

## SIXTH PALAU LEGISLATURE

Seventh Regular Session, October, 1978

(Bill No. 982)

PUBLIC LAW NO. 6-7-14

## AN ACT

An Act to provide for fisheries zone regulations and agreements, for Palau Maritime Authority, to appropriate funds and for other purposes.

## BE IT ENACTED BY THE PALAU LEGISLATURE:

- 1       Section 1. Purposes. By the enactment of this legislation, Palau
- 2       enacts its own fishery zone legislation to manage, conserve, and regulate
- 3       the harvesting of fish throughout their habitat, both within the reef areas
- 4       of islands and atolls, and in other areas within the jurisdictional competence
- 5       of Palau.
- 6       Section 2. Definitions. As used in this Act, unless the context
- 7       otherwise requires, the term:
- 8               (1) "Atoll" means a circular or oval coral reef forming a geograph-
- 9               ic and ecologic unity crowned by at least one island.
- 10              (2) <sup>f</sup> "Authority" means the Palau Maritime Authority established by
- 11              Section 10 of this Act.
- 12              (3) "Legislature" means the Palau Legislature.
- 13              (4) "Director" means the Director of the Palau Maritime Authority.
- 14              (5) "District" means Palau District.
- 15              (6) "Fish" means any living resource.
- 16              (7) "Fishery" means:
- 17                      (a) One or more stocks of fish which can be treated as a
- 18                      unit for purposes of conservation and management and which are identified on
- 19                      the basis of geographical, scientific, technical, recreational, and economic
- 20                      characteristics; and
- 21                      (b) Any fishing for such stocks.
- 22              (8) <sup>f</sup> "Foreign Fishing Agreement" means an agreement approved by the
- 23              District and one or more foreign commercial fishing interests to permit
- 24              foreign vessels to harvest fish within the exclusive or extended fishery zones

1 of Palau. A "foreign party" is a party to such an agreement other than the  
2 Authority.

3 (9) "Foreign fishing" means fishing by vessels not wholly owned or  
4 chartered by citizens of Palau.

5 (10) "Island" means a naturally formed area of land, surrounded by  
6 water, which is above water at high tide.

7 (11) "Living resource" means finfish, mollusks, crustaceans, and  
8 all other forms of marine animal and plant life other than marine birds.

9 (12) "Palau" or "Government of Palau" refers only to the District  
10 of Palau.

11 (13) "Person" means any individual, corporation, partnership,  
12 association, or other entity, the Government of Palau or any of its  
13 subdivision or any entity thereof, and any foreign government, subdivision  
14 of such government or entity thereof.

15 (14) "Reef fish" means any species of living resource which  
16 predominately inhabits reef areas or internal waters.

17 (15) "Stock of fish" means a species, subspecies, geographical  
18 grouping, or other category of fish capable of management as a unit.

19 (16) "Submerged reef" means a coral reef forming a geographic and  
20 ecologic unity which is wholly submerged at high tide.

21 Section 3. Baseline system defined. A baseline is a continuous line  
22 which encircles an island or atoll. The baseline from which the zones  
23 designated in this Act are to be measured is as follows:

24 (1) The baseline of an island or portion of an island lacking a  
25 barrier reef, fringing reef, or other reef system is the low water line of

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1 the island as marked on large scale charts officially recognized by the  
2 Government of Palau District.

3 (2) The baseline of an atoll or island or portion of an island  
4 having a barrier reef, fringing reef, or other reef system is a line following  
5 the contour of the seaward edge of the reef system, which line connects those  
6 outermost elevations of the reef which are above water at low tide, and  
7 which line exists as marked on large scale charts officially recognized by the  
8 Government of the Palau District.

9 Section 4. Territorial Sea.

10 (1) There is hereby established a Territorial Sea of three miles  
11 breadth. The inner boundary of the Territorial Sea of each island or atoll  
12 is the baseline as defined in Section 3 of this Act. The outer boundary is  
13 a line, every point of which is three nautical miles seaward of the nearest  
14 point on the baseline.

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

17 Section 5. Exclusive Fishery Zone.

18 (1) There is hereby established an Exclusive Fishery Zone conti-  
19 guous to the Territorial Sea. The inner boundary of the Territorial Sea, and  
20 the outer boundary is a line, every point of which is twelve nautical miles  
21 seaward of the nearest point on the baseline as defined in Section 3 of this  
22 Act.

23 (2) The Government of Palau possesses and may exercise the same  
24 sovereign rights to living resources in the Exclusive Fishery Zone as it does  
25 in the Territorial Sea.

1       Section 6. Extended Fishery Zone. There is hereby established an  
2       Extended Fishery Zone contiguous to the Exclusive Fishery Zone. The inner  
3       boundary of the Extended Fishery Zone of each island or atoll is the seaward  
4       boundary of the Exclusive Fishery Zone, and the outer boundary is a line,  
5       every point of which is two hundred nautical miles seaward of the nearest  
6       point on the baseline as defined in Section 3 of this Act. The Government  
7       of Palau shall have exclusive management, conservation, and regulatory  
8       authority over all living resources within the Extended Fishery Zone to the  
9       full extent recognized by international law.

10       Section 7. Merged Zone. Where the zone of one island overlaps a like  
11       zone of another island, they merge and become one, the outer boundary of  
12       which is the seaward most boundary of the merged zone.

13       Section 8. Submerged reefs. Traditionally recognized fishing rights in  
14       submerged reef areas wherever located within the fishery zone of Palau shall  
15       be preserved and respected in accordance with the regulations of the district  
16       Authority established pursuant to Section 102 of this Act.

17       Section 9. Delimitation.

18               (1) The Palau Maritime Authority and the United States Government  
19       and the Government of the Trust Territory shall cooperate in the delimitation  
20       of the Palau Extended Fishery Zone when it overlaps a zone of national juris-  
21       diction established by another nation.

22               (2) In the event the fishery zone of Palau District overlaps with  
23       that of another district of the Trust Territory, the Authority may by agree-  
24       ment with appropriate agency of that district resolve their respective fishery  
25       zones.

Section 107 Palau Maritime Authority.

(1) There is hereby established a Palau Maritime Authority composed of four (4) members appointed by the High Commissioner, four (4) members appointed by the Speaker of the Palau Legislature, and one (1) member appointed jointly by the High Commissioner and the Speaker. The term of office of each member shall commence effective the date of the first meeting of the Authority. Vacancies shall be filled in the same manner as the original appointment for the remainder of the term of office of the vacancy. The Authority shall be constituted not less than thirty (30) days after the effective date of this Act. The High Commissioner shall designate one (1) appointee as a temporary chairman. The temporary chairman shall call the first meeting of the Authority and preside over its deliberations until a permanent chairman is chosen by majority vote of the members of the Authority. The Authority shall meet at such times and places as may be designated by the Chairman or by the Authority. The Authority shall adopt its own rules of procedure and regulations by majority vote. Regulations adopted by the Authority shall have the full force and effect of law. The process of the adoption of regulations by the Authority is expressly exempt from the requirements of the Administrative Procedure Act set forth in Title 17 of the Trust Territory Code, but the Authority nevertheless shall insure wide dissemination of the proposed regulations and afford the public a reasonable opportunity to present its views prior to the adoption of any regulations.

(2) The Authority shall have the following duties, functions and authority:

- (a) To adopt regulations for the conservation, management,

1 and exploitation of all living resources in the Extended and Exclusive  
2 fishery zones of Palau pursuant to Section 5, and 6 of this Act;

3 (b) To participate in the delimitation of the Extended  
4 Fishery Zone in accordance with Section 9 of this Act;

5 (c) To negotiate and conclude foreign fishing agreements in  
6 accordance with Section 12 of this Act;

7 (d) To issue foreign fishing permits in accordance with regu-  
8 lations promulgated pursuant to Subsection 1 and Paragraph 2 (a) of this  
9 section;

10 (e) The Authority shall submit its budget and a report  
11 regarding the expenditure of its funds to the Palau Legislature each regular  
12 session for approval; and

13 (f) To perform such other duties and functions as may be  
14 necessary to carry out the purposes of this Act.

15 (3) The Authority shall employ a full-time Director qualified in  
16 fishery management and experienced in international negotiation. The  
17 Authority may employ such other staff as it may deem necessary.

18 (4) Members of the Authority shall be compensated at the rate of  
19 twenty dollars (\$20.00) per day when actually on the business of the  
20 Authority. If any member of the Authority is currently employed by the Trust  
21 Territory Government he shall receive his regular salary while on the business  
22 of the Authority, or twenty dollars (\$20.00) per day, whichever is greater.

23 All members of the Authority shall receive per diem and travel expenses at  
24 established Trust Territory Government rates while on the business of the  
25 Authority.

1 (5) The Chairman of the Authority shall report on its activities  
2 to the Presiding Officers of the Palau Legislature on a quarterly basis, and  
3 to the High Commissioner on an annual basis. The annual report shall contain  
4 a detailed accounting of the expenditure of funds by the Authority.

5 Section 11. Foreign fishing. No vessel other than a vessel owned solely  
6 by the citizens of Palau may fish in the territorial sea of Palau. Foreign  
7 fishing may be permitted in the Exclusive and Extended Fishery Zone, under  
8 Section 14 of this Act.

9 Section 12. Foreign fishing agreements.

10 (1) Each foreign fishing agreement shall acknowledge the exclusive  
11 fishery management authority of the Government of Palau as set forth in this  
12 Act.

13 (2) In negotiating foreign fishing agreements, the Authority shall  
14 seek substantial agreement by the foreign parties to the following terms and  
15 conditions:

16 (a) The foreign party and the owner or operator of any fishing  
17 vessel fishing pursuant to such agreement will abide by all regulations  
18 issued under authority of Section 10 of this Act.

19 (b) The foreign party and the owner or operator of any  
20 fishing vessel fishing pursuant to such foreign fishing agreements will abide  
21 by the agreement that:

22 (i) Any officer authorized to enforce the provisions of  
23 this Act shall be permitted to board and search or inspect any vessel at any  
24 time and make arrests and seizures provided for in Section 21 of this Act  
25 whenever such officer has reasonable cause to believe, as a result of such a

1 search or inspection, that any such vessel or any person has committed an  
2 act prohibited by this Act;

3 (ii) Such officer shall also be permitted to examine and  
4 make notations on the permit issued pursuant to Section 14 of this Act;

5 (iii) The permit issued for any such vessel pursuant to  
6 Section 14 of this Act shall be prominently displayed in the wheelhouse of  
7 such vessel;

8 (iv) Appropriate position-fixing and identification  
9 equipment shall be installed and maintained in working order on each such  
10 vessel;

11 (v) Duly authorized Micronesian observers shall be  
12 permitted on board any such vessel and that the Government of Palau shall be  
13 reimbursed for the cost of such observers; and

14 (vi) Agents shall be appointed and maintained within  
15 Palau who are authorized to receive and respond to any legal process issued  
16 in Palau with respect to such owner or operator.

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

20 (d) Foreign parties will:

21 (i) Apply, pursuant to Section 14, for any required  
22 permits;

23 (ii) Deliver promptly to the owner or operator of the  
24 appropriate fishing vessel any permit which is issued under that Section for  
25 such vessel; and

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1 (iii) Abide by the requirement that no foreign fishing  
2 will be permitted in the Exclusive and Extended Fishery Zones of Palau  
3 District after January 1, 1979, without a valid and applicable permit, and  
4 that all conditions and restrictions of the permit are complied with.

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

8 (3) The total allowable level of foreign fishing, if any, with  
9 respect to any fishery subject to the provisions of this Act, shall be that  
10 portion of the optimum yield of such fishery which will not be harvested by  
11 vessels of Palau District.

12 (4) After reviewing recommendations by the Palau Maritime Authority,  
13 the Palau Legislature by legislation shall determine the allocation among  
14 foreign nations of the total allowable level of foreign fishing which is  
15 permitted with respect to any fishery subject to the provisions of this Act.  
16 In determining the allocation among nations, the Palau Legislature shall take  
17 into consideration:

18 (a) The extent to which vessels of such nations have  
19 traditionally fished the particular regulated species;

20 (b) Whether such nations have cooperated with the Government  
21 of Palau in, and made substantial contributions to, fishery research and the  
22 identification of fishery resources;

23 (c) Such other matters as it may deem appropriate.

24 Section 13. International fishery agreements. An international fishery  
25 agreement is an international agreement primarily affecting living resources

1 within the fishery zones of Palau. Such agreements shall be negotiated and  
2 concluded in cooperation between the Administering Authority and the Author-  
3 rity. Prior to the conclusion of such an agreement, the United States shall  
4 obtain the concurrence of the Palau Legislature by resolution to its terms  
5 and provisions to the extent such terms and provisions affect living resources  
6 within the fishery zones of Palau District.

7 Section 14 Fishing permits.

8 (1) After January 1, 1979, a foreign fishing vessel may engage in  
9 fishing in the Exclusive or Extended Fishery Zone of Palau only if such  
10 vessel has on board a valid permit issued under this Section for such vessel.

11 (2) Fishing permits will only be issued in accordance with a  
12 foreign fishing agreement approved by resolution of the House of Elected  
13 Members of the Palau Legislature; PROVIDED that permits issued for non-  
14 commercial fishing in accordance with Subsection 10 of this Section need not  
15 be pursuant to a foreign fishing agreement.

16 (3) Each foreign party entitled to permits in accordance with its  
17 foreign fishing agreement shall make application on forms prescribed by the  
18 Palau Maritime Authority specifying inter alia:

19 (a) The name and official number or other identification of  
20 each fishing vessel for which a permit is sought, together with the name and  
21 address of the owner thereof;

22 (b) The tonnage, capacity, speed, processing equipment, type  
23 and quantity of fishing gear, and such other pertinent information with  
24 respect to characteristics of each such vessel as the Authority may require;

25 (c) Each fishery in which such vessel wishes to fish;

1 (d) The amount of fish or tonnage of catch contemplated for  
2 each such vessel during the time such permit is in force; and

3 (e) The ocean area in which, and the season or period during  
4 which, such fishing will be conducted.

5 (4) Upon receipt of an application, the Director shall transmit  
6 copies to each member of the Authority and to the Chairman of the Palau  
7 Legislature Committee on Resources and Development.

8 (5) The Authority shall review the application, solicit views from  
9 appropriate persons in Palau District, hold public hearings where necessary  
10 and may approve the application on such terms and conditions and with such  
11 restrictions as the Authority deems appropriate.

12 (6) If the Authority does not approve the application submitted by  
13 the foreign party, the Chairman shall notify such foreign party of the  
14 disapproval and the reasons therefor. After taking into consideration the  
15 reason for disapproval, the foreign party may submit a revised application.

16 (7) Fees and other forms of compensation for the right to exploit  
17 living resources within the territorial sea or fishery zones of Palau District  
18 shall be established in the agreement.

19 (8) Upon notification by the foreign party of acceptance of the  
20 terms, conditions, and restrictions on the application and permit, the  
21 Chairman shall issue the permit.

22 (9) If any foreign fishing vessel for which a permit has been  
23 issued pursuant to this Section has been used in the commission of any act  
24 prohibited by this Act or if any civil penalty or criminal fine imposed by  
25 this Act has not been paid and is overdue, the Authority shall:

1 (a) Revoke such permit with or without prejudice to the right  
2 of the foreign party involved to obtain a permit for such vessel in any  
3 subsequent year; or

4 (b) Suspend such permit for the period of time deemed  
5 appropriate; or

6 (c) Impose additional conditions and restrictions on the  
7 approved application of the foreign party involved and on any permit issued  
8 under such application.

9 (10) Notwithstanding any other provision of this Act, the Authority  
10 may by regulation provide for the issuance of permits, on reasonable  
11 conditions, to foreign vessels or parties for research, recreational, or other  
12 non-commercial fishing within the fishing zones of Palau District.

13 Section 15. Prohibited acts.

14 (1) It is unlawful for any person:

15 (a) To violate any provision of this Act or of any regulation  
16 or permit issued pursuant to this Act;

17 (b) To use any fishing vessel to engage in fishing after  
18 revocation, or during the period of suspension, of an applicable permit issued  
19 pursuant to this Act;

20 (c) To violate any provision of, or regulations under, an  
21 applicable foreign fishing agreement entered into pursuant to Sections 11 and  
22 12 of this Act;

23 (d) To refuse to permit any officer authorized to enforce the  
24 provisions of this Act to board of fishing vessel subject to such person's  
25 control for purposes of conducting any search or inspection in connection with

1 the enforcement of this Act or any regulation, permit, or agreement referred  
2 to in Paragraphs (a) and (b) of this Section;

3 (e) To forcibly assault, resist, oppose, impede, intimi-  
4 date, or interfere with any such authorized officer in the conduct of any  
5 search or inspection described in Paragraph (d);

6 (f) To resist a lawful arrest for any act prohibited by  
7 this Section;

8 (g) To knowingly ship, transport, offer for sale, sell,  
9 purchase, import, export, or have custody, control, or possession of any fish  
10 taken or retained in violation of this Act or any regulation, permit, or  
11 agreement referred to in Paragraph (a) and (c) of this Section; or

12 (h) To interfere with, delay, or prevent, by any means,  
13 the apprehension or arrest of another person, knowing that such person has  
14 committed any act prohibited by this Section.

15 (2) It shall be unlawful for any vessel other than a vessel  
16 owned solely by citizens of Palau to engage in fishing in the territorial sea  
17 of Palau.

18 Section 16. Criminal penalties.

19 (1) A person is guilty of an offense if he commits any act  
20 prohibited by Section 15 of this Act.

21 (2) Any offense described as a prohibited act by Section 15 (1)  
22 (a), (b), (c), or (g), is punished by a fine of not more than \$50,000.00.

23 (3) Any offense described as a prohibited act by Section 15 (1)  
24 (d), (e), (f), or (h), is punishable by a fine of not more than \$100,000.00  
25 or imprisonment for not more than two years, or both; except that if in the

1 commission of any such offense the person uses a dangerous weapon, engages in  
2 conduct that causes bodily injury to any officer authorized to enforce the  
3 provisions of this Act, or places any such officer in fear of imminent bodily  
4 injury, the offense is punishable by a fine of not more than \$250,000.00, or  
5 imprisonment for not more than ten years, or both.

6 (4) Any offense described as a prohibited act by Section 15 (2),  
7 is punishable by a fine of not more than \$200,000.00. Each day of continuing  
8 violation shall be considered a separate offense.

9 Section 17. Forfeitures.

10 (1) Any fishing vessel including its fishing gear, furniture,  
11 appurtenances, stores, and cargo used, and any fish taken or retained, in any  
12 manner, in connection with or as a result of the commission of any act  
13 prohibited by Section 15 of this Act shall be subject to forfeiture to the  
14 Government of Palau. All or part of such vessel shall, and all such fish  
15 shall, be forfeited to the Government of Palau pursuant to a civil proceeding  
16 under this Section.

17 (2) The High Court of the Trust Territory of the Pacific Islands  
18 shall have jurisdiction, upon application by the Palau District Attorney or  
19 the Director on behalf of the Government of Palau, to order any forfeiture  
20 authorized under Subsection (1) of this Section.

21 (3) If a judgment is entered for the Government of Palau in a  
22 civil forfeiture proceeding under this Section, the Palau District Attorney  
23 shall seize any property or other interest declared forfeited to the  
24 Government of Palau, which has not previously been seized pursuant to this  
25 Act.

26 (4) The forfeited vessel, gear, furniture, appurtenances, stores,

1 cargo, and fish may be sold and the proceeds deposited with the Authority for  
2 use in accordance with Section 18 of this Act, or may be retained for use by,  
3 or at the direction of, the Government of Palau.

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

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

19 (7) For purposes of this Act, it shall be rebuttable presumption  
20 that all fish found on board a fishing vessel which is seized in connection  
21 with an act prohibited by Section 15 of this Act were taken or retained in  
22 violation of this Act.

23 Section 18. Revenues. All revenues, including fees collected by the  
24 Authority pursuant to Section 14 (7) and all fines and proceeds of sale of all  
25 forfeitures shall be transmitted immediately upon collection to the District

1 Treasurer for inclusion in the General Fund or the Legislature.

2 Section 19. Jurisdiction of courts. The High Court of the Trust  
3 Territory of the Pacific Islands shall have exclusive jurisdiction over any  
4 case of controversy arising under this Act. The Court may at any time enter  
5 restraining orders or prohibitions; issue warrants, process in rem, or other  
6 processes; prescribe and accept satisfactory bonds or other security; and  
7 take such other actions as are in the interests of justice.

8 Section 20. Enforcement.

9 (1) Primary responsibility for the enforcement of this Act shall  
10 be assumed by the Office of the Palau District Attorney through the Division  
11 of Public Safety. The High Commissioner and the Palau District Attorney  
12 may, from time to time, seek enforcement assistance from the United States  
13 Government.

14 (2) Any officer who is authorized by the Palau District Attorney  
15 to enforce the provisions of this Act, may:

16 (a) With or without a warrant or other process:

17 (i) Arrest any person, if he has reasonable cause to  
18 believe that such person has committed an act prohibited by Section 15 of this  
19 Act;

20 (ii) Board, and search or inspect any fishing vessel  
21 which is subject to the provisions of this Act;

22 (iii) Seize any fishing vessel used or employed in, or  
23 when it reasonably appears that such vessel was used or employed in, violation  
24 of any provision of this Act;

25 (iv) Seize any fishing gear, furniture, appurtenances,

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1 stores, cargoes, and fish in the possession of a fishing vessel seized pursuant  
2 to authority granted by subparagraph (III) of this paragraph; and

3 (v) Seize any other evidence related to any violation of  
4 any provision of this Act.

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

7 (c) Exercise any other lawful authority.

8 (3) Any individual who provides information to the District  
9 Attorney concerning any violation of this Act which results in the imposition  
10 of any penalty under Section 16 of this Act shall be paid fifty percent (50%)  
11 of any such penalty imposed and collected.

12 (4) For purposes of this Act the terms "provisions of this Act"  
13 and "violation of any provisions of this Act" includes the provisions of any  
14 regulation or permit issued pursuant to this Act.

15 Section 21. Appropriation.

16 (1) There is hereby appropriated from the General Fund of the  
17 Palau Legislature an initial sum of \$25,000.00 to defray the administrative  
18 and operational expenses of the Authority.

19 Section 22. Severability. If any provision of this Act or amendments  
20 or additions thereto, or the application thereof to any person, thing or  
21 circumstances is held invalid, the invalidity does not affect the provisions  
22 or application of this Act or the amendments or additions that can be given  
23 effect without the invalid provisions or application, and to this end the  
24 provisions of this Act and the amendments or additions thereto are severable.

25 Section 23. Effective date. This Act shall take effect upon its

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1 approval by the High Commissioner, or upon its becoming law without such  
2 approval.

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5 PASSED: October 22, 1978

S. LUNG H. Y. JUNG, Speaker

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7 Approved this day of 1978.

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