law of this jurisdiction or any regulation issued under such law, or upon any express or implied contract with the government of the Trust Territory or Republic, or for liquidated or unliquidated damages in cases not sounding in tort.

(3) civil actions against the government of the Trust Territory or Republic on claims for money damages, accruing on or after September 23, 1967, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the government of the Trust Territory or Republic, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(b) In any claim or proceeding brought pursuant to this section, the Trial Division of the high court's or Supreme Court's jurisdiction shall extend to any set-off, counter-claim or other claim or demand whatever on the part of the government of the Trust Territory or Republic against any plaintiff commencing an action under this section.

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(c) Judgments rendered pursuant to this section shall be paid from such funds as may be appropriated by the Congress of Micronesia, the Olbiil Era Kelulau or the Congress of the United States for that purpose.

Source

(Code 1966, Ch. 5.) 6 TTC § 251, § 251(3) omitted as inapplicable and section modified.

Notes

- Estate of Myla Mira v. Republic of Palau, 2023 Palau 14 ¶¶ 7, 8, 26, 28.
Republic of Palau v. Ngatpang State Pub. Lands Auth., 2023 Palau 7 ¶¶ 14, 15, 16, 18, 20.
Ochedaruchei Clan v. Oilouch, 2021 Palau 33 ¶¶ 9, 23, 25.
Omelau v. ROP Div. of Fish and Wildlife Prot., 16 ROP 319, 321 (Tr. Div. 2009).
Taro v. ROP, 12 ROP 175 (Tr. Div. 2004).
Giraked v. Estate of Rechucher, 12 ROP 133, 146, 147 (2005).
Becheserrak v. ROP, 7 ROP Intrm. 111, 119 (App. Div. 1998).
Superluck Enterprises, Inc. v. ROP, 6 ROP Intrm. 267, 271 (1997).
Micronesian Yachts Co. v. Foreign Investment Board, 5 ROP Intrm. 305, 310-11 (Tr. Div. 1995).
Tell v. Rengiil, 4 ROP Intrm. 224, 227-28 (1994).
Seid v. ROP, 2 ROP Intrm. 137, 139 (1990).
Ngirausui v. ROP, 1 ROP Intrm. 185 (Tr. Div. 1985).
Renguul v. Ililau, 1 ROP Intrm. 188 (Tr. Div. 1985).
Metes v. Airai, 1 ROP Intrm. 21 (Tr. Div. 1985).
Ikosia v. Trust Territory, (Tr. Div., December 1975).
Guerrero v. Johnston, 6 TTR 124 (1972).
Chutaro v. Sandbargen, 5 TTR 541 (1971).
Rivera v. Trust Territory, 4 TTR 140 (1968).
Urrimech v. Trust Territory, 1 TTR 534 (1958).

§ 502. Exceptions.

The Trial Division of the high court or Supreme Court shall not have jurisdiction under the foregoing section 501 of:

- (a) any civil action or claim for a pension.
- (b) any claim based on an act or omission of an employee of the government, exercising due care, in the execution of a law or regulation, whether or not such law or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of any agency or employee of the government, whether or not the discretion involved be abused.
- (c) any claim arising in respect of the detention of any goods or merchandise by any officer of customs or excise or any other law enforcement officer.

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- (d) any claim for damages caused by the imposition or establishment of a quarantine by the government of the Trust Territory or Republic or any agency thereof.
- (e) any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit or interference with contract rights.
- (f) any claim arising outside of the Trust Territory or Republic.

Source

(Code 1966, Ch. 5.) 6 TTC § 252, modified.

Notes

- Estate of Myla Mira v. Republic of Palau, 2023 Palau 14 ¶¶ 7, 28.
- Republic of Palau v. Ngatpang State Pub. Lands Auth., 2023 Palau 7 ¶¶ 14, 16, 18.
- Ochedaruchei Clan v. Oilouch, 2021 Palau 33 ¶¶ 9, 10, 23, 25, 28, 32, 37.
- Omelau v. ROP Div. of Fish and Wildlife Prot., 16 ROP 319, 320, 321, 323 (Tr. Div. 2009).
- Taro v. ROP, 12 ROP 175, 176 (Tr. Div. 2004).
- Giraked v. Estate of Rechucher, 12 ROP 133, 146 (2005).
- Micronesia Yachts Co. v. Foreign Investment Board, 5 ROP Intrm. 305, 310, 311 (Tr. Div. 1995).
- Tell v. Rengiil, 4 ROP Intrm. 224, 227-29 (1994).
- Moros v. Besong, 1 ROP Intrm. 316 (Tr. Div. 1986).
- Renguul v. Ililau, 1 ROP Intrm. 188 (Tr. Div. 1985).
- Ikosia v. Trust Territory, (Tr. Div., December 1975).
- Guerrero v. Johnston, 6 TTR 124 (1972).

§ 503. Actions in tort.

Actions may be brought against the government of the Trust Territory or Republic, which shall be liable to the same extent as a private person under like circumstances, for tort claims; provided, that the government of the Trust Territory or Republic shall not be liable for interest prior to judgment or for punitive damages.

Source

(Code 1966, Ch. 5.) 6 TTC § 253, modified.

Notes

- Republic of Palau v. Ngatpang State Pub. Lands Auth., 2023 Palau 7 ¶¶ 14, 16, 18.
- Ochedaruchei Clan v. Oilouch, 2021 Palau 33 ¶¶ 10, 22, 23, 25.
- Taro v. ROP, 12 ROP 175, 176 (Tr. Div. 2004).
- Giraked v. Estate of Rechucher, 12 ROP 133, 146 (2005).
- Becheserrak v. ROP, 8 ROP Intrm. 147, 148, 149 (2000).
- Becheserrak v. ROP, 7 ROP Intrm. 111, 114, 115, 117 (App. Div. 1998).
- Ikosia v. Trust Territory, (Tr. Div., December 1975).

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Chapter 6 New Trial; Appeal and Review

- § 601. Effect of irregularities.
- § 602. When appeals may be taken.
- § 603. Right of Republic government to appeal.
- § 604. Powers of courts on appeal or review.
- § 605. Stay of execution.
- § 606. Decisions of appellate division of high court final until action by U.S. Congress.

§ 601. Effect of irregularities.

No error in either the admission or exclusion of evidence, and no error or defect in any ruling or order, or in anything done or omitted by the court, or by any of the parties shall constitute a ground for granting a new trial, or for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice.

Source

(Code 1966, § 337.) 6 TTC § 351.

Notes

- Lino v. Trust Territory, 6 TTR 561 (1973).
- Trust Territory v. Miller, 6 TTR 193 (1972).
- In re Alleged Delinquent Minor, 6 TTR 3 (1972).
- Jetnil v. Lajoun, 5 TTR 366 (1971).
- Eram v. Trust Territory, 3 TTR 442 (1968).
- Oingerang v. Trust Territory, 2 TTR 385 (1963).
- Borja v. Trust Territory, 1 TTR 280 (1955).

§ 602. When appeals may be taken.

Any appeal authorized by law may be taken by filing a notice of appeal with the presiding judge or justice of the court from which the appeal is taken, or with the Clerk of Courts within thirty (30) days after the imposition of sentence or entry of the judgment, order or decree appealed from, or within such longer time and under such procedures as may be prescribed by rules of procedure adopted by the Chief Justice of the Trust Territory under section 202 of Title 5 of the Trust Territory Code, or by the Chief Justice of the Supreme Court of the Republic of Palau pursuant to Article X, Section 14 of the Constitution.

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Source

(Code 1966, § 198.) 6 TTC § 352, modified.

Cross-reference

For rules of appellate procedure promulgated by the Supreme Court pursuant to ROP Const. art. X, § 14 and Title 4, § 101, see Courts of Republic of Palau Rules of Appellate Procedure (eff. December 23, 1983).

Commission Comment

For the retained appellate functions of the Appellate Division of the Trust Territory High Court, see section 5b. of Secretarial Order No. 3039.

Notes

- Henry v. Shizushi, 21 ROP 79, 82 (2014).
- Henry v. Shizushi, 21 ROP 52, 55 (2014).
- Adelbai v. Ngirasibong, 3 ROP Intrm. 1, 2 (1991).
- ROP v. Chisato, 2 ROP Intrm. 227, 228 (1991).
- Gibbons v. ROP, 1 ROP Intrm. 547mm, 547oo, 547ss (1988).
- Abrams v. Johnston, (App. Div., November 1975).
- San Nicolas v. Bank of America, 6 TTR 568 (1973).
- Aldan v. Bank of America, 6 TTR 570 (1973).
- Ngiralois v. Trust Territory, 3 TTR 637 (App. Div., 1968).
- Uchel v. Trust Territory, 3 TTR 578 (App. Div. 1965).
- You v. Gaameu, 2 TTR 264 (1961).
- Aguon v. Rogoman, 2 TTR 258 (1961).

§ 603. Right of Republic government to appeal.

- (a) In a criminal case, the government shall have the right of appeal only when a written enactment intended to have the force and effect of law has been held invalid. Action on any such appeal shall be limited as provided in section 604 of this chapter.
- (b) In civil cases, the government shall have the same right of appeal as private parties.

Source

(Code 1966, § 198.) 6 TTC § 353, modified.

Notes

- ROP v. S.S. Enterprises, Inc., 9 ROP 48, 49 (2002).
- ROP v. Udui, 8 ROP Intrm. 61, 62 (1999).
- Gibbons v. ROP, 1 ROP Intrm. 547A (1988).

§ 604. Powers of courts on appeal or review.

- (a) The high court or Supreme Court on appeal or review and the district court on appeal

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shall have power to affirm, modify, set aside, or reverse the judgment or order appealed from or reviewed and to remand the case with such directions for a new trial or for the entry of judgment as may be just.

(b) The findings of fact of the Trial Division of the high court or the Supreme Court in cases tried by it shall not be set aside by the Appellate Division of that court unless clearly erroneous, but in all other cases the appellate or reviewing court may review the facts as well as the law.

(c) In a criminal case, the appellate or reviewing court may set aside the judgment of conviction, or may commute, reduce (but not increase), or suspend the execution of the sentence, and, if the defendant has appealed or requested a new trial, the appellate or reviewing court may order a new trial; but if the government has appealed in a criminal case as authorized in section 603 of this chapter, the appellate or reviewing court may not reverse any finding of not guilty, and its powers shall be limited to a reversal of any determination of invalidity of an enactment intended to have the force of law.

Source

(Code 1966, § 200.) 6 TTC § 355.

Notes

- Idid Clan v. Olngembang Lineage, 12 ROP 111, 115 (2005).
- Sugiyama v. Tikei Clan, 9 ROP 73, 76 (2002).
- Lakobong v. Tebei, 8 ROP Intrm. 87, 89 (1999).
- Tmetuchl v. Siksei, 7 ROP Intrm. 102, 105 (1998).
- Kotaro v. ROP, 7 ROP Intrm. 57, 61 (1998).
- Rechelulk v. Tmilchol, 6 ROP Intrm. 1, 2, 3 (1996).
- Loitang v. Jesus, 5 ROP Intrm. 216, 218 (1996).
- Umedib v. Smau, 4 ROP Intrm. 257, 258 (1994).
- Remengesau v. Sato, 4 ROP Intrm. 230, 234 (1994).
- ROP v. Sisor, 4 ROP Intrm. 152, 156 (1994).
- Estate of Ngiratemarikel, 4 ROP Intrm. 148, 151 (1994).
- Silmai v. Rechucher, 4 ROP Intrm. 55, 57 (1994).
- ROP v. Worswick, 3 ROP Intrm. 269, 276 (1993).
- Otiwii v. Iyebukel Hamlet, 3 ROP Intrm. 159, 169 (1992).
- Ngirateraked v. Joseph, (Civil Appeal 3-92).
- Salii v. Sugiyama, (Civil Appeal 14-92).
- Watanabe v. Nelson, (Civil Appeal 2-92).
- Balang v. Sengebau, (Civil Appeal 36-91).
- Edaruchei Clan of Ngerdelolk v. Edaruchei Clan of Ngerkyukl, (Civil Appeal 39-91).
- Estate of Olkeriil v. Ulechong, (Civil Appeal 25-91).
- KSPLA v. Diberdii Lineage, (Civil Appeal 9-91).
- Bilamang v. Oit, (Civil Appeal 15-91).
- Udui v. Temol, 2 ROP Intrm. 251 (1991).

Koror v. ROP, (Civil Appeal 24-91).
ROP v. Chisato, 2 ROP Intrm. 227, 237-38 (1991).
Techur v. Tutii, 2 ROP Intrm. 122 (1990).
ROP v. Tascano, 2 ROP Intrm. 179 (1990).
Ngirausui v. Baiei, (Civil Appeal 16-90).
Kamiishi v. Han Pa Construction Co., (Civil Appeal 23-90).
Nakatani v. Nishizono, 2 ROP Intrm. 7, 17 (1990).
Tamakong v. Nakamura, 1 ROP Intrm. 608, 611 (1989).
ROP v. Singeo, 1 ROP 551, 555 (1989).
Estate of Delemel, (Civil Appeal 8-89).
Miner v. Delngelij, (Civil Appeal 19-87).
Olper v. Damarlane, (App. Div. January 1977).
Edward v. Trust Territory, (App. Div., February 1977).
In the Estate of Bulele, (App. Div. January 1977).
Edwards v. Trust Territory, (App. Div., Feb. 1977).
Crisostomo v. Trust Territory, (App. Div., April 1976).
Trust Territory v. Macaranas, (App. Div., April 1976).
Ngiratulemau v. Merei, 6 TTR 245 (1973).
Rengiil v. Derbai, 6 TTR 181 (1973).
Helgenberger v. Trust Territory, 4 TTR 530(App. Div., 1969).
Debesol v. Trust Territory, 4 TTR 556 (App. Div., 1969).
Arriola v. Arriola, 4 TTR 486 (App. Div., 1968).
Aiichi v. Trust Territory, 3 TTR 290 (1967).
Osawa v. Ludwig, 3 TTR 594 (App. Div., 1966).
Timulch v. Trust Territory, 3 TTR 208 (1966).
Willianter v. Trust Territory, 3 TTR 227 (1966).
Itelbong v. Trust Territory, 2 TTR 595 (1964).
Uchel v. Trust Territory, 3 TTR 578 (App. Div., 1965).
Tkoel v. Trust Territory, 2 TTR 513 (1964).
Firetamag v. Trust Territory, 2 TTR 413 (1963).
Yamashiro v. Trust Territory, 2 TTR 638 (App. Div. 1963).
Soilo v. Trust Territory, 2 TTR 368 (1962).
Ngirmidol v. Trust Territory, 1 TTR 273 (1955).
Jatios v. Levi, 1 TTR 578 (App. Div. 1954).

§ 605. Stay of execution.

Pending review or the hearing and determination of an appeal, execution of the judgment, order or sentence of a court will not be stayed unless:

- (a) the appellate court, reviewing court or the trial court orders a stay for cause shown and upon such terms as it may fix; or
- (b) as otherwise provided by law.

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Source

(Code 1966, § 201; P.L. No. 4C-17, § 1.) 6 TTC § 356, modified.

Notes

Richmond Wholesale Meat Co. v. Ngiraklsong, 2 ROP Intrm. 292 (1991).
Mottan v. Lanjen, 2 TTR 347 (1962).

§ 606. Decisions of appellate division of high court final until action by U.S. Congress.

Unless and until the Congress of the United States provides for an appeal to a court created by act of Congress, the decisions of the appellate division of the high court shall be final.

Source

(Code 1966, § 202.) 6 TTC § 357.

Commission Comment

For the retained appellate functions of the Appellate Division of the Trust Territory High Court, see section 5b. of Secretarial Order No. 3039.

Notes

Abrams v. Trust Territory High Court Disciplinary Panel (App. Div., May 1977).
"Iroj" on Jebdrik's Side v. Jakeo, 5 TTR 670 (1972).

**Chapter 7
Fees and Costs; Disposition of Fines**

**Subchapter I
Fees and Costs**

§ 701. Proceedings when persons unable to pay fees.

§ 702. Additional costs may be taxed.

§ 703. Allocation of costs.

§ 704. Apportionment of costs.

§ 701. Proceedings when persons unable to pay fees.

(a) Any court may authorize the commencement, prosecution or defense of any case, action or proceeding, civil or criminal, or any appeal therein, without prepayment of fees for serving of process, jury fees, witness fees or filing fees, or giving security therefore by a permanent resident of the Republic who makes a statement under oath that he is unable to pay such fees or give security therefor. This statement under oath shall state the nature of the case, action, or proceedings, defense, or appeal, and that the person making the statement believes that he is entitled to relief.

(b) The officers of the court and the designated policeman shall issue and serve all process, and perform all duties in such cases without prepayment of fees or the giving of security therefor. Witnesses shall attend as in other cases.

(c) The court may dismiss the case, action or proceeding if the statement that the person is unable to pay fees is untrue, or if the court is satisfied that the case, action or proceeding is malicious or has no substantial basis.

(d) The court before whom any criminal case is pending or a judge or justice thereof may order at any time that a witness summons be issued and served without prepayment of fees upon request of an accused who cannot pay witness fees. The request shall be supported by a statement under oath in which the accused shall state the name and address of each witness and the testimony which he is expected by the accused to give if summoned, and shall show that the evidence of the witness is material to the defense, that the accused cannot safely go to the trial without the witness, and that the accused is actually unable to pay the fees of the witness. If the court or judge or justice orders the witness summons to be issued and served without prepayment of fees the fees of the

14 PNCA § 701 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

witness so summoned shall be paid in the same manner in which similar fees are paid in case of a witness summoned on behalf of the government.

(e) In the event that a court authorizes a party to proceed without payment of fees pursuant to this section, the administrative officer of the judiciary, shall pay all fees which would otherwise be due to the court reporter or other person who prepares a transcript. Such payment shall be made from funds appropriated for the operation of the judiciary.

Source

(Code 1966, §262; P.L. No. 6-101, § 2) 6 TTC § 404, modified.

Notes

ROP v. Wenty, 3 ROP Intrm. 134 (1992).
Otiwii v. Iyebukl Hamlet, 3 ROP Intrm. 159 (1992).

§ 702. Additional costs may be taxed.

The court may allow and tax any additional items of cost or actual disbursement which it deems just and finds have been necessarily incurred for services which were actually and necessarily performed. When, in its discretion, the court finds that a complaint in a civil case is groundless, frivolous, or brought in bad faith, it shall award reasonable attorney's fees in favor of the prevailing defendant. The court shall have the final authority to determine and assess the amount of reasonable attorney's fees that may be awarded.

Source

(Code 1966, §265.) 6 TTC § 407, as amended by RPPL 3-7 § 1, modified.

Notes

Emesiochl v. Maratita, 20 ROP 118, 127 (C.C.P. 2013).
Airai State Gov't v. Ngkekiil Clan, 11 ROP 261, 262, 265 (Tr. Div. 2004).
Kruger v. Rosenthal, 9 ROP 105, 106, 109, 110, 111 (2002).
Kulas v. Becheserrak, 7 ROP Intrm. 106 (1998).
Arugay v. Wolff, 5 ROP Intrm. 239, 242, 243, 247 (1996).
Wolff v. Sugiyama, 5 ROP Intrm. 207, 208 (1996).
Wolff v. Sugiyama, 5 ROP Intrm. 105, 114 (1995).
Tmetuchl v. Kohn, 5 ROP Intrm. 81, 85 (1995).
KSPLA v. Diberdii Lineage, 3 ROP Intrm. 305, 310, 313-14 (1993).
Techur v. Tutii, 2 ROP Intrm. 122 (1990).
Intercontinental Trading Corp. v. Johnsrud, 1 ROP Intrm. 569 (1989).

§ 703. Allocation of costs.

All fees and expenses paid or incurred under this chapter for the service of process, witness fees, or filing fees on appeal, by any party prevailing in any matter other than a criminal proceeding, shall be taxed as part of the costs against the losing party or parties unless the court shall otherwise order; provided, that no fees paid to a witness who is a party in interest and is called and examined on his own behalf or on behalf of others jointly interested with him shall be allowed or taxed as costs; and provided further, that no costs shall be taxed against the United States of America, the Trust Territory or the Republic.

Source

6 TTC § 408, modified.

Notes

Roll'em Prods. v. Diaz, 22 ROP 229, 245 (Tr. Div. 2015).

Francisco v. Chin, 10 ROP 44, 54 (2003).

Kruger v. Rosenthal, 9 ROP 105, 109 (2002).

Winterthur Swiss Ins. Co. v. Socio Micronesia, Inc., 8 ROP Intrm. 212, 213 (2000).

Kulas v. Becheserrak, 7 ROP Intrm. 106 (1998).

Techemding Clan v. Mariur, 3 ROP Intrm. 116, 120 (1992).

§ 704. Apportionment of costs.

Where there is more than one prevailing or losing party, costs may be apportioned by the court as it deems just.

Source

(Code 1966, § 265.) 6 TTC § 409.

**Subchapter II
Disposition of Fines**

§ 721. Civil fines.

§ 721. Civil fines.

Any fine imposed in accordance with law by anyone other than a court shall be paid into the National Treasury, unless the law under which it is imposed otherwise directs. Such fines shall be considered civil fines and no person shall be imprisoned solely for failure to pay them, but any

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DISPUTE RESOLUTION**

such fine may be collected in the manner provided for collection of taxes in Division 2, Title 40 of this Code, or as may be provided in the law under which the fine is imposed, provided it is not inconsistent with this section.

Source

6 TTC § 452, § 452(2) omitted as inapplicable and section modified.

**DIVISION 2
SPECIAL PROCEEDINGS**

**Chapter 10
Declaratory Judgments**

§ 1001. Authority of courts to render.

§ 1001. Authority of courts to render.

In a case of actual controversy within its jurisdiction, any appropriate court of the Republic, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

Source

(Code 1966, § 118.) 9 TTC § 1, modified.

Notes

- Ngiraterang v. Ngarchelong State Assembly, 2021 Palau 18 ¶¶ 28, 30, 34, 41, 75 n.20.
- Demei v. Sugiyama, 2021 Palau 2 ¶ 12 n.6.
- Lakobong v. Blesam, 2020 Palau 28 ¶ 7 n.3.
- Ngarbechesis Klobak v. Ueki, 2018 Palau 17 ¶ 15.
- Nebre v. Uludong, 15 ROP 15, 22 (2008).
- Remengesau v. Senate, 10 ROP 173, 175 (Tr. Div. 2001).
- Matlab v. Melimarang, 9 ROP 93, 96 (2002).
- Ngerul v. ROP, 8 ROP Intrm. 295, 300 (2001).
- The Senate v. Nakamura, 8 ROP Intrm. 190, 192 (2000).
- Fanna v. Sonsorol State Government, 8 ROP Intrm. 9, 11 (1999).
- The Senate v. Nakamura, 7 ROP Intrm. 212, 214 (1999).
- Kruger v. Social Sec. Bd., 5 ROP Intrm. 91, 93 (1995).
- Seid v. ROP, 2 ROP Intrm. 137, 139 (1990).
- Gibbons v. Saliij, 1 ROP Intrm. 333 (1986).

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Chapter 11 Conciliation Proceedings

§ 1101. Conciliation jurisdiction.

§ 1101. Conciliation jurisdiction.

(a) Any court may, at the request of a party to any civil controversy (other than annulment, divorce and adoption), endeavor to effect an amicable settlement of the controversy, and to that end, may invite the other party or parties to the controversy to appear before the judge or justice for an informal hearing.

(b) Such a request shall be made in the court within whose territorial jurisdiction the other party or the largest number of the other parties live or have their usual places of business or employment.

(c) If an agreement in settlement of the controversy is reached, the judge or justice shall reduce it to writing and his report of the settlement agreement, when signed by the parties, shall have the force and effect of a judgment even though the subject matter of the controversy may be beyond the jurisdiction of the court for purposes other than conciliation.

Source

(Code 1966, § 164.) 9 TTC § 51, modified.

Notes

Flibert v. Ngirmang, 8 ROP Intrm. 273, 276 (2001).

Philip v. Carl, 3 TTR 97 (1966).

Aty v. Sieuo, 2 TTR 303 (1961).

**DIVISION 3
ENFORCEMENT OF JUDGMENTS**

**Chapter 20
General Provisions**

- § 2001. Money judgments.
- § 2002. Judgments affecting land.
- § 2003. Other judgments.
- § 2004. Other methods of enforcement.

§ 2001. Money judgments.

Every judgment for the payment of money shall bear interest at the rate of nine percent a year from the date it is entered. The process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment, as provided in chapter 21 of this title.

Source

(Code 1966, § 282; P.L. No. 6-97, § 1.) 8 TTC § 1, modified.

Notes

- Shmull v. Hanpa Indus. Dev. Corp., 2019 Palau 27 ¶ 11.
- Ngiraingas v. Shmull, 2019 Palau 23 ¶ 2.
- In re Shadel, 22 ROP 154, 157, 158, 159, 171 (Disc. Proc. 2015).
- Wally v. ROP, 16 ROP 19, 25 (2008).
- Cura v. Salvador, 11 ROP 221, 223 (2004).
- Becheserrak v. ROP, 8 ROP Intrm. 147 (2000).
- Foster v. Bucket Dredger, 7 ROP Intrm. 234, 239 (Tr. Div. 1997).
- ROP v. Akiwo, 6 ROP Intrm. 297, 301 (Tr. Div. 1996).
- F/V Chin Mein Yu v. F/V Zhong Yuan 601, 4 ROP Intrm. 312, 326 (Tr. Div. 1994).
- Superluck Enterprises, Inc. v. ROP, 4 ROP Intrm. 290, 306 (Tr. Div. 1994).
- A.J.J. Enterprises v. Renguul, 3 ROP Intrm. 29, 29-30 (1991).
- Eptison v. Rdialul, 3 ROP Intrm. 211, 213 (1991).
- Taisakan v. Taisakan, 6 TTR 283 (1973).
- Torres v. Cruz, 3 TTR 569 (App. Div., 1965).

§ 2002. Judgments affecting land.

A judgment adjudicating an interest in land shall, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, operate the release or

14 PNCA § 2002 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

transfer any interest in land in accordance with the terms of the judgment, when a copy thereof, certified by the Clerk of Courts, or any judge or justice of the court, is recorded in the Office of the Clerk of Courts, in the case of unregistered land, or in the registrar's office, in the case of registered land.

Source

(Code 1966, § 283; P.L. No. 4C-34, § 1.) 8 TTC § 2, modified.

Notes

Becheserrak v. ROP, 8 ROP Intrm. 147, 149 (2000).

Dalton v. Hiers of Borja, 5 ROP Intrm. 95, 104 (1995).

Richmond Wholesale Meat Co. v. Ngiraklsong, 2 ROP Intrm. 292, 294 (1991).

Reab v. Langrine, (App. Div., June 1977).

§ 2003. Other judgments.

Judgment for any form of relief other than the payment of money or the adjudication of an interest in land, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, may be enforced by contempt proceedings; provided, that enforcement at such time is required to prevent irreparable injury or multiple damage to the interests of the winning party and is otherwise in the interests of justice. Upon a finding of contempt, the person against whom the judgment has been rendered may be fined or imprisoned at the discretion of the court until he or she complies with the judgment or is released by the court or has been imprisoned for six months, whichever happens first.

Source

(Code 1966, § 284; P.L. No. 4C-34, § 1.) 8 TTC § 3.

Notes

Becheserrak v. ROP, 8 ROP Intrm. 147, 149 (2000).

Dalton v. Heirs of Borja, 5 ROP Intrm. 95, 103, 104 (1995).

Ranipu v. Trust Territory, 2 TTR 167 (1961).

§ 2004. Other methods of enforcement.

Enforcement of judgment may also be affected, if a court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the court, or by a civil action on the judgment, or in any other manner known to American common law or common in courts in the United States.

GENERAL PROVISIONS

14 PNCA § 2004

Source

(Code 1966, § 285.) 8 TTC § 4, modified.

14 PNCA § 2101 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Chapter 21 Writs; Orders in Aid of Judgment

- § 2101. Writs of attachment.
- § 2102. Release and modification.
- § 2103. Writs of execution.
- § 2104. Levying execution.
- § 2105. Orders in aid of judgment; application.
- § 2106. Same; hearing.
- § 2107. Same; modification of orders.
- § 2108. Same; punishment of violations.
- § 2109. Same; stay of execution.
- § 2110. Exemptions.
- § 2111. Limitation on lawyer fees in collection cases.

§ 2101. Writs of attachment.

(a) Writs of attachment may be issued only by the Trial Division of the high court or Supreme Court for special cause shown, supported by statement of the high court or Supreme Court for special cause shown, supported by statement under oath. Such writs when so issued shall authorize and require the Director of the Bureau of Public Safety, any policeman, or other person named therein, to attach and safely keep so much of the personal property of the person against whom the writ is issued as will be sufficient to satisfy the demand set forth in the action, including interest and costs. The Director of the Bureau of Public Safety, policeman, or other person named in the writ shall not attach any personal property which is exempt from attachment, nor any kinds or types of personal property which the court may specify in the writ.

(b) Debts payable to the defendant may be similarly attached by special order issued by the Trial Division of the high court or Supreme Court, which shall exempt from the attachment so much of any salary or wages as the court deems necessary for the support of the person against whom the order is issued or his dependents.

Source

(Code 1966, § 280.) 8 TTC § 51, modified.

Notes

Chiang Shui-Lang v. Chiu Hung-Chao et al., 2023 Palau 13 ¶ 20.

Ngiraingas v. Shmull, 2019 Palau 23 ¶ 2.

First Commercial Bank v. Wong, 20 ROP 132, 138, 139, 140 (2013).

WRITS; ORDERS IN AID OF JUDGMENT 14 PNCA § 2104

First Commercial Bank v. Wong, 20 ROP 1, 3 (2012).
First Commercial Bank v. Wong, 19 ROP 195, 197 (2012).
Klongt v. Paradise Air Corp., 7 ROP Intrm. 159, 160 (1999).
Klongt v. Paradise Air Corp., 7 ROP Intrm. 140, 141 (1999).
Richmond Wholesale Meat Co. v. Ngiraklsong, 2 ROP Intrm. 292, 295, 298-99 (1991).
A.J.J. Enterprises v. Ngiraklsong, 2 ROP Intrm. 59 (1990).

§ 2102. Release and modification.

The Trial Division of the high court or Supreme Court, upon application of either party or on its own motion, may make and, from time to time, modify such orders as it deems just for the release of property from attachment or for the sale thereof if perishable or if the owner of the property shall so request, and for the safekeeping of the proceeds of the sale.

Source

(Code 1966, § 281.) 8 TTC § 52, modified.

§ 2103. Writs of execution.

Every court, at the request of the party recovering any civil judgment in that court for the payment of money, shall issue a writ of execution against the personal property of the party against whom the judgment has been rendered, except as provided in section 2110 of this chapter.

Source

(Code 1966, § 286; P.L. No. 4C-21, § 1.) 8 TTC § 53.

Notes

Chiang Shui-Lang v. Chiu Hung-Chao et al., 2023 Palau 13 ¶ 29.
Sugiyama v. Etpison, 3 ROP Intrm. 247, 249-50 (1992).
Richmond Wholesale Meat Co. v. Ngiraklsong, 2 ROP Intrm. 292, 295-99 (1991).

§ 2104. Levying execution.

The Director of the Bureau of Public Safety, policeman or other person duly authorized receiving a writ of execution issued by any court, shall levy or cause the Director of the Bureau of Public Safety or policeman to levy execution as follows:

- (a) Demand of payment - seizure of property--he shall demand of the person against whom the execution is issued, if he may be found within the state where the levy is being attempted, that the person pay the execution or exhibit sufficient property subject to

14 PNCA § 2104 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

execution. If such person has property of a kind exempt from execution but to an amount exceeding the exemption, he may select the portion of this property provided by law which he desires to retain under the exemption, providing he makes this selection known promptly to the person making the levy. Otherwise, the person making the levy shall make the selection. If the person against whom the execution is issued does not pay the execution in full, including interest and costs and expenses thereof, the person making the levy shall take into his possession property of the person against whom the execution is issued, not exempt from execution, sufficient in his opinion to cover the amount of the execution. He shall take first any property under attachment in the action in which the execution was issued; next, property, if any, indicated by the person against whom the execution was issued. He may, if he thinks best, remove the property to a safe place, or place a caretaker in charge of it. He shall make a list of the property levied upon.

(b) Notice of sale--the person making the levy shall, after levy, give public notice of the sale at least seven days in advance of the time and place of sale, by notifying the chief executive officer of the state in which the levy was made, by posting a written notice of the sale in a conspicuous place at or near the state office in the state in which the sale is to be held, and must notify the person against whom the execution is issued, if he can be found within the state or states where the levy was made, or notify any agent who had custody of the property levied upon at the time of levy.

(c) Sale - procedure - disposition of proceeds--the person making the levy on the day and at the place set for the sale, unless payment has been made of the amount of the judgment and interest and the costs and expenses in connection with the levy, shall sell the property levied upon at public auction to the highest bidder. He shall deduct from the proceeds of the sale sufficient money for the full payment of his fees and expenses, and shall then pay the person in whose favor the execution was issued, or his counsel, such balance as remains up to the amount due on the execution. If there are any proceeds of the sale left after the deduction and payment directed above, such remaining proceeds shall be paid over to the person against whom the execution was issued. The person making the levy shall then return the writ to the court with a report of his doings thereon, showing the amounts collected and paid out thereon.

(d) Postponement of sale--whenever a request in writing signed by the debtor and creditor for a postponement of the sale to an agreed date and hour is given to the person conducting the sale under execution, such person shall thereupon by public declaration postpone the sale to the day and hour so fixed in such request and at the place originally fixed by the person for the sale. In the case of postponements, notice of each thereof must be given by public declaration by the person conducting the sale at the time and

WRITS; ORDERS IN AID OF JUDGMENT 14 PNCA § 2105

place last appointed for the sale. No other notice of postponed sale need be given.

(e) Completion of sale by person other than one making levy--if the Director of the Bureau of Public Safety, policeman or other person duly authorized starts to levy execution and for any reason is prevented from or fails to complete the matter, the Director of the Bureau of Public Safety, policeman or other person duly authorized may complete the levy, sale, and payment of proceeds as provided in this section.

Source

(Code 1966, § 287; P.L. No. 4C-21, § 2.) 8 TTC § 54, modified.

Notes

Chiang Shui-Lang v. Chiu Hung-Chao et al., 2023 Palau 13 ¶ 29.
Ngarametal Ass'n v. Office of the Attorney General, 2021 Palau 14 ¶¶ 2, 3, 24, 25.
Pac. Call Invs. Inc. v. Long, 17 ROP 148, 151 (2010).
Sugiyama v. Etpison, (Civil Appeal 6-92).

§ 2105. Orders in aid of judgment; application.

At any time after a finding for the payment of money by one party to another, and before any judgment based thereon has been satisfied in full, either party may apply to the court for an order in aid of judgment. Thereupon the court, after notice to the opposite party, shall hold a hearing on the question of the debtor's ability to pay and determine the fastest manner in which the debtor can reasonably pay a judgment based on the finding. In making this determination the court shall allow the debtor to retain such property and such portion of his income as may be necessary to provide the reasonable living requirements of the debtor and his dependents, including fulfillment of any obligations he may have to any clan, lineage, or other similar group, in return for which obligations he, or his dependents, receive any necessary part of the food, goods, shelter or services required for their living.

Source

(Code 1966, § 289.) 8 TTC § 55.

Notes

Secharmidal v. Ngiraikelau, 2020 Palau 25 ¶ 1.
Ngiraingas v. Shmull, 2019 Palau 23 ¶¶ 2, 4, 16, 18.
WCTC v. Bekebekmad, 9 ROP 53, 54 (2002).
Taisakan v. Taisakan, 6 TTR 283 (1973).
Rilometo v. Lanlobar, 4 TTR 1972 (1968).

14 PNCA § 2106 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

§ 2106. Same; hearing.

(a) At the hearing provided by section 2105 of this chapter, the debtor may be examined orally before the court, or the court may refer the examination to a single judge or justice of the court or to a master to take evidence and report his findings. In either case any evidence properly bearing on the question may be introduced by either party or by the court, the single judge, justice or master, in the same manner as at the trial of a civil action. Upon having heard the evidence or having received the report of the single judge, justice or master, the court shall make such order in aid of judgment as is just for the payment of any judgment based on the finding.

(b) This order in aid of judgment may provide for the transfer of particular assets at a price determined by the court, or for the sale of particular assets and payment of the net proceeds to the creditor, or for payments, in specified installments on particular dates or at specified intervals, or for any other method of payment which the court deems just.

Source

(Code 1966, § 290; P.L. No. 4C-21, § 3.) 8 TTC § 56, modified.

Notes

Mottan v. Lanjen, 2 TTR 347 (1962).

§ 2107. Same; modification of orders.

Any order in aid of judgment made under this chapter may be modified by the court as justice may require, at any time, upon application of either party and notice to the other, or on the court's own motion.

Source

8 TTC § 57.

§ 2108. Same; punishment of violations.

If any debtor fails without good cause to comply with any order in aid of judgment made under this chapter, he may be adjudged in contempt as a civil matter, after notice to show cause why he should not be so adjudged and an opportunity to be heard thereon, and upon such adjudication shall be committed to jail until he complies with the order or is released by the court or serves a period fixed by the court of not more than six months in jail, whichever happens first.

Source

(Code 1966, § 292.) 8 TTC § 58.

WRITS; ORDERS IN AID OF JUDGMENT 14 PNCA § 2110

§ 2109. Same; stay of execution.

(a) After an application for an order in aid of judgment has been filed in any action, no writ of execution shall be issued therein except under an order in aid of judgment as provided in this chapter, or by special order of the court for cause shown.

(b) If a writ of execution is outstanding, a judgment creditor applying for an order in aid of judgment shall file the writ of execution with his application, and a judgment debtor applying for an order in aid of judgment may request a stay of execution which may be granted by the court on such terms, if any, as it deems just.

Source
8 TTC § 59.

§ 2110. Exemptions.

The following described property shall be exempt from attachment and execution:

(a) Personal and household goods - all necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding, and the principal family dwelling house and one motor vehicle, fair market value of said property not to exceed one hundred fifty thousand dollars (\$150,000), unless otherwise specified by contract.

(b) Necessities for trade or occupation--all tools, implements, utensils, two work animals, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his usual occupation.

(c) Land and interests in land--all interests in land, but any interest owned solely by a judgment debtor, in his own right, may be ordered sold or transferred under an order in aid of judgment if the court making the order deems that justice so requires and finds as a fact that after the sale or transfer, the debtor will have sufficient land remaining to support himself and those persons directly dependent on him according to recognized local custom and the law of the Republic. No person not an indigenous inhabitant of the Republic may acquire any interest in such land by sale, transfer, or otherwise, except with the prior approval of the President.

(d) Social Security and Pension Plan payments and benefits.

Source
(Code 1966, § 288.) 8 TTC § 61, modified. RPPL 7-11 § 2 amends subsection (a) and adds subsection (d).

14 PNCA § 2110 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Notes

Shmull v. Chen, 17 ROP 13, 14, 15, 16, 17 (2009).

WCTC v. Terry, 14 ROP 184 (2007).

WCTC v. Meteolechol, 14 ROP 58, 61 (2007).

Kotaro v. Ngirchechol, 11 ROP 235, 239 (2004).

Richmond Wholesale Meat Co. v. Ngiraklsong, 2 ROP Intrm. 292, 297 (1991).

Taisakan v. Taisakan, 6 TTR 283 (1973).

Miko v. Keit, 2 TTR 582 (1964).

§ 2111. Limitation on lawyer fees in collection cases.

Legal fees and expenses in a collection case shall not be assessed against a defendant in excess of twenty-five percent (25%) of the amount of the outstanding balance of the debt at the time the lawsuit is filed, unless otherwise specified in the contract between the parties to the lawsuit.

Source

RPPL 7-11 § 3.

Notes

RPPL 7-11 § 3 reads: "Amendments. 14 PNC is hereby amended by adding §§ 2111, 2112 to read as follows:". Section 3 does not have a "§ 2112".

Chapter 22
Contempt of Courts Act

- § 2201. Short title.
- § 2202. Legislative findings and purposes.
- § 2203. [Repealed]
- § 2204. Power of courts to punish for civil contempt.
- § 2205. Procedures; penalties; limitations.
- § 2206. Appeal.
- § 2207. Conflict of laws.

§ 2201. Short title.

This chapter may be cited as the “Contempt of Courts Act.”

Source

RPPL 1-23 § 1(a), modified.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153 (2010).

§ 2202. Legislative findings and purposes.

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

- (a) It is the constitutional responsibility of the national government to organize its judicial system before January 1, 1982, empower the courts to act expeditiously, and be able to have their judgments enforced.
- (b) Contempt of courts is generally recognized as any conduct that offends the dignity of and respect towards the court or of any judicial office in the performance of a judicial function.
- (c) Power to punish contempt of courts is vital to a strong, honorable judiciary.

Source

RPPL 1-23 § 1(b), modified.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153 (2010).

14 PNCA § 2202 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Dalton v. Heirs of Borja, 5 TOP Intrm. 95, 104 (1995).

§ 2203. Power of courts to punish for criminal contempt. [Repealed]

Source

RPPL 1-23 § 2, modified. Repealed by RPPL 9-21 § 7.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153, 154, 156 (2010).

Dalton v. Heirs of Borja, 5 TOP Intrm. 95, 104 (1995).

Cushnie v. Oiterong, 4 TOP Intrm. 216, 218 (1994).

§ 2204. Power of courts to punish for civil contempt.

Courts of the Republic have the power to punish, by fine and imprisonment, or either, a neglect or violation of duty, or other misconduct, by which a right or remedy of a party to a civil action or special proceeding, pending in the court may be defeated, impaired, impeded or prejudiced, in any of the following cases:

- (a) an attorney, counselor, trial assistant, clerk, policeman, or other person, in any manner duly selected or appointed to perform a judicial service, for misbehavior in his office or trust or for a wilful neglect or violation of a duty therein; or for disobedience to a lawful mandate of the court, or of a justice or judge thereof.
- (b) a party to the action or special proceedings for putting in fictitious bail or a fictitious surety, or for any deceit or abuse of a mandate or proceeding of the court.
- (c) a party to the action or special proceedings of an attorney, counselor, trial assistant, clerk, policeman, or other person, for the nonpayment of a sum of money, ordered or adjudged by the court to be paid, in a case where by law execution cannot be awarded for the collection of such sum except as otherwise specifically provided by the civil practice law and rules; or for any other disobedience to a lawful mandate of the court.
- (d) a person, for assuming to be an officer of the court, and acting as such without authority, for rescuing any property or person in the custody of an officer, by virtue of a mandate of the court; for unlawfully detaining, or fraudulently and wilfully preventing or disabling from attending or testifying, a witness, or party to the action or special proceeding, while going to, remaining at, or returning from, the sitting where it is noticed for trial or hearing; and for any other unlawful interference with the proceedings therein.

(e) a person subpoenaed as a witness, for refusing or neglecting to obey the subpoena, or to attend, or to be sworn, or to answer as a witness.

(f) a person duly acting as a juror, or special juror, or assessor, for improperly conversing with a party to an action or special proceeding, or with any other person, in relation to the merits of that action or special proceeding; or for receiving a communication from any person, in relation to the merits of such an action or special proceeding; without immediately disclosing the same to the court.

Source

RPPL 1-23 § 3, modified.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153, 154, 155, 156 (2010).

Cushnie v. Oiterong, 4 TOP Intrm. 216, 218 (1994).

§ 2205. Procedures; penalties; limitations.

(a) Any person accused of committing any civil contempt shall have a right to notice of the charges and an opportunity to present defenses and mitigation; provided, however, where the offense is committed in the immediate view and presence of the court, upon a trial or hearing, it may be punished summarily. For that purpose, an order must be made by the court, justice, or judge, stating the facts which constitute the offense and plainly prescribe the punishment to be inflicted therefor.

(b) A person found to be in civil contempt of court shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six (6) months, or both; provided, however, that a person found in civil contempt for having failed to perform an act or duty, which is yet in the power of that person to perform, shall be imprisoned until he has performed it.

(c) Any person shall have the right to be charged within three (3) months of the contempt and the right not to be charged twice for the same contempt.

Source

RPPL 1-23 § 4, modified. Amended by RPPL 9-21 § 6, modified.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153, 155 (2010).

Davidson v. Office of the Special Prosecutor, 16 TOP 214, 217, 218 (2009).

14 PNCA § 2206 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

§ 2206. Appeal.

Any adjudication of contempt is subject to appeal to the Appellate Division of the Supreme Court. Any punishment of contempt may be stayed pending appeal, but a punishment of imprisonment shall be stayed on appeal automatically, unless the court finds that a stay of imprisonment will cause an immediate obstruction of justice. Such finding must be supported by written findings of fact. A denial of a stay of imprisonment is subject to review.

Source

RPPL 1-23 § 5.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153 (2010).

§ 2207. Conflict of laws.

Any other law, regulation or rule in conflict with the provisions of this chapter shall be deemed superseded and void to the extent of the conflict.

Source

RPPL 1-23 § 6, § 6(a) repealing § 451 of Title 11 of the Trust Territory Code suspended by the High Commissioner; § 6(b) made into separate section and modified.

Notes

Pac. Call Invs. Inc. v. Long, 17 TOP 148, 153 (2010).

**DIVISION 4
ACTIONS IN TORT**

**Chapter 30
Survival of Actions**

§ 3001. Survival of claims after death of tort-feasor or other person liable.

§ 3001. Survival of claims after death of tort-feasor or other person liable.

(a) A cause of action based on tort shall not be lost or abated because of the death of the tort-feasor or other person liable. An action thereon may be brought or continued against the personal representative of the deceased person, but punitive or exemplary damages may not be awarded nor penalties adjudged in the action.

(b) Where a cause of action arises simultaneously with or after the death of the tort-feasor or other person who would have been liable if his death had not occurred simultaneously with the act, omission, circumstance or event giving rise to the cause of action, or if his death had not intervened between the wrongful act, omission, circumstance or event and the coming into being of the cause of action, an action to enforce it may be maintained against the personal representative of the tort-feasor or other person.

Source

(Code 1966, § 25A.) 6 TTC § 151.

14 PNCA § 3101 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Chapter 31 Survival and Death Act

- § 3101. Short title.
- § 3102. Definitions.
- § 3103. Survival actions.
- § 3104. Death actions.
- § 3105. Joinder of actions.
- § 3106. Conflict of laws.

§ 3101. Short title.

This chapter may be cited as the “Survival and Death Act of 1982.”

Source

RPPL 1-46 § 1, modified.

Notes

Rengiil v. ROP, 7 ROP Intrm. 181, 182 (1999).

§ 3102. Definitions.

In this chapter:

- (a) “Actionable conduct” means an act or omission that causes the death of a person for which the person could have brought and maintained a personal injury action if he or she had not died; the term includes an act or omission for which the law imposes strict liability or liability for breach of warranty.
- (b) “Ascendants” means persons to whom one is related in the ascending line including one’s parents, grandparents, great grandparents and the like.
- (c) “Closely related survivors” means the surviving spouse and ascendants and descendants of the decedent.
- (d) “Descendants” means persons to whom one is related in the descending line including children, grandchildren, great grandchildren and the like.
- (e) “Person” means any natural person or individual, corporation, clan, entity, partnership

or any body cognizable under law.

(f) “Survivors of a decedent” means:

- (1) the surviving spouse, children, ascendants and descendants of the decedent, and
- (2) individuals who were wholly or partially dependent upon the decedent and were members of the decedent’s household or related to the decedent by blood or marriage.

Source

RPPL 1-46 § 2, § 2(b) omitted as unnecessary and terms alphabetized, section modified.

§ 3103. Survival actions.

(a) An action, claim for relief or cause of action:

- (1) does not abate by reason of the death of a person to or against whom it accrued, unless by its terms it was limited to the person’s lifetime;
- (2) may be maintained by or against the personal representative of a decedent; and
- (3) is subject to all defenses to which it was subject to during the decedent’s lifetime.

(b) Damages recoverable on behalf of a decedent under this section for an injury causing his death are limited to those that accrued to him before his death, plus reasonable burial expenses paid or payable from his estate. Damages so recovered become a part of the decedents’ estate and are distributable in the same manner as other assets of the estate. This section does not affect the measure of damages allowable under the law for any damages recoverable under any other claim for relief or cause of action.

Source

RPPL 1-46 § 3, modified.

14 PNCA § 3104 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

§ 3104. Death actions.

(a) With respect to any death caused by actionable conduct, the decedent's personal representative, acting in a fiduciary capacity on behalf of the survivors of the decedent, may bring and maintain a death action against any person or the estate of any person legally responsible for the damages, including any insurer. The death action is subject to all defenses that might have been asserted against the decedent had he survived.

(b) If no personal representative is appointed within six (6) months after decedent's death, the death action may be brought and maintained by a closely related survivor acting in a fiduciary capacity.

(c) Any survivor having a potential conflict of interest with other survivors may be represented independently in the death action.

(d) In the death action, damages awarded to survivors of a decedent are limited to the following elements:

(1) medical expenses incident to the injury resulting in death and reasonable burial expenses, paid or payable by survivors, to the extent that the decedent's estate could have recovered under section 3103 of this chapter had the payments been made by the decedent or his estate; and

(2) the present monetary value of support, services, and financial contributions they would have received from the decedent had death not ensued; and

(3) for closely related survivors reasonable compensation for decedent's pain and suffering before death if not separately recoverable under section 3103 of this chapter, loss of consortium and companionship and reasonable compensation for mental anguish not exceeding the sum of ten thousand dollars (\$10,000); and

(4) reasonable compensation for attorney fees, expert witness fees and related court costs of the personal representative or closely related survivor of the decedent.

(e) Punitive or exemplary damages are recoverable only if they would have been recoverable by the decedent had death not ensued.

(f) The judge or justice of the appropriate court of the Republic shall make separate

awards to each of the survivors entitled to damages. Conduct of a survivor which contributed to the death is a defense to the survivor's recovery to the same extent as in other actions.

(g) The decedent's personal representative or a closely related survivor qualifying under subsection (b) may compromise or settle any claim arising under this chapter, before or after an action is brought, subject to confirmation by a judge or justice of the court in which the action is or could have been brought. The personal representative or closely related survivor shall apply to the court for confirmation by petition, stating the terms of the compromise or settlement, the reasons therefor, and the names of all the survivors having an interest in the distribution of the proceeds. The court, upon notice, shall hold a hearing which all the survivors and their legal representatives may attend, and shall confirm or disapprove the compromise or settlement. If the compromise or settlement is confirmed and any of the survivors or their representatives disagree with the distribution prescribed by it, the judge or justice shall order the distribution.

(h) Every such action under this chapter shall commence within three (3) years after death.

Source

RPPL 1-46 § 4, modified.

Notes

Rengiil v. ROP, 7 ROP Intrm. 181, 182, 183 (1999).
Klongt v. Paradise Air Corp., 7 ROP Intrm. 140 (1999).

§ 3105. Joinder of actions.

(a) Actions under sections 3103 and 3104 of this chapter are separate actions but shall be joined for trial if they are based upon the same actionable conduct.

(b) Separate verdicts and awards shall be rendered in each action under section 3103 and under section 3104 of this chapter.

Source

RPPL 1-46 § 5, modified.

§ 3106. Conflict of laws.

Any law, ordinance, rule or regulation in conflict with this chapter is hereby superseded to the

**14 PNCA § 3106 CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

extent of the conflict.

Source

RPPL 1-46 § 6(b), § 6(a) severability clause omitted as unnecessary; § 6(b) made into separate section and modified.

Chapter 32
Contribution and Tort-Feasors Act

- § 3201. Short title.
- § 3202. Right of contribution.
- § 3203. Pro rata shares.
- § 3204. Enforcement.
- § 3205. Release or covenant not to sue.
- § 3206. Retroactivity.

§ 3201. Short title.

This chapter may be cited as the “Contribution Among Joint Tort-Feasors Act.”

Source
6 TTC § 551.

Notes
Winterthur Swiss Ins. Co. v. Socio Micronesia, Inc., 8 ROP Intrm. 169, 171 (2000).

§ 3202. Right of contribution.

- (a) Except as otherwise provided in this chapter, where two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.
- (b) The right of contribution exists only in favor of a tort-feasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tort-feasor is compelled to make contribution beyond his own pro rata share of the entire liability.
- (c) There is no right of contribution in favor of any tort-feasor who has intentionally, wilfully, or wantonly caused or contributed to the injury or wrongful death.
- (d) A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor whose liability for the injury or wrongful death is not extinguished by the settlement nor is he entitled to recover in respect to any amount paid in a settlement which is in excess of what was reasonable.

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(e) A liability insurer, who by payment has discharged in full or in part the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(f) This chapter does not impair any right of indemnity under existing law. Where one tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(g) This chapter shall not apply to breaches of trust or of other fiduciary obligation.

Source

(P.L. No. 4C-22, § 1.) 6 TTC § 552.

Notes

Winterthur Swiss Ins. Co. v. Socio Micronesia, Inc., 8 ROP Intrm. 169, 171 (2000).

§ 3203. Pro rata shares.

In determining the pro rata shares of tort-feasors in the entire liability:

- (a) their relative degree of fault shall not be considered;
- (b) if equity requires, the collective liability of some as a group shall constitute a single share; and
- (c) principles of equity applicable to contribution generally shall apply.

Source

(P.L. No. 4C-22, § 1.) 6 TTC § 553.

§ 3204. Enforcement.

- (a) Whether or not judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced by separate action.

CONTRIBUTION & TORT-FEASORS ACT 14 PNCA § 3205

(b) Where a judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(c) If there is a judgment for the injury or wrongful death against the tort-feasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(d) If there is no judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right of contribution is barred unless he has either:

(1) discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one (1) year after payment, or

(2) agreed while action is pending against him to discharge the common liability and has within one (1) year after agreement paid the liability and commenced his action for contribution.

(e) The recovery of a judgment for an injury or wrongful death against one tort-feasor does not of itself discharge the other tort-feasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(f) The judgment of the court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution.

Source

(P.L. No. 4C-22, § 1.) 6 TTC § 554, modified.

§ 3205. Release or covenant not to sue.

When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(a) it does not discharge any of the other tort-feasors from liability for the injury or

14 PNCA § 3205 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

wrongful death unless its terms so provide, but it reduces the claim against the other to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater; and,

(b) it discharges the tort-feasor to whom it is given from all liability for contribution to any other tort-feasor.

Source

(P.L. No. 4C-22, § 1.) 6 TTC § 555, modified.

§ 3206. Retroactivity.

This chapter shall not be deemed to create any right or remedy to any joint tort-feasor in favor of whom the provisions of this chapter would otherwise apply, where such joint tort-feasor's cause of action accrued prior to the effective date of this chapter, and to this extent the provisions of this chapter are not retroactive.

Source

(P.L. No. 4C-22, § 1.) 6 TTC § 556, modified.

Chapter 33
Uniform Single Publication Act

§ 3301. Single publication to give rise to one cause of action only.

§ 3302. Judgment as bar to other actions.

§ 3301. Single publication to give rise to one cause of action only.

No person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture. Recovery in any action shall include all damages for any such tort suffered by the plaintiff in all jurisdictions. Nothing in this section shall be construed as creating a cause of action which does not otherwise exist.

Source

(P.L. No. 4C-20, § 1.) 6 TTC § 501, modified.

Notes

Arugay v. Wolff, (Civil Action No. 109-94, Nov. 7, 1994).

§ 3302. Judgment as bar to other actions.

A judgment in any jurisdiction or against the plaintiff upon the substantive merits of any action for damages founded upon a single publication or exhibition or utterance as described in section 3301 of this chapter shall bar any other action for damages by the same plaintiff against the same defendant founded upon the same publication or exhibition or utterance.

Source

(P.L. No. 4C-20, § 1.) 6 TTC § 502.

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**CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

GOVERNMENT CAUSE OF ACTION 14 PNCA § 3401

Chapter 34 Government Cause of Action

- § 3401. Definitions.
- § 3402. Direct action.
- § 3403. Evidence.
- § 3404. Limitations period.
- § 3405. Retroactivity.
- § 3406. Punitive damages, attorney fees and costs.

§ 3401. Definitions.

The following definitions are to be used in interpreting this chapter:

(a) “Unreasonably harmful product” means any product that, in the opinion of knowledgeable scientific authorities, is capable of causing dependence or addiction or physical harm to a substantial proportion of its users, or any other product that, when used as intended or as reasonably anticipated, causes unnecessary harm. A certification by the Minister of Health and Human Services of the Republic of Palau or his or her designee that a product is an unreasonably harmful product shall be conclusive if supported by substantial evidence.

(b) “Manufacturer” means any person or entity engaged in the process of designing, fabricating, assembling, producing, constructing or otherwise preparing a product, including packaging or labeling of such product, with the intended purpose of selling the product for gain or profit. “Manufacturer” includes any person or entity or wholly-owned or majority-owned subsidiary engaged in the manufacture or distribution of an unreasonably harmful or defective product and/or components of an unreasonably harmful or defective product, and any distributor or marketer of such product which is under the de facto direction or control of the actual manufacturer, regardless of the ownership of the distributor or marketer. “Manufacturer” also includes the parent of any wholly-owned, majority owned, or de facto controlled subsidiary, where (1) the subsidiary is a “manufacturer” within the meaning of this chapter; (2) the subsidiary is or may become unable to pay damages that may be assessed in any action brought pursuant to this chapter; and (3) the parent exercises substantial influence over the subsidiary’s design, public relations, or marketing decisions.

Source

RPPL 5-31 § 2, modified. Effectively repealed and replaced by RPPL 6-14 § 1[2], modified.

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Notes

The word “addiction” in the first sentence of subsection (a) reads “addition” in RPPL 6-14 § 1[2].

The word “manufacture” in the second sentence of subsection (b) reads “manufacturer” in RPPL 6-14 § 1[2].

RPPL 6-14 § 1 reads: “RPPL No. 5-31 is hereby amended to read as follows.” Because the “amendment” deletes sections and adds others incorporating significantly different language, the source note reads: “Effectively repealed and replaced”.

RPPL 6-14 § 1[1] includes the following: Legislative findings. The Olbiil Era Kelulau finds that it is in the national interest of the people of the Republic of Palau that the national government be authorized to recover monies which it has spent or will be obligated to spend in the future for the health care costs incurred by the people of the Republic as the result of unreasonably harmful or defective products.

§ 3402. Direct action.

The Republic of Palau may bring a direct legal action against any manufacturer or any product to recover money which the Republic has spent, appropriated, or will be obligated to spend in the future, for the healthcare needs of the people of the Republic; provided that such needs, in whole or in part, are the result of, or otherwise arise from, the use or consumption of such manufacturer’s product in a manner which was, or should have been, reasonably foreseen by the manufacturer. Any action brought under this chapter shall be independent of any private rights or cause of action of an injured individual and shall not be subject to any defense of contributory negligence, assumption of risk, or similar defense which the manufacturer might otherwise be entitled to assert against such an individual based on the conduct, acts, omissions, or pre-existing condition of the individual. Liability shall be joint and several.

Source

RPPL 5-31 § 3, modified. Effectively repealed and replaced by RPPL 6-14 § 1[3], modified.

§ 3403. Evidence.

If any action brought pursuant to this chapter wherein a manufacturer is, or manufacturers of substantially similar products are, shown to have produced an unreasonably harmful or defective product with the knowledge, either actual or reasonably imputed, that such product was to be used, consumed, or sold in the Republic of Palau, causation of damages may be established through the use of statistical analysis.

Source

RPPL 5-31 § 4, modified. Effectively repealed and replaced by RPPL 6-14 § 1[4], modified.

GOVERNMENT CAUSE OF ACTION 14 PNCA § 3405

§ 3404. Limitations period.

Any action brought pursuant to this chapter shall be commenced within four years of the latest of the following events:

- (a) the last day on which healthcare was provided to treat injury or illness arising in whole or in part from the use or consumption of an unreasonably harmful or defective product in a reasonably foreseeable manner;
- (b) the date on which payment became due for healthcare which was provided to treat injury or illness arising in whole or [in] part from the uses or consumption of an unreasonably harmful or defective product in a reasonably foreseeable manner; or
- (c) the date on which the Minister of Health and Human Services of the Republic of Palau or his designee shall have certified that a product is an unreasonably harmful or defective product based on the then-current state of knowledge of the product and its effects.

Source

RPPL 5-31 § 5, modified. Repealed and replaced by RPPL 6-14 § 1[5], modified.

Notes

The bracketed word “[in]” in subsection (b) does not appear in the legislation RPPL 6-14 § 1[5].

§ 3405. Retroactivity.

This chapter shall have retroactive effect. Causes of action may be brought by the Republic to recover for damages which were caused prior to the effective date of this chapter. As a concurrent and independent basis for recovery, if any person, corporation, or business entity engages in conduct that qualifies them as a manufacturer under this statute, after the effective date of this chapter, then such person, corporation, or business entities, and all persons, corporations, or business entity who have acted or are acting in concert with them to further their past or present conduct under this chapter, are liable to the Republic for all health care costs, needs, and damages, past, present, or future, caused by any conduct covered by this chapter, and for any relief and damages due the Republic of Palau under the laws of the Republic of Palau arising from conduct governed by this chapter, regardless of when such conduct occurred.

Source

RPPL 5-31 § 6, modified. Repealed and replaced by RPPL 6-14 § 1[6], modified.

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DISPUTE RESOLUTION**

§ 3406. Punitive damages, attorney fees and costs.

In any action brought under this section, the court may award punitive damages and may provide such equitable relief as it deems necessary or proper. The court may also award reasonable attorney fees and costs under this section.

Source
RPPL 6-14 § 7, modified.

Chapter 35
Comparative Negligence

§ 3501. Abolition of contributory negligence; assumption of risk; and last clear chance.

§ 3502. Contributory negligence no bar; comparative negligence; findings of fact.

§ 3503. Joint tort-feasors defined.

§ 3501. Abolition of contributory negligence; assumption of risk; and last clear chance.

(a) The common law doctrine of contributory negligence is abolished.

(b) The common law doctrines of assumption of the risk and last clear chance are abolished.

Source

RPPL 6-27 § 2, modified.

Notes

RPPL 6-27 includes the following: Legislative Findings and Purpose. The Olbiil Era Kelulau finds that most U.S. jurisdictions have adopted some form of comparative negligence. The reasoning behind this shift has been to ameliorate the harsh results that flow from adherence to the old common law doctrine of contributory negligence that serves as an obstacle to recovery of damages by injured persons, even where their negligence was slight. The purpose of this legislation is to establish the doctrine of comparative negligence in Palau so that litigants may avail themselves of the benefit of this doctrine.

Tkel v. Hanpa Indus. Dev. Corp., 14 ROP 74, 76, 78 (2007).

§ 3502. Contributory negligence no bar; comparative negligence; findings of fact.

(a) Contributory negligence shall not bar recovery in any action by any person or the person's legal representative to recover damages for negligence resulting in death or injury to person or property, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made.

(b) In any action to which subsection (a) applies, the court shall make findings of fact which shall state:

(1) the amount of the damages which would have been recoverable if there had

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DISPUTE RESOLUTION**

been no contributory negligence; and

(2) the degree of negligence of each party, expressed as a percentage.

(c) Upon the making of the findings of fact contemplated in subsection (b), the court shall reduce the amount of the award in proportion to the amount of negligence attributable to the person for whose injury, damage, or death recovery is made.

Source

RPPL 6-27 § 2, modified.

Notes

Tkel v. Hanpa Indus. Dev. Corp., 14 ROP 74, 76, 78 (2007).

§ 3503. Joint tort-feasors defined.

For the purpose of this part the term “joint tort-feasors” means two or more persons jointly or severally liable in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them.

(a) Right of contribution; accrual; pro rata share. The right of contribution exists among joint tort-feasors. A joint tort-feasor is not entitled to a money judgment for contribution until the joint tort-feasor has by payment discharged the common liability or has paid more than the joint tort-feasor’s pro rata share thereof. A joint tort-feasor who enters into settlement with the injured person is not entitled to recover contribution from another joint tort-feasor whose liability to the injured person is not extinguished by the settlement. When there is such a disproportion of fault among joint tort-feasors as to render inequitable an equal distribution among them of the common liability by contribution, the relative degrees of fault among joint tort-feasors shall be considered in determining their pro rata shares.

Source

RPPL 6-27 § 2, modified.

Notes

Estate of Myla Mira v. Republic of Palau, 2023 Palau 14 ¶ 25.

**DIVISION 5
EVIDENCE**

**Chapter 40
Privileges**

§ 4001. Spouses.

§ 4002. Certain conversations with anthropologists privileged.

§ 4001. Spouses.

Neither husband nor wife shall be compelled to testify against the other in the trial of an information, complaint, citation or other criminal proceeding.

Source

(Code 1966, § 341.) 7 TTC § 1.

Cross-reference

For rules of evidence promulgated by the Supreme Court pursuant to ROP Const., Art. X, § 14 and § 101 of Title 4, see Courts of Republic of Palau Rules of Evidence (eff. December 23, 1983).

§ 4002. Certain conversations with anthropologists privileged.

Subject to the limitations provided in this section, conversations held with an anthropologist in confidence in his professional character shall be privileged. No statement made in such a conversation nor the substance thereof shall be divulged without the consent of the person making it, nor shall the identity of any person making such a statement on any particular subject be divulged without his consent, except as provided herein. This privilege, however, shall not extend to the professional opinions or conclusions of an anthropologist even though they may be based in whole or in part on such conversations, nor shall it or the prohibition against divulging such statements or the identity of persons making them apply to admissions or confessions indicating that the person making them has committed murder in the first or second degree or voluntary manslaughter or is threatening to commit a crime in the future.

Source

(Code 1966, § 342.) 7 TTC § 2.

Cross-reference

For rules of evidence promulgated by the Supreme Court pursuant to ROP Const., Art. X, § 14 and § 101 of Title 4, see Courts of Republic of Palau Rules of Evidence (eff. December 23, 1983).

14 PNCA § 4101 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Chapter 41 Authentication and Content of Records

§ 4101. Official records.

§ 4101. Official records.

Books or records of account or minutes of proceedings of any department or agency of the United States of America or of the Trust Territory, or of any predecessor thereof, shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept. Copies or transcripts (authenticated by the official having custody thereof) of any books, records, papers or documents of any department or agency of the United States of America or of the Trust Territory, or of any predecessor thereof, shall be admitted in evidence equally with the originals thereof.

Source

(Code 1966, § 340.) 7 TTC § 51.

Cross-reference

For rules of evidence promulgated by the Supreme Court pursuant to ROP Const., Art. X, § 14 and § 101 of Title 4, see Courts of Republic of Palau Rules of Evidence (eff. December 23, 1983).

BURDEN OF PROOF IN DEFAMATION ACTIONS 14 PNCA § 4201

**Chapter 42
Burden of Proof in Defamation Actions**

§ 4201. Defamation actions.

§ 4201. Defamation actions.

The plaintiff in a defamation action shall be required to allege that the offending publication is false. Once this allegation is raised, the burden of proof shall shift to the defendant to show that the publication is true.

Source
RPPL 5-43 § 3.

Notes
Henry v. Davidson, 23 ROP 28, 32, 34 (Tr. Div. 2015).
Roll'em Prods. v. Diaz, 22 ROP 229, 240 (Tr. Div. 2015).

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**CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

**Chapter 43
Foreign Evidence**

- § 4301. Definitions.
- § 4302. Application.
- § 4303. Admissibility requirements for testimony.
- § 4304. Form of testimony.
- § 4305. Introduction of foreign material as evidence.
- § 4306. Proof of service of documents abroad.
- § 4307. Certificates relating to foreign material.
- § 4308. Operation of other laws.

§ 4301. Definitions.

In this chapter, unless the context otherwise requires:

- (a) “authorized officer” means:
 - (1) the Attorney General of the Republic of Palau;
 - (2) a person appointed by the Attorney General, as an authorized officer for the purposes of this chapter;
- (b) “foreign law” means a written law of or in force in a foreign State;
- (c) “foreign material” means:
 - (1) the testimony of a person that:
 - (A) was obtained as a result of a request of a kind referred to in section 1311 of the Mutual Assistance in Criminal Matters Act of 2001, (chapter 13 of title 18 of the Palau National Code); and
 - (B) complies with the requirements of section 4304 of this chapter
 - (2) any exhibit annexed to any such testimony;
 - (3) any part of any such testimony or exhibit;

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(d) “foreign State” means:

(1) any country other than the Republic of Palau; and

(2) every constituent part of such State or country, including a territory, dependency or protectorate, or political subdivision which administers its own laws relating to evidence; and

(e) “related civil proceedings,” in relation to a criminal proceeding, means any civil proceedings arising from the same subject matter from which the criminal proceeding arose.

Source

RPPL 6-7 § 1[3], modified.

§ 4302. Application.

This chapter applies to:

(a) a proceeding before the Supreme Court that is:

(1) a criminal proceeding under the national law of the Republic of Palau; or

(2) a related civil proceeding;

(b) testimony obtained as a result of a request made by or on behalf of the Attorney General to a foreign State for the testimony of a person pursuant to the Mutual Assistance in Criminal Matters Act of 2001 (chapter 13 of title 18 of the Palau National Code); and

(c) any exhibit annexed to any such testimony.

Source

RPPL 6-7 § 1[4], modified.

§ 4303. Admissibility requirements for testimony.

To be admissible under this chapter, testimony must be taken before a court:

- (a) on oath or affirmation; or
- (b) under such caution or admonition as would be accepted by courts in the foreign State concerned, for the purposes of giving testimony in proceedings before those courts.

Source
RPPL 6-7 § 1[5], modified.

§ 4304. Form of testimony.

- (a) The testimony may be recorded:
 - (1) in writing;
 - (2) on audio tape;
 - (3) on video tape; or
 - (4) by any other electronic or mechanical means.
- (b) The writing need not:
 - (1) be in the form of an affidavit; or
 - (2) constitute a transcript of a proceeding in a foreign court.
- (c) The testimony must be endorsed with, or accompanied by, a certificate stating that:
 - (1) it is an accurate record of the evidence given; and
 - (2) it was taken in a manner specified in section 4303.
- (d) The certificate must:
 - (1) be signed or certified by a judge, magistrate, or court officer of the foreign State to which the request was made; and
 - (2) bear an official or public seal of:

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(A) the foreign State; or

(B) an authority of the foreign State responsible for matters relating to justice, being a secretary or minister of state, a department or ministry of government, or an officer of the government.

Source

RPPL 6-7 § 1[6], modified.

§ 4305. Introduction of foreign material as evidence.

(a) Subject to subsection (b), foreign material may be introduced as evidence in a proceeding to which this chapter applies.

(b) The foreign material will be excluded from evidence if:

(1) it appears to the court's satisfaction, at the hearing or the proceeding, that the person who gave the testimony concerned is present in the Republic of Palau and is able to testify at the hearing;

(2) the evidence would not have been admissible had it been introduced by the person giving the testimony at the hearing in the Republic of Palau;

(3) it appears to the court that the interests of justice would not be served by admitting the evidence; or

(4) the evidence would be excluded under the Constitution of the Republic of Palau or any other law or rule of procedure applicable in the Republic.

(c) Foreign material introduced under this chapter shall not be excluded from evidence on the basis that such material is hearsay evidence under the Rules of Evidence in force in the Republic of Palau, if the court is satisfied as to the reliability and authenticity of the material.

(d) In reaching a decision pursuant to subsection (b)(3), the court shall take into account:

(1) the extent to which the foreign material provides evidence that would not otherwise be available;

- (2) the probative value of the foreign material with respect to any issue that is likely to be determined in the proceeding;
- (3) the extent to which statements contained in the foreign material were subject, at the time they were made, to challenge by cross-examination of the persons who made them;
- (4) whether exclusion of the foreign material would cause undue expense or delay;
- (5) whether exclusion of the foreign material would unfairly prejudice:
 - (A) any party in the criminal proceeding; or
 - (B) any party to related civil proceedings; and
- (6) the reliability of the foreign material.

Source
RPPL 6-7 § 1[7], modified.

§ 4306. Proof of service of documents abroad.

The service of process in a foreign State may be proved by affidavit of the person who served it.

Source
RPPL 6-7 § 1[8], modified.

§ 4307. Certificates relating to foreign material.

- (a) An authorized officer may certify that specified foreign material was obtained as a result of a request made to a foreign State by or on behalf of the Ministry of Justice of the Republic of Palau.
- (b) There shall be a rebuttable presumption that the foreign material specified in the certificate was obtained as a result of that request.

14 PNCA § 4307 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Source

RPPL 6-7 § 1[9], modified.

§ 4308. Operation of other laws.

This chapter does not limit the ways in which a matter may be proved, or evidence may be introduced or admitted or excluded under the Constitution of the Republic of Palau, applicable rules of evidence, procedure, and other court rules, or any other law of the Republic of Palau or its States and its political subdivisions.

Source

RPPL 6-7 § 1[10], modified.

Chapter 44
Hague Apostille Convention Act

- § 4401. Definitions.
- § 4402. Apostille authority.
- § 4403. Formalities required.
- § 4404. Apostille certificate.
- § 4405. Register of certificates.
- § 4406. Treaties.
- § 4407. Rules and fees.

§ 4401. Definitions.

In this chapter:

- (a) “Hague Apostille Convention” means the Apostille Convention de La Haye du 5 octobre 1961.
- (b) “Contracting State” means any party state to the Apostille Convention de La Haye du 5 octobre 1961.
- (c) “Legalization” means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.
- (d) “Competent authorities” means the following:
 - (1) the Minister of State;
 - (2) individuals employed by the Ministry of State that are authorized by the Minister of State in writing; and
 - (3) the Clerk of the Courts.
- (e) “Minister” means the Minister of State.
- (f) “Public documents”

14 PNCA § 4401 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

(1) means:

(A) documents emanating from an authority or an official connected with the courts of the Republic of Palau, including those emanating from the attorney general, and clerk of the Supreme Court;

(B) administrative documents emanating from any agency within the national government and any state government and its affiliated agencies, entities and bodies;

(C) notarial acts;

(D) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures;

(2) however, “public documents” does not mean:

(A) documents executed by diplomatic or consular agents;

(B) administrative documents dealing directly with commercial or customs operations.

Source

RPPL 9-25 § 3, modified.

Notes

RPPL 9-25 § 1 reads: Legislative findings. The Olbiil Era Kelulau finds that this Act is an essential companion to the House Joint Resolution proposing the ratification of the Apostille Convention de La Haye du 5 octobre 1961. The Hague Apostille Convention implements a simplified method of legalizing and notarizing official public documents to be recognized in foreign jurisdictions, and for foreign documents with an Apostille certificate to be recognized in Palau. The purpose of this Act is to enable the Minister of State and designated competent authorities to issue Apostille certificates and to implement fees for this service.

RPPL 9-25 § 2 reads: Application. This Act applies to public documents which have been executed in the Republic of Palau and which have to be produced in the territory of another Contracting State.

§ 4402. Apostille authority.

The Minister and designated competent authorities shall exempt from legalization public documents produced in the Republic of Palau which have to be produced in the territory of

another Contracting State by way of issuing an Apostille.

Source
RPPL 9-25 § 4.

§ 4403. Formalities required.

(a) The only formality the Minister and his designated competent authorities may require in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in section 4404, issued by the competent authority of the Republic of Palau from which the document emanates.

(b) However, the formality mentioned in section 4404(b) is not required when an agreement between the Republic of Palau and another contracting state has abolished or simplified it, or exempt the document itself from legalization.

Source
RPPL 9-25 § 5, modified.

§ 4404. Apostille certificate.

(a) The Apostille certificate referred to in section 4403(a) shall be placed on the document itself, by attachment, electronic Apostille, or on an allonge; it shall be in the form as prescribed by regulations, consistent with The Hague Apostille Convention.

(b) The certificate shall be issued at the request of the person who has signed the document or of any bearer. When properly filled in, it will certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears. The signature, seal and stamp on the certificate are exempt from all certification.

Source
RPPL 9-25 § 6, modified.

14 PNCA § 4405 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

§ 4405. Register of certificates.

(a) The Minister and the Clerk of Courts shall establish and maintain a joint register in electronic form on the electronic Apostille program (e-APP), accessible to the public, in which the Minister and the Clerk of Courts shall record the certificates issued, specifying:

(1) the number and date of the certificate;

(2) the name of the person signing the public document and the capacity in which he has acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp.

(b) At the request of any interested person, the Minister shall verify whether the particulars in the certificate correspond with those in the register.

Source

RPPL 9-25 § 7.

§ 4406. Treaties.

When a treaty, convention or agreement between the Republic of Palau and another contracting state contains provisions which subject the certification of a signature, seal or stamp to certain formalities, this chapter will only override such provisions if those formalities are more rigorous than the formality referred to in sections 4403 and 4404.

Source

RPPL 9-25 § 8, modified.

§ 4407. Rules and fees.

The Minister shall promulgate rules and regulations within sixty (60) days of the effective date of this chapter in regards to the full implementation of this chapter, including a fee schedule for the cost of certifying and issuing an Apostille.

Source

RPPL 9-25 § 9, modified.

DIVISION 6
INTERNATIONAL COMMERCIAL ARBITRATION

Chapter 50
General Provisions

- § 5001. Short title.
- § 5002. Definitions.
- § 5003. Rules of interpretation.
- § 5004. Scope of application.
- § 5005. Receipt of written communications.
- § 5006. Waiver of right to object.
- § 5007. Extent of court intervention.
- § 5008. Court or other authority for certain functions of arbitration assistance and supervision.

§ 5001. Short title.

This Division shall be known and may be cited as the “International Commercial Arbitration Act of 2021.”

Source
RPPL 11-5 § 3.

§ 5002. Definitions.

Unless the context requires otherwise, for the purposes of this Division:

- (a) “Arbitral tribunal” means a sole arbitrator, a panel of arbitrators, or an emergency arbitrator appointed pursuant to the rules of arbitration agreed to or adopted by the parties.
- (b) “Arbitration” means any arbitration whether or not administered by a permanent arbitral institution.
- (c) “Arbitration agreement” means an arbitration agreement defined and in the form as provided under this Division.
- (d) “Court” means a body or organ of the judicial system of the Republic of Palau.

14 PNCA § 5002 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Source
RPPL 11-5 § 3.

§ 5003. Rules of interpretation.

- (a) Where a provision of this Division, except section 5601, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination.
- (b) Where a provision of this Division refers to the fact that the parties have agreed or that they may agree, or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement.
- (c) Where a provision of this Division, other than in sections 5508(a) and 5605(b)(1), refers to a claim, it also applies to a counter-claim, and where it refers to a defense, it also applies to a defense to such counter-claim.
- (d) In the interpretation of this Division, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.
- (e) In exercising powers under this Division, a court must have regard to the overriding objectives of this Division and to the fact that (i) international arbitration is an efficient, impartial, enforceable, and timely method by which to resolve commercial disputes; and (ii) international arbitration awards are intended to provide certainty and finality.
- (f) Questions concerning matters governed by this Division which are not expressly settled within it are to be settled in conformity with the general principles on which this Division is based.

Source
RPPL 11-5 § 3, modified.

§ 5004. Scope of application.

- (a) This Division shall apply to international commercial arbitration commenced on or after the effective date of this Division under an arbitration agreement whenever made, subject to any agreement in force between the Republic and any other foreign State or States.

(b) The provisions of this Division, except sections 5102, 5103, 5409, 5410, 5411, 5801 and 5803, apply only if the place of arbitration is within the territory of the Republic.

(c) An arbitration shall be considered to be “international” if:

(1) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different countries; or

(2) one of the following places is situated outside the countries in which the parties have their places of business:

(A) the place of arbitration if determined in, or pursuant to, the arbitration agreement;

(B) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or

(3) the parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country.

(d) For the purposes of subsection (c) of this section:

(1) if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement; and

(2) if a party does not have a place of business, reference is to be made to its habitual residence.

(e) This Division shall not affect any other law of the Republic by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Division.

(f) Disputes that are commercial in nature but whose subject matter concerns the ownership of land and natural resources in the Republic, or intellectual property rights arising from Palauan traditional knowledge, including but not limited to knowledge of endemic species, are outside the scope of international commercial arbitration provided in this act. These disputes are non-arbitrable. They shall be considered “beyond the scope” of arbitration under sections 5701 and 5803, and reserved to the jurisdiction of the courts of Palau.

14 PNCA § 5004 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Source

RPPL 11-5 § 3, modified.

§ 5005. Receipt of written communications.

(a) Unless otherwise agreed by the parties:

(1) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his, her, or its place of business, habitual residence, or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence, or mailing address by registered letter or any other means which provides a record of the attempt to deliver it; and

(2) the communication is deemed to have been received on the day it is so delivered.

(b) The provisions of this section do not apply to communications in court proceedings.

Source

RPPL 11-5 § 3, modified.

§ 5006. Waiver of right to object.

A party who knows that any provision of this Division from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his, her, or its objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his, her, or its right to object.

Source

RPPL 11-5 § 3.

§ 5007. Extent of court intervention.

In matters governed by this Division, no court shall intervene except where so provided in this Division.

Source
RPPL 11-5 § .

§ 5008. Court or other authority for certain functions of arbitration assistance and supervision.

The functions referred to in sections 5202(c), 5202(d), 5204(c), 5205, 5301(c), and 5701(b) shall be performed by the Palau Supreme Court.

Source
RPPL 11-5 § 3, modified.

14 PNCA

**CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

**Chapter 51
Arbitration Agreement**

- § 5101. Definition and form of arbitration agreement.
- § 5102. Arbitration agreement and substantive claim before court.
- § 5103. Arbitration agreement and interim measures by court.
- § 5104. Death, bankruptcy, or winding up of party to arbitration agreement.

§ 5101. Definition and form of arbitration agreement.

(a) “Arbitration agreement” is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(b) An arbitration agreement shall be in writing. For the purpose of determining whether an arbitration agreement is in writing, the following shall apply:

- (1) an arbitration agreement is in writing if its content is recorded in any form, whether or not the arbitration agreement or contract has been concluded orally, by conduct, or by other means;
- (2) an arbitration agreement is in writing if it is contained in an exchange of statements of claim and defense in which the existence of an agreement is alleged by one party and not denied by the other;
- (3) the requirement that an arbitration agreement be made in writing can be satisfied by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference; “electronic communication” means any communication that the parties make by means of data messages; “data message” means information generated, sent, received or stored by electronic, magnetic, optical, or similar means, including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex, or telecopy; and
- (4) the reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is such as to make that clause part of the contract.

14 PNCA § 5101 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Source
RPPL 11-5 § 3.

§ 5102. Arbitration agreement and substantive claim before court.

(a) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his, her, or its first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative, or incapable of being performed.

(b) Where an action referred to in subsection (a) has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

(c) If the court refuses to refer the parties to arbitration, any provision of the arbitration agreement providing that an award is a condition precedent to the bringing of legal proceedings in respect of any matter shall have no effect in relation to those proceedings.

(d) If the court refers the parties to arbitration under subsection (a), it shall make an order staying the legal proceedings in that action.

(e) A decision of the court to refer the parties to arbitration under subsection (a) shall be subject to no appeal.

(f) For any appeal of a decision of a court to refuse to refer the parties to arbitration under subsection (a), leave of the court making that decision shall be required.

(g) A decision of the court to refuse leave under subsection (f) shall be subject to no appeal.

Source
RPPL 11-5 § 3, modified.

§ 5103. Arbitration agreement and interim measures by court.

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

Source
RPPL 11-5 § 3.

§ 5104. Death, bankruptcy, or winding up of party to arbitration agreement.

(a) Unless otherwise agreed by the parties, an arbitration shall not be discharged by the death, bankruptcy, or winding up of a party, and may be enforced by or against the representatives of that party.

(b) Subsection (a) does not affect the operation of any written law by virtue of which a substantive right or obligation is extinguished by death, bankruptcy, or winding up.

Source
RPPL 11-5 § 3.

14 PNCA

**CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

COMPOSITION OF ARBITRAL TRIBUNAL 14 PNCA § 5202

Chapter 52 Composition of Arbitral Tribunal

- § 5201. Number of arbitrators.
- § 5202. Appointment of arbitrators.
- § 5203. Grounds for challenge.
- § 5204. Challenge procedure.
- § 5205. Failure or impossibility to act.
- § 5206. Appointment of substitute arbitrator.
- § 5207. Liability and immunity.

§ 5201. Number of arbitrators.

- (a) The parties are free to determine the number of arbitrators.
- (b) Failing such determination, the number of arbitrators shall be three.

Source
RPPL 11-5 § 3.

§ 5202. Appointment of arbitrators.

- (a) No person shall be precluded by reason of his or her nationality from acting as an arbitrator, unless otherwise agreed by the parties.
- (b) The parties are free to agree on a procedure for appointing the arbitrator or arbitrators, subject to the provisions of subsections (d) and (e) of this section. Failing such agreement:
 - (1) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint an arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the Palau Supreme Court; or
 - (2) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, the arbitrator shall be appointed, upon request of a party, by the Palau

14 PNCA § 5202 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Supreme Court.

(c) Any party may request the Palau Supreme Court to take a necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment, when, under an appointment procedure agreed upon by the parties:

(1) a party fails to act as required under such procedure; or

(2) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure; or

(3) a third party, including an institution, fails to perform any function entrusted to it under such procedure.

(d) A decision on a matter entrusted by subsections (b) or (c) to the Palau Supreme Court shall not be subject to appeal. The Palau Supreme Court, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

Source

RPPL 11-5 § 3, modified.

§ 5203. Grounds for challenge.

(a) When a person is approached in connection with his or her possible appointment as an arbitrator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time of his or her appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him or her.

(b) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence, or if he or she does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him or her, or in whose appointment he or she has participated, only for reasons of which he or she becomes aware after the appointment has been made.

COMPOSITION OF ARBITRAL TRIBUNAL 14 PNCA § 5204

Source
RPPL 11-5 § 3.

§ 5204. Challenge procedure.

- (a) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of subsection (c).
- (b) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in section 5203(b), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his or her office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.
- (c) If a challenge under any procedure agreed upon by the parties or under the procedure of subsection (b) is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the Palau Supreme Court to decide on the challenge, which decision shall not be subject to appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.
- (d) An arbitrator who is challenged under subsection (b) is entitled to withdraw from his or her office as an arbitrator.
- (e) The mandate of a challenged arbitrator terminates in one of the following circumstances:
 - (1) the arbitrator withdraws from his or her office;
 - (2) the parties agree to the challenge;
 - (3) the challenge is upheld according to the parties' agreed procedure or by the arbitral tribunal, and no request is made for the Palau Supreme Court to decide the challenge; or
 - (4) the Palau Supreme Court, upon request to decide on the challenge, upholds the challenge.

14 PNCA § 5204 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Source

RPPL 11-5 § 3, modified.

§ 5205. Failure or impossibility to act.

(a) If an arbitrator becomes de jure or de facto unable to perform his or her functions or for other reasons fails to act without undue delay, his or her mandate terminates if he or she withdraws from his or her office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the Palau Supreme Court to decide on the termination of the mandate, which decision shall not be subject to appeal.

(b) If, under this section or section 5204(b), an arbitrator withdraws from his or her office or the parties agree to the termination of the mandate of an arbitrator, such withdrawal or termination does not imply acceptance of the validity of any ground referred to in this section or section 5203(b).

(c) The mandate of the arbitrator shall terminate on the arbitrator's death.

Source

RPPL 11-5 § 3, modified.

§ 5206. Appointment of substitute arbitrator.

Where the mandate of an arbitrator terminates under sections 5204 or 5205, he or she withdraws from office for any other reason, his or her mandate is revoked by agreement of the parties, or in any other case of termination of his or her mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

Source

RPPL 11-5 § 3, modified.

§ 5207. Liability and immunity.

(a) An arbitrator is not liable for anything done or omitted to be done by the arbitrator in good faith in his or her capacity as an arbitrator.

(b) The appointing authority, or an arbitral or other institution or person designated or requested by the parties to appoint or nominate an arbitrator, shall not be liable for

COMPOSITION OF ARBITRAL TRIBUNAL 14 PNCA § 5207

anything done or omitted to be done in the discharge or purported discharge of that function unless the act or omission is shown to have been in bad faith.

(c) The appointing authority, or an arbitral or other institution or person by whom an arbitrator is appointed or nominated, shall not be liable, by reason only of having appointed or nominated him or her, for anything done or omitted to be done by the arbitrator or his or her employees or agents in the discharge or purported discharge of his or her functions as an arbitrator.

(d) This section shall apply to an employee or agent of the appointing authority or of an arbitral or other institution or person as it applies to the appointing authority, institution, or person himself or herself.

Source
RPPL 11-5 § 3.

14 PNCA

**CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

JURISDICTION OF ARBITRAL TRIBUNAL 14 PNCA § 5301

Chapter 53 Jurisdiction of Arbitral Tribunal

§ 5301. Competence of arbitral tribunal to rule on its jurisdiction.

§ 5301. Competence of arbitral tribunal to rule on its jurisdiction.

- (a) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.
- (b) The power of the arbitral tribunal to rule on its own jurisdiction under subsection (a) includes but is not limited to the power to decide on any of the following issues:
- (1) whether the tribunal is properly constituted;
 - (2) what matters have been submitted to arbitration in accordance with the arbitration agreement; and
 - (3) the existence and validity of the arbitration agreement.
- (c) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defense. A party is not precluded from raising such a plea by the fact that he, she, or it has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.
- (d) The arbitral tribunal may rule on a plea referred to in subsection (c) either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the Palau Supreme Court to decide the matter, and the Court's decision shall not be subject to appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

**14 PNCA § 5301 CIVIL PROCEEDINGS & ALTERNATIVE
DISPUTE RESOLUTION**

Source
RPPL 11-5 § 3, modified.

INTERIM MEASURES AND PRELIMINARY ORDERS 14 PNCA § 5401

Chapter 54 Interim Measures and Preliminary Orders

- § 5401. Power of arbitral tribunal to order interim measures.
- § 5402. Conditions for granting interim measures.
- § 5403. Applications for preliminary orders and conditions for granting preliminary orders.
- § 5404. Specific regime for preliminary orders.
- § 5405. Modification, suspension, termination.
- § 5406. Provision of security.
- § 5407. Disclosure.
- § 5408. Costs and damages.
- § 5409. Recognition and enforcement of interim measures.
- § 5410. Grounds for refusing recognition or enforcement of interim measures.
- § 5411. Court-ordered interim measures.

§ 5401. Power of arbitral tribunal to order interim measures.

- (a) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, grant interim measures.
- (b) An interim measure is any temporary measure, whether in the form of an award or in another form, by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party to:
 - (1) maintain or restore the status quo pending determination of the dispute;
 - (2) take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to the arbitral process itself;
 - (3) provide a means of preserving assets out of which a subsequent award may be satisfied; or
 - (4) preserve evidence that may be relevant and material to the resolution of the dispute.

Source
RPPL 11-5 § 3.

14 PNCA § 5402 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

§ 5402. Conditions for granting interim measures.

(a) The party requesting an interim measure under section 5401(b)(1), (2), or (3), shall satisfy the arbitral tribunal that:

(1) harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and

(2) there is a reasonable possibility that the requesting party will succeed on the merits of the claim; the determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.

(b) With regard to a request for an interim measure under section 5401(b)(4), the requirements in subsection (a) shall apply only to the extent the arbitral tribunal considers appropriate.

Source

RPPL 11-5 § 3, modified.

§ 5403. Applications for preliminary orders and conditions for granting preliminary orders.

(a) Unless otherwise agreed by the parties, a party may, without notice to any other party, make a request for an interim measure together with an application for a preliminary order directing a party not to frustrate the purpose of the interim measure requested.

(b) The arbitral tribunal may grant a preliminary order provided it considers that prior disclosure of the request for the interim measure to the party against whom it is directed risks frustrating the purpose of the measure.

(c) The party requesting a preliminary order shall satisfy the arbitral tribunal of the fulfillment of the conditions imposed under section 5402(a), provided that the harm to be assessed under section 5402(a)(1), is the harm likely to result from the order being granted or not.

Source

RPPL 11-5 § 3, modified.

INTERIM MEASURES AND PRELIMINARY ORDERS 14 PNCA § 5406

§ 5404. Specific regime for preliminary orders.

- (a) Immediately after the arbitral tribunal has made a determination in respect of an application for a preliminary order, the arbitral tribunal shall give notice to all parties of the request for the interim measure, the application for the preliminary order, the preliminary order, if any, and all other communications, including by indicating the content of any oral communication, between any party and the arbitral tribunal in relation thereto.
- (b) At the same time as giving the notice required under subsection (a), the arbitral tribunal shall give an opportunity to any party against whom a preliminary order is directed to present its case at the earliest practicable time.
- (c) The arbitral tribunal shall decide promptly on any objection to the preliminary order.
- (d) A preliminary order shall expire after twenty days from the date on which it was issued by the arbitral tribunal. However, the arbitral tribunal may issue an interim measure adopting or modifying the preliminary order, after the party against whom the preliminary order is directed has been given notice and an opportunity to present its case.
- (e) A preliminary order shall be binding on the parties but shall not be subject to enforcement by a court. Such a preliminary order does not constitute an award.

Source

RPPL 11-5 § 3, modified.

§ 5405. Modification, suspension, termination.

The arbitral tribunal may modify, suspend, or terminate an interim measure or a preliminary order it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.

Source

RPPL 11-5 § 3.

§ 5406. Provision of security.

- (a) The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.

14 PNCA § 5406 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

(b) The arbitral tribunal shall require the party applying for a preliminary order to provide security in connection with the order unless the arbitral tribunal considers it inappropriate or unnecessary to do so.

Source
RPPL 11-5 § 3.

§ 5407. Disclosure.

(a) The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which an interim measure was requested or granted.

(b) The party applying for a preliminary order shall disclose to the arbitral tribunal all circumstances that are likely to be relevant to the arbitral tribunal's determination whether to grant or maintain the order, and such obligation shall continue until the party against whom the order has been requested has had an opportunity to present its case. Thereafter, subsection (a) shall apply.

Source
RPPL 11-5 § 3, modified.

§ 5408. Costs and damages.

The party requesting an interim measure or applying for a preliminary order shall be liable for any costs and damages caused by the measure or order to any party if the arbitral tribunal later determines that, in the circumstances, the measure or the order should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.

Source
RPPL 11-5 § 3.

§ 5409. Recognition and enforcement of interim measures.

(a) An interim measure issued by an arbitral tribunal shall be recognized as binding and, unless otherwise provided by the arbitral tribunal, enforced upon application to a competent court, irrespective of the country in which it was issued, subject to the provisions of section 5410.

(b) The party who is seeking or has obtained recognition or enforcement of an interim

INTERIM MEASURES AND PRELIMINARY ORDERS 14 PNCA § 5410

measure shall promptly inform the court of any termination, suspension, or modification of that interim measure.

(c) The court of the country where recognition or enforcement is sought may, if it considers it proper, order the requesting party to provide appropriate security if the arbitral tribunal has not already made a determination with respect to security or where such a decision is necessary to protect the rights of third parties.

Source

RPPL 11-5 § 3, modified.

§ 5410. Grounds for refusing recognition or enforcement of interim measures.

(a) Recognition or enforcement of an interim measure may be refused only:

(1) at the request of the party against whom it is invoked if the court is satisfied that:

(A) such refusal is warranted on the grounds set forth in section 5803(a)(1)(A),(B),(C) or (D);

(B) the arbitral tribunal's decision with respect to the provision of security in connection with the interim measure issued by the arbitral tribunal has not been complied with; or

(C) the interim measure has been terminated or suspended by the arbitral tribunal or, where so empowered, by the court of the state in which the arbitration takes place or under the law of which that interim measure was granted; or

(2) If the court finds that:

(A) the interim measure is incompatible with the powers conferred upon the court unless the court decides to reformulate the interim measure to the extent necessary to adapt it to its own powers and procedures for the purposes of enforcing that interim measure and without modifying its substance; or

(B) any of the grounds set forth in section 5803(a)(2)(A) or (B) apply to

14 PNCA § 5410 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

the recognition and enforcement of the interim measure.

(b) Any determination made by the court on any ground in subsection (a) shall be effective only for the purposes of the application to recognize and enforce the interim measure. The court where recognition or enforcement is sought shall not, in making that determination, undertake a review of the substance of the interim measure.

Source

RPPL 11-5 § 3, modified.

§ 5411. Court-ordered interim measures.

The Palau Supreme Court shall have the same power of issuing an interim measure in relation to arbitration proceedings, irrespective of whether their place is in the territory of the Republic, as it has in relation to proceedings in the Court. The Palau Supreme Court shall exercise such power in accordance with its own procedures in consideration of the specific features of international arbitration.

Source

RPPL 11-5 § 3.

**Chapter 55
Conduct of Arbitral Proceedings**

- § 5501. Equal treatment of parties.
- § 5502. Representation in arbitral proceedings.
- § 5503. Determination of rules of procedure.
- § 5504. Place of arbitration.
- § 5505. Commencement of arbitral proceedings.
- § 5506. Language.
- § 5507. Statements of claim and defense.
- § 5508. Hearings and written proceedings.
- § 5509. Default of a party.
- § 5510. Expert appointed by arbitral tribunal.
- § 5511. Court assistance in taking evidence.
- § 5512. Confidentiality.

§ 5501. Equal treatment of parties.

The parties shall be treated with equality and each party shall be given a full opportunity to present its case.

Source
RPPL 11-5 § 3.

§ 5502. Representation in arbitral proceedings.

Unless otherwise agreed by the parties, a party may appear in person before an arbitral tribunal and may represent itself or be represented by any other person of that party's choosing.

Source
RPPL 11-5 § 3.

§ 5503. Determination of rules of procedure.

- (a) Subject to the provisions of this Division, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.
- (b) Failing such agreement, the arbitral tribunal may, subject to the provisions of this

14 PNCA § 5503 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

Division, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality, and weight of any evidence.

Source
RPPL 11-5 § 3.

§ 5504. Place of arbitration.

(a) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(b) Notwithstanding subsection (a), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property, or documents.

Source
RPPL 11-5 § 3, modified.

§ 5505. Commencement of arbitral proceedings.

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Source
RPPL 11-5 § 3.

§ 5506. Language.

(a) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing, and any award, decision, or other communication by the arbitral tribunal.

(b) The arbitral tribunal may order that any documentary evidence shall be accompanied

CONDUCT OF ARBITRAL PROCEEDINGS 14 PNCA § 5508

by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Source
RPPL 11-5 § 3.

§ 5507. Statements of claim and defense.

(a) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting its claim, the points at issue, and the relief or remedy sought, and the respondent shall state its defense in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(b) Unless otherwise agreed by the parties, either party may amend or supplement its claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

Source
RPPL 11-5 § 3.

§ 5508. Hearings and written proceedings.

(a) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings if so requested by a party.

(b) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property, or documents.

(c) All statements, documents, or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be

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communicated to the parties.

Source
RPPL 11-5 § 3.

§ 5509. Default of a party.

Unless otherwise agreed by the parties, if, without showing sufficient cause:

- (a) the claimant fails to communicate its statement of claim in accordance with section 5507(a), the arbitral tribunal shall terminate the proceedings.
- (b) the respondent fails to communicate its statement of defense in accordance with section 5507(a), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations.
- (c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Source
RPPL 11-5 § 3, modified.

Notes
Subsections (a),(b) & (c) above read (1),(2) & (3) in the original legislation and have been codified with letter designations to comply with the Code format.

§ 5510. Expert appointed by arbitral tribunal.

- (a) Unless otherwise agreed by the parties, the arbitral tribunal:
 - (1) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; and
 - (2) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods, or other property for the expert's inspection.
- (b) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his or her written or oral report, participate in a hearing where the parties have the opportunity to put questions to him or

CONDUCT OF ARBITRAL PROCEEDINGS 14 PNCA § 5512

her and to present expert witnesses in order to testify on the points at issue.

Source
RPPL 11-5 § 3.

§ 5511. Court assistance in taking evidence.

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of the Republic assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

Source
RPPL 11-5 § 3.

§ 5512. Confidentiality.

(a) Unless otherwise agreed by the parties, all documents and matters relating to the arbitration shall be confidential and no party may publish, disclose, or communicate any information relating to:

- (1) the arbitration proceedings; and
- (2) any awards in the arbitration.

(b) Nothing in subsection (a) prevents the publication, disclosure, or communication of information referred to in subsection (a) by a party:

- (1) if the publication, disclosure, or communication is made to protect or pursue a legal right or interest of the party;
- (2) if the publication, disclosure, or communication is made to enforce or challenge the award referred to in subsection (a) in legal proceedings before a court or other judicial authority in or outside the Republic;
- (3) if the publication, disclosure, or communication is made to any government body, regulatory body, court, or tribunal and the party is obliged by law to make the publication, disclosure, or communication;
- (4) if the publication, disclosure, or communication is pursuant to an order made

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by the arbitral tribunal allowing a party to do so. Such an order may only be made at the request of a party and after giving each of the parties an opportunity to be heard; or

(5) if the publication, disclosure, or communication is made to a professional or any other adviser of any of the parties.

Source

RPPL 11-5 § 3, modified.

MAKING OF AWARD & TERMINATION 14 PNCA § 5602 OF PROCEEDINGS

Chapter 56 Making of Award and Termination of Proceedings

- § 5601. Rules applicable to substance of dispute.
- § 5602. Decision making by panel of arbitrators.
- § 5603. Settlement.
- § 5604. Form and contents of award.
- § 5605. Termination of proceedings.
- § 5606. Correction and interpretation of award; additional award.

§ 5601. Rules applicable to substance of dispute.

- (a) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given country shall be construed, unless otherwise expressed, as directly referring to the substantive law of that country and not to its conflict of laws rules.
- (b) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.
- (c) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it to do so.
- (d) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Source
RPPL 11-5 § 3.

§ 5602. Decision making by panel of arbitrators.

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

Source
RPPL 11-5 § 3.

14 PNCA § 5603 CIVIL PROCEEDINGS & ALTERNATIVE DISPUTE RESOLUTION

§ 5603. Settlement.

(a) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(b) An award on agreed terms shall be made in accordance with the provisions of section 5604 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

Source

RPPL 11-5 § 3, modified.

§ 5604. Form and contents of award.

(a) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

(b) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under section 5603.

(c) The award shall state its date and the place of arbitration as determined in accordance with section 5504(a). The award shall be deemed to have been made at that place.

(d) After the award is made, a copy signed by the arbitrators in accordance with subsection (a) of this section shall be delivered to each party.

Source

RPPL 11-5 § 3, modified.

§ 5605. Termination of proceedings.

(a) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with subsection (b).

(b) The arbitral tribunal shall issue an order for the termination of the arbitral

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proceedings when:

- (1) the claimant withdraws its claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on its part in obtaining a final settlement of the dispute;
 - (2) the parties agree on the termination of the proceedings; or
 - (3) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (c) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of sections 5606 and 5607(d).

Source

RPPL 11-5 § 3, modified.

§ 5606. Correction and interpretation of award; additional award.

- (a) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:
- (1) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors, or any errors of a similar nature; and
 - (2) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.
- (b) If the arbitral tribunal considers the request under subsection (a) to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.
- (c) The arbitral tribunal may correct any error of the type referred to in [subsection] (a)(1) of this section on its own initiative within thirty days of the date of the award.
- (d) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an

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additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

(e) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation, or an additional award under this section.

(f) The provisions of section 5604 shall apply to a correction or interpretation of the award or to an additional award.

Source

RPPL 11-5 § 3, modified.

Notes

The bracketed [subsection] in subsection (c) replaced the word “paragraph” in the original legislation as per code commission to conform with the uniform term used in the Code.

Chapter 57
Recourse Against Award

§ 5701. Application to set aside as exclusive recourse against arbitral award.

§ 5701. Application to set aside as exclusive recourse against arbitral award.

(a) Recourse to a court against an arbitral award may be made only by an application to set aside in accordance with subsections (b) and (c).

(b) An arbitral award may be set aside by the Palau Supreme Court only if:

(1) the party making the application furnishes proof that:

(A) a party to the arbitration agreement was under some incapacity; or the arbitration agreement is not valid under the law to which the parties have subjected it, or is not valid under the law of the Republic where such controls; or

(B) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present its case; or

(C) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

(D) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Division from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Division; or

(2) the court finds that:

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(A) the subject-matter of the dispute is not capable of settlement by arbitration under the law of the Republic; or

(B) the award is in conflict with the public policy of the Republic.

(c) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under section 5606, from the date on which that request had been disposed of by the arbitral tribunal.

(d) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by the Court in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

Source

RPPL 11-5 § 3, modified.

RECOGNITION AND ENFORCEMENT OF AWARDS 14 PNCA § 5802

Chapter 58 Recognition and Enforcement of Awards

- § 5801. Recognition and enforcement.
- § 5802. Evidence of awards and arbitration agreements.
- § 5803. Grounds for refusing recognition or enforcement.
- § 5804. Public policy.

§ 5801. Recognition and enforcement.

(a) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to a competent court, shall be enforced subject to the provisions of this section and section 5803.

(b) The party relying on an award or applying for its enforcement shall supply the original award or a copy thereof. If the award is not made in an official language of the Republic, the court may request the party to supply a translation thereof into such language.

Source

RPPL 11-5 § 3, modified.

§ 5802. Evidence of awards and arbitration agreements.

(a) In any proceedings in which a party seeks the enforcement of an award by virtue of this chapter, the party it shall produce to the court:

- (1) the duly authenticated original award or a duly certified copy; and
- (2) the original arbitration agreement under which the award purports to have been made or a duly certified copy.

(b) For the purpose of subsection (a), an award shall be deemed to have been duly authenticated, and a copy of an award or agreement shall be deemed to have been duly certified, if:

- (1) it purports to have been authenticated or certified, as the case may be, by the arbitrator or, where the arbitrator is a tribunal, by an officer of that tribunal, and it

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has not been shown to the court that it was not in fact so authenticated or certified;
or

(2) it has been otherwise authenticated or certified to the satisfaction of the court.

(c) If a document or part of a document produced under subsection (a) is written in a language other than English, there shall be produced with the document a translation, in the English language, of the document or that part, as the case may be, certified to be a correct translation.

(d) For the purposes of subsection (c), a translation shall be certified by a diplomatic or consular agent in the Republic of the country in which the award was made or otherwise to the satisfaction of the court.

(e) A document produced to a court in accordance with this section is, upon mere production, receivable by the court as prima facie evidence of the matters to which it relates.

Source

RPPL 11-5 § 3, modified.

§ 5803. Grounds for refusing recognition or enforcement.

(a) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

(1) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:

(A) a party to the arbitration agreement was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(B) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present its case; or

(C) the award deals with a dispute not contemplated by or not falling

RECOGNITION AND ENFORCEMENT OF AWARDS 14 PNCA § 5804

within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or

(D) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(E) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

(2) if the court finds that:

(A) the subject-matter of the dispute is not capable of settlement by arbitration under the law of the Republic; or

(B) the recognition or enforcement of the award would be contrary to the public policy of the Republic.

(b) If an application for setting aside or suspension of an award has been made to a court referred to in subsection (a)(1)(E), the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

Source

RPPL 11-5 § 3, modified.

§ 5804. Public policy.

(a) Without limiting the generality of sections 5410(a)(2)(B), 5701(b)(2)(B) and 5803(a)(2)(B) of this Division, it is declared, for the avoidance of any doubt, that, for the purposes of those sections, an interim measure or award is in conflict with, or is contrary to, the public policy of the Republic if:

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- (1) the making of the interim measure or award was induced or affected by fraud or corruption; or
- (2) a breach of the rules of natural justice occurred in connection with the making of the interim measure or award.

Source
RPPL 11-5 § 3, modified.